User Frequently Asked Questions (FAQ)

UQ20 – Is there an example on the DoD ESI website that shows how to best assign measurable values to "qualitative" data?

UQ1 – What are the benefits of using DoD ESI?

Short Answer: DoD ESI saves money and time and reduces risk.

DoD ESI has negotiated significant discounts from software publishers and technology vendors based on volume purchased in each transaction and, in many cases, based on the total volume purchased across the DoD. So, a significant benefit to programs using ESI is **cost savings**. Also, the terms and conditions provided in an ESI BPA are typically **more favorable** to a DoD program than **terms and conditions** negotiated in an individual transaction. Using ESI vehicles with pre-negotiated terms and conditions and a pricing framework can **reduce buying cycle time**. In the case of certain technology implementation projects where a higher degree of risk exists, the use of the ESI BPAs can help **reduce risk** by incorporating best practices in contracting and implementation.

ESI continuously updates its agreements to incorporate lessons learned; allowing DoD programs to stay current and responsive to market conditions and best practices. For each software publisher, ESI assigns a Software Product Manager (SPM) to provide product education throughout DoD and help **resolve licensing and pricing issues**. The SPM can advise customers the best way to save money and obtain the rights they need for specific software products by sharing lessons learned by other customers. The SPM can help customers save money by **accessing excess license inventory** or taking advantage of **enterprise-wide software licenses** the customer may not know existed. Depending on timing, the SPM can help **consolidate multiple customers' requirements to achieve higher volume-based discounts**.

In certain circumstances, the Army SPM can provide **multi-year financing** through Working Capital Funds when there is a solid business case that will result in savings at acceptable risk. There is no additional charge for these services, except for a very small charge for funds administration when financing is provided (2.5% fee for up to three years financing).

UQ2 – How is DoD ESI pricing different than GSA pricing?

The majority of ESI vehicles are Blanket Purchase Agreements (BPA's) based off the Government Service Agency (GSA) Federal Supply Schedule contracts. DoD ESI further discounts the GSA quantity one pricing and enhances the Terms and Conditions (T&Cs) to meet the DoD ESI best practice standards where possible.

Remember even the further discounted DoD ESI pricing, the majority of time, is based on quantity one pricing. Customers should always seek further discounts and additional T&C's to meet their requirement at the order level. The end user and the contracting officer should review the DoD ESI Software Buyers checklist, pricing tools and white papers located at www.esi.mil

UQ3 – How do you pick the product or product lines that are offered by ESI?

Products or solutions are chosen based on an identified requirement which can be an existing installed base (for which there is a maintenance requirement) or where a future requirement has been identified. Requirements are gathered from DoD program offices and analyzed to determine how much DoD demand is expected in the forthcoming years. The ESI periodically works with organized working groups to capture their insight into future products and services that will have extensive purchasing activity in the upcoming years. In addition, ESI frequently considers information provided by vendors if it can be validated by customer contacts.

ESI also works closely with industry analysts to stay current with trends in the federal government, commercial markets and vendor firms. When a broad requirement is determined, ESI solicits subject matter experts on that particular product or solution from DoD program offices to serve as advisors, evaluators and active participants in the market research and negotiations process. This ensures that agreements are structured using current best practices and real-world experience with the product or solution to be acquired.

UQ4 – What is the involvement of DoD ESI with Enterprise License Agreements (ELAs)?

DoD ESI Blanket Purchase Agreements (BPAs) are the base for the majority of the DoD ELAs. Also, DoD ESI has lent their Software Product Managers (SPMs), contracting officer and subject matter experts (SMEs) in developing, negotiating and lessons learned for the ELAs.

There are several policies and DFAR regulations that make DoD ESI a mandatory source. These policies and regulation can be found on the DoD ESI website www.esi.mil. The DFARS regulation:

"208.7402 General.

   (1) Departments and agencies shall fulfill requirements for commercial software and related services, such as software maintenance, in accordance with the DoD Enterprise Software Initiative (ESI) (see website at http://www.esi.mil/). ESI promotes the use of enterprise software agreements (ESAs) with contractors that allow DoD to obtain favorable terms and pricing for commercial software and related services. ESI does not dictate the products or services to be acquired".

UQ5 – How do I learn more about the SMARTBUY program to include a list of SmartBUY products?

There are two ways to find SmartBUY agreements on the ESI Web site: www.esi.mil:

1. Using the Search feature:

   a. On the Home Page, enter "SmartBUY" in the search block, and click the 'search' button.

   b. You will see a list of results under the Agreements tab.

2. Information related to SmartBUY can be found by searching the site for "SmartBUY Alliance. More detailed information can be found at the SmartBUY Software Overview GSA Web Page at: http://www.gsa.gov/portal/content/105119

UQ6 – How is it determined that an agreement will extend to all federal IT buyers under the SmartBUY program or to DoD IT buyers under the DoD ESI program?

The short answer is that the team (GSA, DoD ESI and the vendor) would need to agree for the vendor's products to be offered to all federal government organizations under the SmartBUY program. The general criteria used to make this determination are as follow:

2) The vendor already has a strong presence within government agencies.

3) The vendor's products are available under a current GSA IT Schedule 70 and meet requisite compliance standards.

4) There is adequate demand for the product across the federal government.

5) The vendor agrees to provide adequate pricing discounts to the federal Government.

6) The vendor agrees to SmartBUY terms and conditions.

7) There is adequate government staffing available to manage a federal-wide agreement.

DoD ESI and SmartBUY discuss each program and determine if the agreement should be focused on DoD only or broadened to a SmartBUY federal-wide agreement. In either case, ESI may be selected to serve as the managing organization of the agreement.

UQ7 – I've searched the web site and cannot find the information I am looking for. How do I contact someone who can provide more information on a particular product?

On the DoD ESI Web site: www.esi.mil:

1. From the Home Page, select the 'Ask an Expert' tab

2. Select the appropriate button of the five for your situation.

3. When applicable, choose the appropriate Supplier, your Organization, your name and contact information, your classification, or any text requested, then click the 'Submit' button. Your inquiry will be automatically routed to the appropriate SPM or Subject Matter Expert.

4. Select the "Submit" button – your inquiry will be automatically routed to the appropriate SPM or Subject Matter Expert.

UQ8 – How do I know if there is inventory on hand for a particular product?

On the ESI Web site: www.esi.mil:

1. Find the agreement for the product you are interested in. See FAQ UQ7 if you need assistance.

2. Select the appropriate Reseller or Direct Sales contact and verify there is an Ordering Guide under the 'Ordering Info' tab.

UQ9 – H o w do I recommend a product to be included as an ESI agreement?

On the ESI Web site: www.esi.mil:

1. Select the 'Ask an Expert' tab on the Home Page

1. Select the first button titled "I have a question concerning currently active DoD ESI Software, Hardware, or Service BPAs". Select the appropriate Supplier from the drop down list. Note – It is important to make a selection in this block to ensure that your query is routed to the correct SPM and for a timely response to be provided to you.

2. Choose your Organization and Classification, and enter your name, and email address.

3. Enter your request and any other pertinent information in the Your Question block.

4. Click the 'Submit' button.

UQ11 – How do I request a waiver to not use an ESI agreement?

The Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 208.74 states that the SPM must be contacted if "existing ESAs do not represent best value to the Government". Before requesting a waiver, the SPM should first be contacted either by using the contact information found in the ESI Agreement or by using the "Contact the SPM" feature of this web site. To use the "Contact the SPM" feature of the ESI web site:

1. Select the 'Ask an Expert' tab on the Home Page of this site

2. Select the first button titled "I have a question concerning currently active DoD ESI Software, Hardware, or Service BPAs". Select the appropriate Supplier from the drop down list. Note –

It is important to make a selection in this block to ensure that your query is routed to the correct SPM and for a timely response to be provided to you.

3. Choose your Organization and Classification, and enter your name, and email address.

4. Enter all pertinent data regarding why you feel another vehicle provides better value in the Your Question block. The SPM will inform you if he/she can provide the same or better value using the ESI agreement. It is important to note that the SPM cannot grant a waiver. This is done by a management official designated by your DoD Component. The SPM can help you locate that person, if needed.

5. Select the "Submit" button.

UQ12 – Can you re-state the steps in transferring a license from one organization to another?

i. In order to transfer software licenses you would have to address the transferability rights within your software license agreement. The majority of End User License Agreements (EULAs) have language that does not allow for transfer of licenses. If the government order/agreement T&Cs allow for transferability within the DoD, as an example, you could transfer at any time. You would have to notify the reseller/publisher with the new POC information for maintenance and download of patches/fixes and upgrades. The best practice would include an internal government MOA between the government license manager and the transferee organization. The government should not pay for the transfers. Please reference the ESI software buyer's checklist and the ESI master license agreement (MLA). The sample language in the ESI MLA is the ESI recommended best practice. Excerpts from the ESI MLA section 3.6 transfer rights:

"The Licensee shall have the right under the terms of this Agreement, without additional written consent of the Licensor, to transfer Software Licenses or Licensee's rights to use the Software to an Affiliate of the Licensee (a "Transferee"). "

ii. Transfer from a Government Service Provider to a Government Organization.

Prior to authorizing a government service provider the government should ensure that the service provider purchase the software license with the T&Cs that include the software license is in the governments name and the government reserves the right to review the EULA prior to the purchase to ensure it is a government EULA. Excerpts from the ESI Software Buyer's Checklist on transfer rights section 3.1.12.3 located on the DoD ESI website www.esi.mil:

"If the government service provider is transferring licenses that were originally in the government service providers name ensure that there is virtual de-install language in the government's agreement. Virtual de-install language will allow the government to transfer the license number and Licensee name without having to de-install the software from the government systems. The term "virtual de-install" has been coined to mean the software publisher will not require a physical removal of their software from the hardware it is installed on, but will allow a paper change of licensee and/or hosting provider without requiring a new contract number or a new license number."

UQ13 – What are the best practices in the commercial sector for systems integration contracts?

In the commercial sector, senior executives suffer career-ending injuries if an ERP or other enterprise-wide software project does not go well. The stakes are high for technical and business leaders. Boards of Directors are now more liable for systems to be in place to avoid IT failures. With this heightened duty placed on their shoulders, commercial leaders look to transfer IT risk to their IT vendors, wherever possible.

In a systems-integration project, first making a selection of the COTS ERP software package that best fits your program's needs/requirements mitigates risk. If a company needs help capturing its requirements, it may enlist the help of a qualified firm, but that firm should typically be disqualified from the implementation services if it was the author of the requirements.

Once software is selected, the choice of a systems integration firm can be narrowed to review and evaluate the qualifications of that firm for the software selected. This helps ensure that your program receives the best resources that are most familiar with the software package that you will live with for many years.

Senior executives want to know that the integrator will follow a proven methodology. Further, they want assurances that the contract structure is tied to a proven phased approach with clearly defined deliverables, milestones, acceptance criteria, and fixed prices tied to results. The days of payments strictly based on time spent are long gone. Also discouraged is the overuse of assumptions where excuses for lateness or exceeding budget lay waiting for a huge debate.

Another key success factor is the level of involvement and sponsorship by senior executives. An ERP or other COTS program is a major undertaking for any firm. It will affect many jobs and many people. The art and science of change management is critical from day one and far after the date that the software goes live.

UQ14 – What is one of the most common pitfalls or risks that programs experience when contracting for IT services?

Too often, a buyer of IT services allows a contractor to list a series of assumptions in their proposal and contract documentation as conditions that must be met in order for the vendor to meet a price or a deadline. This is a poor practice that only causes confusion and raises risks. Often it occurs when a salesperson for the vendor does not want to have the tough but necessary conversation to identify the buyer's duties and responsibilities. To avoid this risk, in your RFP or RFQ instructions, do not allow the vendor to use assumptions in their proposal and contracting documentation. Instead, provide a list of the duties you (as a buyer) expect to perform and require the proposing firm to agree with your list or propose an alternative list of buyer duties as part of their proposal. Then, make the final agreed-upon list of buyer duties an integrated and binding condition precedent to the vendor's performance of the contract price and schedule. This may seem burdensome on the buyer, but in an IT project, the buyer must know what its duties are and agree to perform those duties in order to reduce the risk of failure or delay in your project.

UQ15 – What steps should a program office take to utilize an ESI ESA for software, and what do I include in my Acquisition Plan and solicitation documentation to indicate that I'm going to use ESI for my program? How do I order and pay for the software that I want to acquire?

Here are some general guidelines that a program should know when considering use of an ESI ESA:

• The decision to use an Enterprise Software Initiative (ESI) Enterprise Software Agreement (ESA) should occur early in the acquisition planning process when the requirements are first identified.

• Most of the ESI ESAs are GSA-based Blanket Purchase Agreements (BPAs). GSA schedules are commercial contracts subject to the clauses found in FAR Part 12. An order placed against a GSA-based BPA is actually an order placed against the GSA schedule inclusive of more favorable terms and/or prices for DoD. So the processes and regulations pertinent to issuing an order under a DoD ESI ESA/BPA are those in effect for a GSA schedule order.

• Customers should review the Ordering Procedures that are found in each BPA to determine whether any of these regulations have been satisfied at the BPA level. The BPA documents can be viewed on

the ESI web site at www.esi.mil by selecting "Software" and then the applicable software manufacturer from the drop down list. The vendor name under the "Reseller" column provides a link to the BPA documents.

• The acquisition planning documents should address use of the ESI BPAs in the same manner as they would address the decision to use GSA schedule.

• DoD ESI is not "brand naming" or setting up software product standardization for DoD when issuing an ESA. ESI is securing better terms, conditions and prices for the DoD end user in the event the user has a requirement for that specific product.

• If requirement(s) evaluation has led to a designated software product or service and the required software is available on a Federal-wide SmartBUY ESA, then OMB and DoD policy mandate use of the SmartBUY ESA.

To answer these questions in greater detail, we are providing the following graphic to describe the sequential order of key decision points and a table to explain the different paths that can be taken depending on your scenario:

Step	Key Question	If Yes, then…	If No, then…	Notes
1	Is a commercial-off-the-shelf (COTS) software product the best solution to satisfy the program's requirements?	… DFARS 208.7400 mandates that the ESI ordering agreement be considered if a program is acquiring software that is included on an ESI agreement.	… there is no requirement to use ESI ESAs.	ESI does not dictate the products or services to be acquired (see DFARS 208.7402).
2	Is only one COTS software product capable of satisfying the requirement?	… the product brand would be selected and a brand name justification would need to be requested and secured. If a brand name selection is justified, then the requirement could be competed among the BPA holders and all GSA schedule holders using FAR 8 (GSA e-Buy) and DFARS 208 procedures. The solicitation document should indicate that quotes are sought under a DoD ESI BPA, if applicable.	… the program office would write a functional specification document and compile a list of software publishers who may possibly satisfy the requirement for the purpose of competing their requirement using a functional description or "an equal" description.	The decision of what product meets a customer's requirements remains the sole responsibility of that customer. If the requirement is being competed based on functional specifications, the solicitation should indicate that any quoted products that are included on a DoD agreement should be priced and notated as such.

3	Is an ESI ESA in effect for the required COTS SW product(s)?	… proceed to question 4	… conduct a competition using normal procurement procedures.	The ESI agreements can be accessed by selecting "Software" at www.esi.mil.
4	Is a third party / integrator acquiring the COTS SW on your behalf?	… request the Contracting Officer for your procurement to provide authorization to the third party to acquire the software from an ESI agreement in accordance with DFARS 251 and then proceed to question 5	… proceed to question 5a.	
5	Does ESI have existing inventory of licenses for the COTS SW product (s)? Inventory is available under ESI agreements	… the third party, if properly authorized under the contract as addressed in Step 4 above, will fulfill the requirement from the inventory.	… the third party, if properly authorized under the contract as addressed in Step 4 above, will procure the software through the ESI ESA.	Ordering under the ESI ESAs is decentralized. Requirements are processed through the normal contracting activity (the Ordering Office) that services the program office. The Ordering Office issues an order under an ESI BPA in accordance with the Ordering Procedures found in each agreement and after satisfaction of the applicable procurement regulations. The instructions for placing an order may vary by agreement and must be followed to ensure compliance with competition requirements. In many cases, it is the responsibility of the Ordering Office to comply with the ordering procedures of FAR 8.4, obtain competition, and/or publish brand name or limited source justification as applicable. Payment for the software is handled through the normal invoicing process.
5a	Does ESI have existing inventory of licenses for the COTS SW product (s)? Inventory is available Under DOD ESI agreements	… the program office will fulfill, receive, accept and pay in accordance with the terms of the ESI agreement that carries the inventory. The ESI agreements can be accessed by selecting "Software" at www.esi.mil	… process an order under the ESI agreement in accordance with the Ordering Procedures specified in the applicable agreement.	

UQ16 – Can I negotiate shorter term use for a (traditionally) perpetual license?

A perpetual license is one that exists in perpetuity. The customer has the rights to use the software and the version they licensed and/or upgrades if they continue maintenance on the software license forever. For a customer requiring a shorter time-frame use of license they should consider a term, subscription or Software As A Service (SAAS) model.

UQ17 – Is there any data that shows how costs escalate by negotiating a Service Level Agreement (SLA) vs. accepting the SLA?

The DoD ESI best practices recommend negotiating SLAs. The DoD ESI has developed a white paper on SLAs titled "Service Level Agreement Best Practices and Contractual Considerations" which is located on the DoD ESI website www.esi.mil.   This paper includes the best practices when developing a SLA. Below is an excerpt from the SLA white paper referencing the need to negotiate the SLA.

"Even though you may have an underlying contract that governs the services, that contract may not be detailed enough concerning the tactical items you expect to encounter once operations and services begin. Therefore, it is best to negotiate and fully understand key expectations for all service components upfront."

UQ18 – Are there any license management best practice processes that can be shared?

1. The Software License management process should be centralized and dedicated especially when managing an Enterprise License Agreement. The process needs to be clearly described with assignment of duties.
2. Software License Personnel should be selected and trained. ESI has developed Software license training to include onsite training and monthly webinars. ESI has also developed a job description for a Software Product Manager that could be used for the Software License Manager (SLM).
3. The SLM should be knowledgeable of the contract Terms and Conditions, EULA terms and maintenance support. The SLA should monitor the use of the licenses and provide support to the organization to avoid compliance issues. SLA should monitor benefits.
4.   The organization needs to manage their software license distribution, use and turn in. This can be done by setting up a process for the request of license, location of license and eventual turn in of a license. This process ideally would be automated and visible to the authorized personnel to include the ability to provide reports to the authorized personnel and senior management.
5. The SLM should monitor with the help of their publisher/technical partners changes to the software (upgrades) that the organization has rights and are there any license impacts to their use.
6.   The SLM should be trained in the Information Technical Asset Management (ITAM) process and tools.
7. The software license agreements should include self-audit language as a best practice. Policy should be developed within the organization that ensures publishers and/or reseller's inquiry into software use only goes to the SLM and contracting officer.
8. Memorandum of Agreement (MOA) should be established with the organization hosting the hardware/software to ensure the software license terms and conditions are being used in accordance with the contracts T&Cs.
9. The SLM needs POCs that they can reach out to that include at a minimum the contracting office, IT department, and Software maintenance and software reseller/Publisher.
10. Periodic meetings with the software license POCs from the members cited in 9 above.
11. SLM needs copies and understanding of all modifications that occur to the Software agreement and impact to the organization. As the organizations license expert the SLM should be included in the discussion prior to any modification to the existing agreement and award of any new software license agreement.

UQ19 – How does DoD ESI view Open Source?

1. As a component of a software developer's toolkit, where the open source software may be used internally as one tool within a developer's toolbox to create an overall solution;

2. As a standalone product that is marketed as open source software (e.g. Alfresco is an "open source content management platform")
3. As part of a commercial off the shelf (COTS) solution that is not marketed as containing or using open source software (or other potential third party components), but has open source software code embedded in its overall solution.

   The DoD ESI has addressed the open source T&Cs with two documents available on the DoD ESI website. These clauses can be found in the DoD ESI MASTER License Agreement. And the OpenSource white paper.

   ESI has supported the use of open source software with awarding DoD ESI BPAs such as Red Hat Linux that provides maintenance and support for the open source Linux software.

UQ20 – Is there an example on the DoD ESI website that shows how to best assign measurable values to "qualitative" data?

The DoD ESI has many tools for pricing and for assigning risk such as the DoD ESI Software License Risk Assessment Tool and the Best Value Toolkit. Excerpts from the tools on the DoD ESI website www.esi.mil:

"The DoD ESI Software License Risk Assessment Tool is a tool that was created to help DoD software buyers analyze a seller's proposed license agreement to determine the areas of risk that should be addressed in a negotiation, to initiate and document negotiations with software publishers, and reduce risk of wasteful spending, disruption to Government operations, and vulnerability to lawsuits, claims, and penalties. This tool will also help contracting officers rationalize their positions using objective methods."

"This DoD ESI web-based Best Value Toolkit provides a simple roadmap to guide DoD IT buyers through available ESI resources to ensure they obtain Best Value on behalf of the government for common Commercial-Off-The-Shelf (COTS) software acquisition scenarios. It presents commercial best practices combined with DoD ESI's many years of experience in commercial software acquisition in the DoD. It has been designed for use in a variety of situations - use as appropriate and customizes its tools to fit your situation."