

Information Technology Policy

Software Contracts

Number

OPD-SFT001C

Effective Date

November, 27 2023

Category

Software

Supersedes

None

Contact

RA-ITCentral@pa.gov

Scheduled Review

November 2024

1. Purpose

The purpose of this Operational Document (OPD) is to help determine if software products are available via existing Commonwealth resellers on state contract as well as the process for instances where agencies want to purchase a software that does not exist on either the current reseller contracts or another existing contract.

This process would also be applicable in scenarios where there is an existing contract with one or more Commonwealth agencies for a particular software, and additional agencies who are not included on the contract want to purchase the same software.

2. Process

2.1 Determining Whether Software is Available via Existing Commonwealth Resellers on State Contract

Agencies seeking new software should complete the DGS Software Request Form and submit the complete form to RA-GSITSOFTWARE@pa.gov. Upon receipt of the Software Request Form DGS will provide guidance on how to proceed with the Software Purchase.

2.2 Software Available via Existing Commonwealth Resellers on State Contract

If requested software is available via an existing contract either through a reseller or another contract vehicle, DGS will respond to the agency with instructions to obtain a quote.

Once the quote is received agencies should submit a IT Investment Request (if applicable) as outlined in [ITP-BUS002, IT Investment Review Process. Additional technical reviews or approvals such as a Computing Services Use Case Review may be required prior to the IT Investment Request submission.](#)

Upon approval of the IT Investment Request (if applicable) agencies may proceed with the creation of a shopping cart and purchase order (PO).

2.3 Software Not Available on Existing Contract

If the software is not available via an existing contract, DGS will advise as to whether it can be added to an existing contract or if it needs to go to marketplace for bid. In either case DGS will reply to agencies submitting Software Request Forms with detailed instructions on how to proceed.

If the software can potentially be added to an existing contract the current process is as follows:

- Agencies should contact the current reseller on contract with DGS and ask if they have a reseller agreement in place with the licensor.
 - If they do not, agencies should provide reseller with a software licensor contact and request that they develop a reseller agreement with the licensor.
 - If the licensor is not willing to work with the reseller through the enterprise software contract, DGS can aid in determining what, if any, additional resellers may be appropriate.
- If a reseller on a statewide contract is not able to resell the software, then a new procurement method will need to be selected in accordance with the thresholds found within Part 1 chapter 7 of the procurement handbook to procure the requested software. Agencies should work with agency counsel and purchasing personnel to ensure the proper procurement method is utilized and that any resulting procurement contains the appropriate terms and conditions.
- If the licensor already has a reseller agreement in place with a reseller which has a contract with the Commonwealth or they are willing to negotiate a reseller agreement, agencies shall provide a copy of the applicable Agency or Enterprise Software/Services License Requirements Agreement and request the licensor provide a redlined version of document, in addition to a copy of their end user license agreement (EULA), including any associated maintenance, service/warranty and/or third-party agreements or associated terms and conditions that the licensor will expect the Commonwealth to accept.
- Upon receipt, the EULA and any other terms and conditions provided by the licensor should be reviewed by the business area and IT Delivery Center staff for any concerns such as training, response times, data sharing policies, security risks, encryption, access to data and/or systems outside of the United States, etc.
- After the agency business area and IT Delivery Center reviews the documents, they should forward the marked-up documents, including their comments and concerns, if any, to the agency legal office for review. Negotiation of the Agency Software/Services Requirements Agreement and any EULA and licensor terms and conditions will be handled by agency counsel, with assistance from OA's Office of Chief Counsel as requested and appropriate.

Note: Enterprise Agreements are Enterprise Software/Services Requirements Agreement and any EULA and licensor terms and conditions will be handled by OA's Office of Chief Counsel.

- Upon completion of the negotiations, the final copy of the Agency Software/Services License Requirements Agreement with all required attachments/exhibits (i.e., Product List, EULA, etc.) shall be sent to the licensor for review and signature by their authorized signatory.
- Upon receiving the signed License Agreement from the licensor, agency purchasing staff should inform the vendor to setup an account in the PA Supplier Portal if they don't have one.
<https://pasupplierportal.state.pa.us/irj/portal/anonymous.>, create a contract in Supplier Relationship Management (SRM) for the License Agreement, and route it for approvals. Agencies must attach the signed Agency Software/Service License Requirements Agreement and any associated attachments/exhibits as well as a Contractor Responsibility Program (CRP) check. Also, the non-standard terms and conditions box should be checked. The following note must be inserted into the header text of the contract:

"This contract is a binding agreement between the Commonwealth and [ENTER LICENSOR'S NAME], Licensor, to procure the software products and services listed in Attachment 1; see the attached Software License Requirements Agreement.

This contract shows a dollar figure of \$10,000.01, but the dollar figure has no fiscal or legal significance and is utilized solely for the purpose of electronic contract administration. Purchase orders may not be created against this contract.

The SRM Agreement Number for this License should be referenced in the reseller's quotations and resulting agency purchase orders issued off the appropriate statewide reseller contract.

*Agency Contact: [NAME – EMAIL – PHONE]
 Licensor Contact: [NAME – EMAIL – PHONE]"*

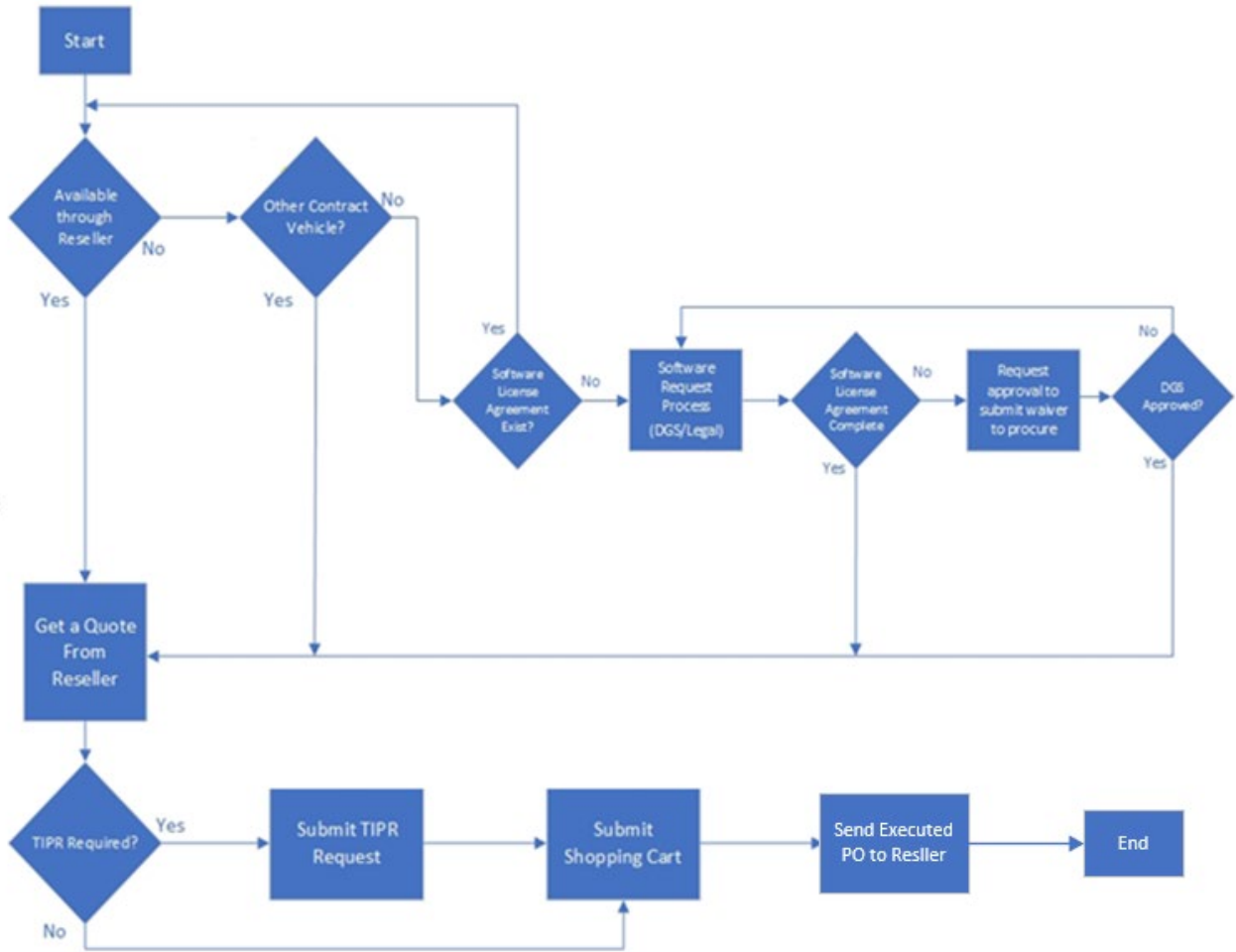
- After the License Agreement with the licensor has been executed through SRM, a copy of the executed License Agreement will be sent to the Enterprise Software Contract Manager.
- Agencies may now reach out to the reseller, as previously determined) to obtain a quote. The quote must reference the reseller's statewide contract number as well as the applicable license agreement number.
- Upon receiving a quote from the reseller, agencies must submit a IT Investment Request as outlined in [ITP-BUS002, IT Investment Review Process](#).
- To complete the procurement, agencies should create a shopping cart and PO, referencing the License Agreement number and the reseller's statewide contract number, and then attach a copy of the reseller's quote, the IT Investment Request approval and a CRP check. If services are being procured, agencies must also complete and attach a statement of work (SOW). Once the PO has

been created and all necessary documents are attached to the PO, the PO should be submitted through SRM for release.

- Agencies should send the fully executed PO to the reseller.

Note: This process is subject to change. In the event of a conflict with the guidance provided in this document and the guidance provided by DGS. Agencies should adhere to the latest guidance provided by DGS.

Figure 1. Software procurement



This chart contains a history of this publication’s revisions.

Version	Date	Purpose of Revision
Original	11/27/2023	Base Document