

15 January 1990¹

SUBJECT: Publication of Change 3 to the SAMM

Changes are in the order of the first page for each change (1 through 109 circled at the bottom of each page). A synopsis of the more significant changes is as follows:

- 6 - Update concerning air travel/1
- 7 - Addition of Tonga to eligible countries/3
- 8 - Reorganization of section on contractor preference/5
- 9 - Clarification of Letter of Intent procedures/10
- 10 - Removal of reporting requirements and certain other changes based on changed legislation/20 (20-43)
- 11 - Changed ordering period policy for BO LOAs/48 (48-59)
- 12 - SDAF section revision/66 (66-85)

pscad

USD/P INTEROFFICE COORDINATION SHEET						DATE (YYMMDD) 910115		1-00472/91				
SUBJECT SAMM Change 3 Letter of Transmittal						CURRENT SUSPENSE DATE (YYMMDD) ---						
<p>MARY (Describe briefly the origin, purpose, action recommended and coordination - (Attach original tasking - SD Form 14, etc.))</p> <p>Background. SAMM Change 3 at Tab A represents a mix of edit and policy refinements that have been developed since publication of Change 2 (Jul 90). A summary of the most significant changes is included. Some changes are difficult to decipher and I will again work with DISAM to make certain the changes are added as we expect. The proposed cover Letter of Transmittal at the Signature Tab is needed to complete the package.</p> <p>Recommendation. Sign Letter of Transmittal at the Signature Tab.</p>												
SEQ NO.	DIR / OFC	INITIAL	DATE (Mo, Day)	SEQ NO.	DIR / OFC	INITIAL	DATE (Mo, Day)	SEQ NO.	DIR / OFC	INITIAL	DATE (Mo, Day)	
	OUUSD/P				ISP (Continued)				PDUSD / S&R (Cont'd)			
	USD / P				DIR EUR POL				ADUSD(SEE)			
	AT USDP								ADUSD(R&P)			
	MA				DASD / NF&ACP				D / CSO			
	SA				MA				NET ASSESSMENT			
	ADMIN				TNF				NA			
	COMM MGT				STRAT FORCES				ODUSD / SP			
	ISA				SACP				DUSD / SP			
	ASD / ISA								MA			
	MA				DASD / SDS&VP				ADUSD / CI&S			
	SA				MA				DIS			
	PDASD / ISA				VERIF POL				POL SUPPORT			
	MA				SD & SPACE				EMERG PLAN			
	FMRA				SPACE POLICY				CCC			
									SPEC ADV STF			
	DASD / AFR				DASD / CF&ACP				PSYOP			
	AFR				MA				ODUSD / TSP			
					EUR SEC NEGOT				DUSD / TSP			
	DASD / EAP				MULTI-NEGOT				MA			
	EAP				SO-LIC				ADUSD / TSP			
	PW / MIA				ASD / SO-LIC				DTSA			
					MA				DIR			
	DASD / I-A				PDASD / SO-LIC				DEP DIR			
	I-A				MA				RESOURCE MGT			
									IGA			
	DASD / NESA				DASD / F&R				MUNITIONS			
	NESA				DIR, PA				MUN TECH			
					DIR, B&E				WPNS SEC PLAN			
	DASD / GA				DIR, A				STRAT TRADE			
	HUMAN ASSIST								TECH COOP & SEC			
	NON-PROLIF				DASD / P&R				TECH SEC OPS			
	ISP				DIR, PP				DSAA			
	PDUSD				DIR, R			X	DIR			
	MA							X	DEP DIR			
	SEC DEF REPS				DASD / M&A			X	EXEC OFFICER		1-14	
	PDASD / ISP				DIR, MA				COUNSEL			
	MA				DIR, CT				PLANS			
					PDUSD / S&R				CONG REL			
	DASD / EUR-NATO				PDUSD / S&R				COMPT			
	EXEC OFFICER				AT PDUSD / S&R			X	OPS		1-14-91	
	PD EUR-NATO				MA							
	DIR NATO POL				ADUSD(PP)			X	OPS-E		1-14-91	
NAME OF ORIGINATOR Wells				DIRECTORATE / OFFICE OPS-E				EXTENSION 7810B		SIGNATURE Wayne Wells		



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

15 January 1991

MEMORANDUM FOR CHIEF, COMMUNICATIONS MANAGEMENT DIVISION, OUSD(P)

SUBJECT: Request for Use of Express Mail

This request is provided in accordance with the Policy Cluster Postal Guide, June 1989, in order to justify use of USPS Express Mail. The Pentagon Post Office has previously confirmed that Express Mail is available to the destination zip code.

The document to be mailed contains DOD input for a substantial change to a Department of Defense Manual which is expected to be published by early March 1991. In order to meet this schedule, the 110-page draft must be converted to final copy, edited, graphics completed, and all data released to the publisher as quickly as possible. It is also important that the document not go astray in the mailing process. Fast and verifiable mailing is required to avoid a gap in the preparation process and to help ensure that the change is published in time to meet commitments.

Susan Ludlow-MacMurray
Chief, Management Division
Operations Directorate, DSAA

psrmo



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

*Date will be added
by DISAM when
published change 3
is ready for
distribution.*

Letter of Transmittal

The attached Change 3 to the 1 October 1988 SMM should be reviewed as it is added to the manual in order that changes to current policies and procedures may be noted.

Your suggestions for improving the manual continue to be welcome. Any recommended changes may be submitted as discussed in Chapter 1, Section 10008.

A handwritten signature in cursive script, reading "Glenn A. Rudd", is positioned above the typed name.

GLENN A. RUDD
ACTING DIRECTOR

Attachment
As stated

20202.B.7.

7. **Materiel Standards.** It is DOD policy that defense articles offered and sold to foreign governments and international organizations should reflect favorably upon the United States. Therefore, defense articles offered and sold under FMS will normally be new or unused, or as a result of rehabilitation, possess original appearance insofar as possible, and, as a minimum, have serviceability standards prescribed for issue to U.S. forces. If the customer country desires exclusively new end items of equipment, this requirement will be stated in the LOA. If the customer desires to purchase "as is/where is," this will also be stated in the LOA.

8. **Procurement in Foreign Countries.** Unless dictated by overriding logistics considerations approved by the SECDEF, the DOD will not enter into sales arrangements which entail commitments for DOD procurement in foreign countries.

C. **Financial Management.**

1. **Recovery of Cost.** The FMS program must be managed at no cost to the USG (with certain exceptions specifically covered by law), while insuring prompt and complete service to the customer. This requires a thorough understanding of procedures for pricing items or services furnished, administering FMS cases, and reporting of deliveries of materiel or services. The LOA agreement makes it mandatory for the purchaser to pay for the full value of the transaction, regardless of terms of sale specified for the individual case.

2. **Payment in U.S. Dollars.** Sales may be made under FMS only if the eligible purchaser agrees to pay in U.S. dollars (AECA, Secs. 21 and 22). Payment in kind (barter) is authorized by Section 21(h) AECA under the limited circumstances specified therein.

3. **Credits.**

a. **Use of Credit for Essential Items.** Credit and credit guaranties under the AECA will be used only to assist countries in acquiring essential items which cannot reasonably be financed by other means and normally will be used only to finance investment requirements.

b. **Use of Concessionary Credit Terms.** Concessionary credit terms (i.e., interest rates less than cost of money to the USG) will be granted only when determined by the President (Sec. 23, AECA).

c. **Repayment of Credit.** FMS credits must be repaid in U.S. dollars within 12 years after the loan agreement has been signed on behalf of the USG (Sec. 23, AECA), unless otherwise provided for by U.S. law.

d. **Use of Credit Payments.** Cash received from FMS and from repayments of FMS credits shall not be used for financing new credits or guaranties. (Sec. 37, AECA).

e. **Air Travel.** Military and civilian individuals who are traveling to and from a foreign country on SA business should utilize a U.S. commercial air carrier in accordance with standard policy and procedures contained in the Joint Travel Regulations, Volumes I and II. Compliance to this requirement should be followed whether travel is financed with FMS administrative funds, FMS LOA funds, or MAP funds. Thus, the SA traveler is required to use the same carrier, routing, and class of service that the transportation officer requires of other DOD travelers. Waivers from normal travel procedures will be granted SA travelers on the same basis and in the same manner as provided for DOD personnel traveling on regular defense business. **

Replace with attached next page

PROPOSED CHANGE TO DOD 5105.38-M, SAMM

Section 20202C.3.e. Change to read as follows:

e. Air Travel. Military and civilian individuals who are travelling to and from a foreign country on SA business, whether the travel is financed by FMS administrative funds, FMS LOA funds, or FMF funds, should utilize a U. S. commercial air carrier, unless one of the two exceptions described below applies. In the absence of one of these exceptions, the SA traveler is required to use the same commercial carrier, routing, and class of service that the transportation officer requires of other DoD travelers. Waivers from normal travel procedures will be granted SA travelers on the same basis and in the same manner as provided for DoD personnel traveling on regular defense business. The following exceptions to this general guidance apply:

(1) Members of the U.S. Military Training Mission (USMTM) to Saudi Arabia and some other FMS-funded organizations in Saudi Arabia have been granted blanket authority to travel first-class within country on Saudia Airlines. This is necessary because only a first-class ticket guarantees a seat on Saudia Airlines.

(2) In those instances where (a) the travel is being charged to a specific FMS LOA which is wholly financed with customer national funds and (b) the LOA provides for the utilization of a designated air carrier whenever possible and authorizes a class of service other than economy (or the FMS customer has dictated these travel arrangements in a separate written document such as a memorandum of agreement, etc.), the military or civilian traveler is expected to comply with the contractual arrangement. (NOTE: Insertion of designated foreign air carriers in new FMS LOAs wholly financed with customer national funds is discouraged unless the customer insists.)

Source: Mr. Murrell through
Mr. Friday 11/1/80

TABLE 600-2
FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS ELIGIBLE TO
PURCHASE DEFENSE ARTICLES AND DEFENSE SERVICES
UNDER THE AUTHORITY OF THE AECA

<p>AFRICA</p> <p>Benin Botswana Burkina Faso Cameroon Cape Verde Central African Rep. Chad Djibouti Equatorial Guinea Gabon Gambia Ghana Guinea Guinea-Bissau Ivory Coast Kenya Liberia Madagascar Malawi Mali Mauritania Mauritius Mozambique Niger Nigeria Rwanda Sao Tome and Principe Senegal Seychelles Sierra Leone Somalia Sudan Tanzania Togo Uganda Zaire Zimbabwe</p>	<p>EUROPE</p> <p>Austria Belgium Denmark Finland France Germany (Fed. Rep.) Greece Iceland Ireland Italy Luxembourg Malta Netherlands Norway Portugal Spain Sweden Switzerland Turkey United Kingdom (incl Crown Agents) Yugoslavia</p>	<p>NEAR EAST & SOUTH ASIA</p> <p>Algeria Bahrain Bangladesh Egypt India Israel Jordan Kuwait Lebanon Morocco Nepal Oman Pakistan Qatar Saudi Arabia Sri Lanka Tunisia United Arab Emirates Yemen Arab Republic</p>	<p>WESTERN HEMISPHERE</p> <p>Antigua & Barbuda Argentina Bahamas Barbados Belize Bolivia Brazil Canada Chile Colombia Costa Rica Dominica Dominican Republic Ecuador El Salvador Grenada Guatemala Haiti Honduras Jamaica Mexico Panama Paraguay Peru St. Christopher/Nevis St. Lucia St. Vincent & the Grenadines Suriname Trinidad & Tobago Uruguay Venezuela</p>
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EAST ASIA AND PACIFIC

Australia	Malaysia
Brunei	New Zealand
Burma	Papau-New Guinea
China	Philippines
Fiji	Singapore
Indonesia	Taiwan
Japan	Thailand
Korea	Tomga

INTERNATIONAL TREATY ORGANIZATIONS

North Atlantic Treaty Organization (NATO) and its agencies
Organization of American States (OAS)
International Commission of Control and Supervision in Vietnam
International Commission of Control and Supervision in Laos
United Nations (UN) and its agencies, including the International Civil Aviation Organization

Also see Appendix D, Table D-5

NOTE: Sales to certain countries may have been suspended for legal or policy reasons. Any questions relative to the eligibility of a foreign country for FMS, FMSC, or lease should be referred to DSAA Operations.

TABLE 600-2. Foreign Countries and International Organizations Eligible to Purchase Defense Articles and Defense Services under the Authority of the AECA.

Background
FY9) CPD

TONGA

POLICY CONSIDERATIONS

Tonga is one of our most steadfast friends in the South Pacific. Our IMET program allows us to provide needed assistance to a reliable, friendly nation which actively supports a U.S. presence in the region and which has welcomed U.S. ship visits warmly. IMET is designed to enhance the military and professional skills of Defense Force personnel at both the officer and enlisted levels. Tonga has been declared eligible to procure U.S. defense articles and to receive excess military equipment through the FMS system using national funds.

PROGRAM DESCRIPTION

The proposed IMET program will provide technical, professional and managerial training for officers and enlisted personnel. Courses of instruction are expected to include flight training, military engineering, and command and staff training.

Section 601 - Contractor Preference for Direct Commercial Sale

60101 PURPOSE. This section pertains to U.S. contractors and DOD. It identifies the policies and procedures applicable to contractor requests to sell defense articles exclusively through direct commercial sales rather than through FMS.

60102 GENERAL.

A. **Direct Sales Preference.** As used in this section, the terms "direct sales" and "commercial sales" are synonymous, as are "direct sales preference" and "direct commercial sales preference." Direct sales preference is a procedure for recognizing contractor wishes to sell directly to countries approved to receive defense articles and services under the AECA, as opposed to Government-to-Government sales under FMS. The procedure is implemented as a courtesy to industry on a best efforts basis.

B. **DOD Neutrality.** DOD is generally neutral as to whether a foreign country satisfies its requirements for a U.S. origin defense article through FMS or on a direct commercial basis. DOD inability or unwillingness to designate an item for direct sale preference should not be construed to reflect DOD preference for sale of an item via FMS.

C. **FMS Only Designation.** The following criteria will form the basis for DOD components to recommend that an item be sold only through FMS channels: A legislative or Presidential restriction; DOD policy (e.g., NDP-1); international agreement; or a U.S. force interoperability or safety requirement. These criteria will be administered within DOD by DTSA through the export licensing process. Recommendations based on these criteria must be fully supported. Disagreements may be reconciled by DTSA or referred to the appropriate DOD element for resolution in accordance with NDP-1, ~~or~~ DODD 2040.2, ~~or~~ DODD 5120.43.

D. **Concurrent FMS and Direct Negotiations.** DOD Components will not, except where such action is specifically approved by DSAA, engage in comparison studies requested by a foreign government of an FMS offer versus a direct commercial sale. Procedures in this section are designed to avoid or control such studies.

E. **USG Approval of Direct Sales.** Agreement by DOD to notify a country of direct sales preference does not constitute a commitment by the USG that a munitions license will be issued or that the use of USG-owned plant and production equipment will be authorized. Disapproval of a contractor request for this preference does not prevent approval of a munitions license for a specific sale or of a contractor request to use USG-owned plant and production equipment.

F. **Sales Activity Communications.** In implementing these procedures, each DOD Component processing LORs or LOAs will keep other Components informed of significant commercial sales activities.

G. **Preference Life Span.** Direct sale preference designations will normally be valid for three years. Confirmation that the article still qualifies will be accomplished prior to reinstatement or designation beyond three years. The responsibility to request continuation of the direct sale preference designation rests with the manufacturer of the article.

H. **Active Preference Summary.** During January each year, DSAA will provide to affected DOD Components a list of approved direct sale preference articles and their commercial

producers. DOD Components will use this list and the notifications provided at the time each direct commercial preference is approved in evaluating requests for P&A or an LOA for the articles.

I. **Individual Proposals.** If a request is received by DSAA which does not qualify for direct sale preference but identifies negotiations with one or more foreign countries, consideration will be given to preference for the transaction. A copy of the request for a price quotation from the country must be included. These notifications will be listed for one year as an appendix to the active preference summary.

J. **Extent of DOD Commitment.** The process outlined in this section is a best efforts commitment by DOD to comply with industry preferences. Failure on the part of a DOD Component to comply with these procedures will not invalidate any resultant FMS transaction.

60103 GUIDELINES. The following should be used to help select defense articles for which direct commercial preference will be requested and determine when the preference will be applied:

A. **Defense Article Exclusions.** The following will not be designated for direct sale preference:

1. Article provided on FMS LOA non-defined (dollar) lines or not significant military equipment on the USML. Automated procedures for supply under CLSSA, BO, CSP, or other dollar lines do not lend themselves to the manual process through which direct commercial preference operates.

2. Two or more producers qualified and capable of producing the defense article. This is to avoid guiding purchasers to one manufacturer of an item when there are other qualified producers.

3. Classified article. In most instances, for security reasons, classified articles require special handling which may not allow DOD to agree to a direct commercial preference commitment.

4. Ammunition above 40mm.

5. Article which includes GFE, including GFE manufactured in a Government-Owned, Government-Operated (GOGO) facility, unless authorized for sale to U.S. firms under DODD 4175.1. Controls for these items needed to sustain a surge production capacity are more difficult to manage under direct preference.

6. Article where supply exclusively through commercial channels could reasonably be expected to adversely effect:

a. Deliveries to meet DOD, including FMS, needs.

b. DOD stockage levels (e.g., a substantial excess condition exists).

7. Article required in conjunction with a system sale.

8. A service. The difficulty in defining services to ensure equitable treatment of potential contractors normally prevents approval for direct commercial preference.

B. **Specific Sale Exclusions.** Under one or more of the following conditions, items which have otherwise been approved for direct sale preference may be sold through FMS procedures:

1. Sales to the Governments of Thailand and the Federal Republic of Germany. These countries have requested and been granted exceptions to purchase, via FMS, articles and services designated for direct sale preference.
2. The sale is financed with MAP funds.
3. The item has unallocated SDAF or DOD long supply (including MAP disposable) stocks and, in the judgement of the DOD Component concerned, reduction of the stocks is desirable.
4. Transfer through commercial channels could adversely effect deliveries under existing contracts.
5. The sale is approved by the Director, DSAA.

60104 COMMERCIAL SOURCE RESPONSIBILITIES. The manufacturer must inform DSAA Operations Directorate that it believes it is the sole U.S. producer and prefers to sell an SME item on a direct commercial basis. The notification must provide the following: Article designation or nomenclature, military model number and NSN (if available), date and number of the most recent contract with DOD, and the DOD recipient under the contract.

60105 DSAA RESPONSIBILITIES. DSAA will determine whether an article is to be designated for direct sale preference based on the request of the manufacturer and information provided by the cognizant DOD Component. The DOD Component will be provided an information copy of the response to the manufacturer with instructions regarding processing of requests for articles which have been designated for direct sale preference.

60106 DOD COMPONENT RESPONSIBILITIES. Correspondence pertaining to direct commercial preference should be coordinated with DSAA-OPS.

A. **Requests for Preference.** DSAA will ask DOD Components to provide input within 30 days for responses to requests for preference. Input should include:

1. Confirmation that the item is SME. In some instances (e.g., certain wheeled vehicles), non-SME items are offered as defined lines on LOAs. Non-SME status should not disqualify the item from direct commercial preference consideration in these instances.
2. Contract history with the firm.
3. Other sources capable of producing the article.
4. Impact of preference designation on U.S. programs (e.g., delayed deliveries or inability to reduce excess stocks.)
5. Confirmation that the item is manufactured without GFE or, if applicable, the firm's qualifications to purchase GFE under the provisions of ~~DOD~~ 4175.1.
DODD
6. Other comments regarding whether the item qualifies for direct preference based on Section 60103 Guidelines.

B. **P&A or LOA Requests.** In addition to retaining information within SA organizations, notices of direct commercial sale designation should be held at the item manager level to allow proper screening of P&A and LOA LORs for direct sale preference. Within three weeks of receipt

~~weeks of receipt~~ of the LOR, notify the purchaser of any direct preference, using the following letter or message text:

[Company] has advised DOD that it has the capability of providing [article], which you have requested to purchase via FMS, and prefers to market it on a direct commercial basis.

DOD has no preference as to whether this item is procured through FMS or on a direct commercial basis. If a commercial transaction is undertaken, the U.S. Government will not be a party to the contract; therefore, all aspects of contract performance must be between your Government and the company.

Should you not desire to pursue a direct commercial purchase, please advise us of your rationale.

C. P&A or an LOA Versus a Commercial Proposal. SA countries may request FMS data after having solicited bids from contractors. Under these circumstances, data should not be offered until:

1. The country confirms that commercial negotiations have stopped and provides rationale for continuing with FMS.

2. When considered appropriate, contractor input is obtained. Since only one source usually exists for direct sale preference items, it will normally be presumed that contractor approval for FMS sale, versus no sale, is supported; however, DSAA or the DOD Component should obtain contractor comments prior to issuance of P&A or an LOA where necessary to make an informed FMS data release decision.

3. DSAA has determined, based on the combination of information received from the foreign government, and contractor when possible, whether to satisfy the requirement under FMS.

D. Withdrawal of LOAs. Instances could arise where an SA customer received an LOA and subsequently solicited bids from private industry for the same item. Such action does not automatically require DOD withdrawal of the LOA. DOD Components should query the country as to its intentions and express a predilection for withdrawing the LOA in light of the commercial quotation request.

Include with Change 3 per discussion memo. Blundell & W. Wells 10/24/90

DOD 5105.38-M

Also all (51)

70003.B.3.h.

h. Key factors which will effect the above planning data, for example:

(1) Current contract for this item expires on (indicate date) and an LOA must be accepted by (indicate date) so that options can be added to the current contract. ~~If an LOA is not accepted by the indicated date, the price may rise substantially and new data will be required.~~

(2) Production line is due to phase out by (indicate date). Start-up costs would have to be applied if an LOA is not accepted by (indicate date).

(3) Materiel has a shelf-life of (indicate date).

~~i. Expiration Date: _____ After this date, if the article/service is still under review, revised data should be requested.~~

j. Validity: The above information is not valid for purposes of preparing an LOA and may not be adequate for budgetary purposes. It is planning information for review purposes only, to assist in your government's determination of the feasibility of requesting an LOA.

k. The DD Form 1513 will not be used to provide P&A data.

4. P&A Estimates are not Commitments. All responses for P&A data will include the following note: "The provisions of the foregoing P&A data does not constitute an agreement between the U.S. Government and the Government of (insert the appropriate foreign country), nor a U.S. Government commitment to provide the articles or services for which these estimates are provided."

5. Agents Fees or Commissions. Any P&A quotation which contains agents fees or commissions will be coordinated with the Management Division of the DSAA Operations Directorate before dispatch.

6. DD Form 1513 - LOA.

a. Purpose. The DD Form 1513 will be used for all FMS of defense articles and services and sales of design and construction services by all DOD components. Annex A of the LOA contains the General Conditions which are an official part of every offer issued.

b. Periods of Effectiveness. The LOA will itemize the defense articles and services offered, and when executed becomes an official tender by the USG. An accepted LOA is effective until all articles offered are delivered and all services completed. LOAs for blanket order FMS cases, training cases or cases covering the provision of a continuing service (e.g., contractor administrative services or engine or component improvement programs), may provide for up to a two year's duration, provided the total value of the case does not exceed \$5 million. Exceptions to this effective period and dollar limitation require the approval of the DSAA.

c. Acceptance. Signing of the LOA by the designated foreign official, together with applicable funding constitutes the agreement of the foreign government or international organization to the offer and constitutes a contractual commitment between the U.S. and foreign government or international organization.

7. Response to Requests which Involve Less than EOQ. When a request is received for P&A or an LOA which cannot be supplied from stock and cannot be immediately obtained from normal procurement because it represents less than an EOQ, the response to such requests should provide the following information to the country or international organization:

70003.D.

D. Letter of Intent (LOI) DD Form 2012, 2012-1, 2012-2).

(Table 700-3)

1. Types of LOI. There are two Formats for LOIs: The DD Form 2012, used to finance procurement of long lead time items prior to the issuance of an LOA; and the DD Form 2012-1, used to finance procurement of long lead time items during the period between issuance of an LOA and acceptance by the purchasing country or international organizations. Also see 70002.A.3.

(Table 700-4)

2. Limitation of Cost or Funds. As both forms contemplate a specified dollar limitation upon the liability of the purchaser for the procurement of long lead time items, in order to comply with the requirements of the AECA, it is necessary that all cost-reimbursement contracts awarded to implement a LOI (procurement as well as research and development) include a Limitation of Cost or Funds contract clause (see FAR 52.232-20 and 52.232-21). That clause may be deleted by contract amendment after the purchaser's acceptance of the LOA.

or 2012-1

3. Approval of the DSAA. Use of the DD Form 2012 does not constitute authorization to take implementing action under such LOI in advance of compliance with the statutory reporting requirement of Section 36(b) of the AECA. In the event that a DOD component is of the opinion that production scheduling requirements necessitate initiation of procurement of long lead time items in advance of full compliance with Section 36(b) of the AECA, the DOD component concerned shall, prior to transmitting a proposed LOI to the purchasing country, or international organization, promptly forward its recommendations to the Director, DSAA, for a decision. If an exception is made by the Director, DSAA, a modified version of the DD Form 2012 or 2012-1 will be provided to the DOD component by the DSAA on a case-by-case basis.

(Table 700-5)

6. Amendment to the LOI. DD Form 2012-2, Amendment to Letter of Intent, should be used for amending LOIs as provided for in paragraph 2(c) of DD Form 2012 and DD Form 2012-1.

~~5. Sample Formats. Refer to Tables 700-3, 700-4 and 700-5.~~

5. DSAA Countersignature. DSAA countersignature is required prior to the submission of any DD Form 2012, DD Form 2012-1, and DD Form 2012-2 to the purchaser.

4. LoI Preparation. The LOI uses the same designator as the parent LOA. Items to be provided should include the line item number and line data from the LOA. Terms of payment, financial annex, payment schedule, and terms of financing information should also be included in the defense articles and services field. If available space is inadequate, an attachment should be used.

Background
(change 3)

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

21 DEC 1990

MEMORANDUM FOR OPERATIONS - E (MR. WELLS)

SUBJECT: Proposed Change to DOD 5105.38-M, SMM

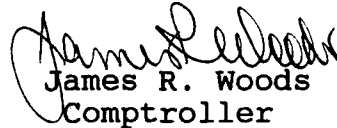
Attached proposed change to DOD 5105.38-M, SMM, is submitted for inclusion in the next published change. The change to Section 70003.D.:

(a) Identifies LOI forms and their purposes at the beginning of the section.

(b) Adds new LOI preparation guidance.

(c) Adds a new table - attachment to the LOI for line item detail.

My point of contact is Mr. Jerry Friesz, 614-1173.


James R. Woods
Comptroller

Attachment
As stated

Background

SAMM CHANGE, LETTERS OF INTENT

1. Paragraph 70003.D., page 700-10. Delete and substitute:

"D. Letter of Intent (LOI) (DD Form 2012, 2012-1, 2012-2).

1. Purpose. The Letter of Intent (LOI) authorizes the U.S. Government to purchase long lead time items associated with a pending sale of a major weapon system. The LOI is a pre-LOA instrument that is used when a LOA is in preparation or has been offered but not yet accepted by the purchaser. The LOI has three forms:

a. DD Form 2012. Use to finance procurement of long lead ^{TIME} items prior to the issuance of an LOA for the major system sale.

^{time} b. DD Form 2012-1. Use to finance procurement of long lead items after issuance of an LOA but prior to LOA acceptance by the purchaser.

c. DD Form 2012-2. Use to amend the LOI in the event that additional funds are needed prior to purchaser acceptance of the LOA.

2. LOI Preparation.

a. Case Designator. The LOI uses the same case designator as the LOA it precedes (e.g., BA-D-SAA).

b. Line Item Detail. The LOI will include an attachment that itemizes the articles and services to be purchased under the LOI (See Table 700-~~5~~).

c. Financial Annex and Payment Schedule. The provisions of Chapter 13, Section 1304, apply.

d. Terms of Financing. The provisions of Chapter 13, Section 1301, para 131014.c. apply.

3. Limitation of Cost or Funds. Both the DD Form 2012 and the DD Form 2012-1 contemplate a specified dollar limitation upon the liability of the purchaser for the procurement of long lead ^{TIME} items. In order to comply with the requirements of the AECA, it is¹ necessary that all cost-reimbursement contracts awarded to implement a LOI (procurement as well as research and development) include a Limitation of Cost or Funds contract clause (see FAR 52.232-20 and 52.232-21). That clause may be deleted by contract amendment after the purchaser's acceptance of the LOA.

*now in
70003.D.1
and 4*

*Added as
70003.D.5*

In 70003.D.2

4. Approval of the DSAA. Use of the DD Form 2012 or 2012-1 does not constitute authorization to take implementing action under such LOI in advance of compliance with the statutory reporting requirement of Section 36(b) of the AECA. In the event that a DOD component is of the opinion that production scheduling requirements necessitate initiation of procurement of long lead time items in advance of full compliance with Section 36(b) of the AECA, the DOD component concerned shall, prior to transmitting a proposed LOI to the purchasing country or international organization, promptly forward its recommendations to the Director, DSAA, for a decision. If an exception is made by the the Director, DSAA, a modified version of the DD Form 2012 or 2012-1 will be provided to the DOD component by the DSAA on a case-by-case basis.

5. DSAA Countersignature. DSAA countersignature is required prior to submission of any DD Form 2012, DD Form 2012-1, and DD Form 2012-2 to the purchaser.

6. Sample Formats. Refer to Tables 700-3, 700-4, 700-5, and 700-6.

7. Incorporation of LOI Provisions into Accepted LOA. The purchaser-signed LOA supercedes the LOI. Future adjustments to the FMS case will be accomplished by DD Form 1513-1 or 1513-2, as appropriate. Use of DD Form 2012-series documents in connection with an implemented FMS case is not authorized."

2. Add new Table 700-6 (attached) and re-number subsequent tables.

70003.D.3

70003.D.6

70003.D.1
and 4

70002.
A.3

70003.D.

Background

TABLE 700-6. Attachment One to LOI -- Line Item Detail

LINE ITEM	ITEM DESCRIPTION	QTY	U/I	UNIT COST	TOTAL COST	AVAILABILITY/ REMARKS
001	LONG LEAD TIME ITEMS	XX	XX	N/A	10,000,000	P-36 TA-5
002	SPARE ENGINE	1	EA	12,000,000	12,000,000	P-36 TA-5
	SUBTOTAL:				22,000,000	
003	CASE MGT	XX	XX	N/A	70,000	S(1-12) TA-5
	ESTIMATED COSTS:				22,070,000	
	ADMINISTRATIVE COSTS:				660,000	
	TOTAL COSTS:				22,730,000	

TERMS: FMS CREDIT (Non-Repayable)

Payments will be in accordance with the provisions of the financial annex.

In 70003.D.5

70002.C.2.f.(7).

or by correspondence courses, technical, educational, or informational publications and media of all kinds. Some examples are: established DOD management, language, technical, maintenance or supply subjects/courses. OJT is generally structured to suit individual purchaser requirements related to some form of experience which the student seeks. Contractor training is used to supplement or replace training which may not be available in the U.S. Government at the time the training is required; i.e., flight training at contractor's facilities. Correspondence courses cover the range of courses being offered by each of the military departments.

(7) Training Aid Devices. These are used principally to supplement information and/or training programs which the foreign purchaser uses for educational purposes. Examples are: video tapes, slides, 8/16mm film, microfiche, transparencies, and aperture cards.

(8) Repair of Repairable Items. Any items of supply of a durable nature which can normally be economically restored, when unserviceable, to a serviceable condition through regular repair procedures can be covered under a Blanket Order FMS case. Once an LOA is implemented repairable items may be repaired at the request of the purchaser and with the approval of the appropriate military service inventory manager. LOAs must clearly identify the items eligible for repair. Some examples are: communications equipment, radar, sonar, etc.

g. Items Restricted from Blanket Order Cases. Under Blanket Order FMS cases, certain restrictions are imposed. The following specific types of requirements may not be ordered under Blanket Order FMS cases:

- (1) Classified materiel (except Air Force).
- (2) Classified publications (Navy only).
- (3) Explosive ordnance items.
- (4) MDE (see Table 700-6) and initial logistics support which is normally ordered for concurrent delivery with such items.
- (5) SME.
- (6) Lumber and other type commercial materiel.
- (7) TDPs.
- (8) Non-MDE excess defense articles (except DLA).

3. CLSSAs. CLSSAs are ~~procurement~~ military logistics support arrangements designed to provide responsive and continuous supply support at the depot level for U.S.-made military materiel possessed by foreign countries and international organizations. The CLSSA is normally the most effective means for providing common repair parts and secondary item support for equipment of U.S. origin which is in allied and friendly country inventories. The CLSSA provides for the execution of Foreign Military Sales Orders (FMSOs) covering stockage, storage, and consumption as follows:

a. FMSO I. The FMSO I consists of an LOA covering the estimated dollar value and total initial agreed list of items and quantities to be stocked and maintained on order from procurement for support of the purchaser's U.S.-furnished equipment.

b. FMSO II. The FMSO II consists of an LOA covering the purchaser's estimated withdrawals of materiel from the supply system for an agreed period (normally one to three years). This CLSSA requisition case is undefined as to items and quantities and reflects in a dollar amount, the estimated consumption for the agreed period. *

[Note: DSAA is the central point for CLSSA policy guidance within DOD. DOD Instruction 2000.8 prescribes the policies and criteria for establishing CLSSAs. Further details regarding CLSSAs may be found in Chapter 8, this manual. CLSSA policy questions may be referred to DSAA/OPS-E.] *

UNCLASSIFIED

Background

JOINT STAFF
INFO SERVICE CENTER

ZYUW RUEKJCS8047 0150719

PRIORITY
P 150719Z JAN 91
FM SECDEF WASHINGTON DC//USDP//
TO AIG 8797

UNCLAS
FROM DSAA/OPS-E
SUBJECT: SAMM CHANGE REGARDING CLSSA'S
REFERENCE: A. SAMM, DOD 5105.38-M, 1 OCT 88
B. DODD 2000.8, CLSSA'S

1. THE FOLLOWING WILL BE INCLUDED IN A FUTURE CHANGE TO THE SAMM:
SECTION 70002.C.3. DELETE "PEACETIME" IN THE FIRST LINE.
2. THIS IS TO REDUCE CHANCES FOR ERRONEOUSLY CONCLUDING THAT CLSSA'S
ARE SOLELY FOR PEACETIME SUPPORT. CONTROL OPTIONS REFLECTED IN REF B
ARE NOT ALTERED BY THIS CHANGE TO REF A. BT

JOINT STAFF
 ACTION J5 (3) USDP:FILE (1) DIA (1) (D,U,A,6,F)
 INFO CJCS (1) VCJCS (1) J3 (4) NIDS (1) J4 (9) QUAL CONTROL (1)
 SECDEF-N (1) USDP:DSAA (4) NMIC (1) DA-SA (1) DIO-WE (1)
 +SAFE

30

14. B

this msg not sent to DISAM

MCN=91015/02310 TOR=91015/0719Z TAD=91015/0856Z

CDSN=MAJ563

PAGE 1 OF 1
150719Z JAN 91

UNCLASSIFIED

BS

DW
1/14



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

14 January 1991

Memorandum for ~~Mr. Rudd~~
Through ~~Mr. McKalip~~
~~Mrs. Blundell~~
~~Mrs. Ludlow-MacMurray~~

Signed GAD

Brought to our attention by Robin Phillips in UK Embassy.

MI-14-90

Subject: SAMP Change Concerning CLSSA Support

Proposed message at Signature Tab is based on a call from the UK Embassy concerning section 70002.C.3. of the SAMP which says "CLSSAs are peacetime military logistics support arrangements...". UK is concerned that CLSSAs will automatically terminate if a conflict develops in the mideast.

The proposed message is to delete "peacetime" to make the SAMP consistent with DODD 2000.8 and condition A.6. of the DD Form 1513, which provide that we may change normal procedures for support of CLSSA's during crises in order to protect U.S. interests.

Tab A shows the change, in SAMP context.

Wayne Wells
Wayne Wells
OPS-E, 78108

Attachments
As stated

polwd2

not to DISAM

14.C

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02

PP

UUUU

SECDEF WASHINGTON DC//USDP//

AIG 8797

UNCLAS

FROM DSAA/OPS-E

SUBJECT: SAMM CHANGE REGARDING CLSSA'S

REFERENCE: A. SAMM, DOD 5105.38-M, 1 OCT 88

B. DODD 2000.8, CLSSA'S

1. THE FOLLOWING WILL BE INCLUDED IN A FUTURE CHANGE TO THE SAMM:

SECTION 70002.C.3. DELETE "PEACETIME" IN THE FIRST LINE, ~~AND CHANGE THE
LAST LINE TO READ "...AND CONSUMPTION, NORMALLY BASED ON PEACETIME USAGE
RATES, AS FOLLOWS"~~

THIS IS TO REDUCE CHANCES FOR ERRONEOUSLY CONCLUDING THAT CLSSA'S
ARE SOLELY FOR PEACETIME SUPPORT. CONTROL OPTIONS REFLECTED IN REF B
ARE NOT ALTERED BY THIS CHANGE TO REF A.

USDP: DSAA/USDP FILE

MR. WELLS, OPS-E
11 JAN 91, X78108/POLEM

COORD: OPS:
ASD(P&L)L&IL: yil

OPS-E: *san* 1/14/91
1/14/91

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Coordination Copy

28329
78248
20351

Not to be used
K.L.D.

**TABLE 700-6
MAJOR DEFENSE EQUIPMENT LIST**

	DSAA Approved Pro Rata Nonrecurring Cost (NC) <u>Recoupment Charge \$</u>	Date N Charge <u>Approved</u>
<u>CATEGORY I - FIREARMS</u>		
Rifle, 5.56mm M-16 Series (A)	[No Charge]	
Gun, Machine, 7.62mm, M240 (A)	65.07	28 Mar 89
<u>CATEGORY II - ARTILLERY AND PROJECTILES</u>		
Gun, M-61, 20mm (AF)	1,342.00	6 Dec 84
Gun, GAU-8, 30mm (AF)	27,881.00	22 Jan 81
Gun, Pod, GPU-5/A, 30mm (AF)	60,239.00	11 Aug 82
Gun, Machine, 50 CAL, M-2 (A)	1.82	28 Mar 89
Howitzer, Towed, 105mm, M101A1 (A)	850.00	11 Jun 87
Howitzer, Med, Towed, 155mm, M-198 (A)	47,483.00	14 Feb 86
<u>CATEGORY III - AMMUNITION</u>		
Cartridge, 20mm (A)	(a)	
Cartridge, 30mm (GAU-8) (AF)	.50	28 Mar 89
Cartridge, 40mm, HE (A)	.11	28 Mar 89
Cartridge, 40mm, HE, M406 (A)	(a)	
Cartridge, 60mm, HE (A)	.47	28 Mar 89
Cartridge, 60mm, HE, M49A2/A3/A4 (A)	(a)	
Cartridge, 81mm, ILLUM (M301)(only) (A)	.04	7 May 81
Cartridge, 81mm, HE, M374A2/A3 (A)	(a)	
Cartridge, 105mm, HE, HEP-T, M393A2 (A)	(a)	
Cartridge, 105mm, HEAT-T MP M456 (A)	3.59	7 May 81
Cartridge, 105mm, M490 (A)	.57	7 May 81
Cartridge, 105mm, M724A1 (A)	1.42	7 May 81
Cartridge, 105mm, APFSDS-T M735 (A)	68.00	28 Mar 89
Cartridge, 105mm, APFSDS-T M774 (A)	(a)	
Cartridge, 105mm, APFSDS-T M833	(a)	
Cartridge, 120mm, APFSDS-T M829 (A)	126.60	2 Dec 88
Cartridge, 120mm, HEAT MP-T M830 (A)	293.59	2 Dec 88
Cartridge, 120mm, HEAT TP-T M831 (A)	83.03	2 Dec 88
Cartridge, 120mm, TPCSDS-T M865 (A)	37.82	2 Dec 88
Cartridge, 4.2", HE (A)	(a)	
Cartridge, 4.2", HE, M329 (A)	(a)	
Cartridge, 4.2", ILLUM (M335) (includes M577 fuze) (A)	4.03	
Projectile, 5"/38 CAL (N)	15.60	9 Jul 84
Projectile, 5"/54 CAL (N)	74.42	4 May 84
Projectile, 155mm, M107 (A)	3.22	21 May 79
Projectile, 155mm, M483/M483A1 (A)	2.20	2 Mar 82
Projectile, 155mm, HE RAP (M549) (A)	13.76	5 Feb 81
Projectile, 155mm, CLGP, M-712 COPPERHEAD (A)	4,152.00	17 Sep 81
Projectile, 155mm, ADAM M692/M731 (A)	111.00	30 May 86
*Projectile, 175mm, HE, M437 (A)	2.33	26 Mar 80
Projectile, 8", HE, M106 (A)	.04	21 May 79
Projectile, 8", HE, ICM (A)	15.48	21 May 79

TABLE 700-6.

* Projectile, 155mm, HE, RAPMS M718/M741 (A)

57.00 30 May 82

70103.H.3.a.(4).

(4) **Data Required.** The following information will be included:

(a) Case designator, line item and complete descriptive data relative to the item or service.

(b) Source of the article. Examples are:

1. Excess inventory.
2. Inventory (without replacement).
3. Inventory (replacement with same item).
4. Inventory (replacement with improved item).
5. Production.

(c) Source of price estimates. Examples are:

1. Prime contractor quote.
2. Prime and GFE contractor quotes.
3. Standard price.

4. DOD component estimate without contractor participation, based on recent sale or similar experience, or in accordance with DOD 7290.3-M. [In this connection, notice should be taken of Section ^{225.7303(b)(2)} ~~25.7303(A)(2)~~ of the ~~DOD FAR Supplement~~ ^{DFARS} concerning the participation of the procuring contracting officer in the preparation of ^{P&A Data} ~~P&A Data~~ and that the provisions of this section are complied with.] _{LOA}

(d) The basis for making or adjusting estimates from any of the above sources. Examples are:

1. Agent's fees or commissions included in the FMS case and the amount thereof. The DOD component certification of reasonableness in accordance with Subpart 3.4, FAR and ~~DOD FAR Supplement~~ ^{DFARS} Section ^{225.7305(c)(iii)(C)} ~~25.7305(B)~~ must be attached. If the fee cannot be or has not been certified as reasonable, the DOD component notification or proposed notification to the foreign country or international organization should also be attached for information or coordination. See Chapter 8, Section 801, paragraph 80103, this Manual, for further guidance.

2. Inclusion of nonrecurring RDT&E and production cost recoupment in accordance with DOD Directive 2140.2.

3. Inclusion of adjustments for estimated inflation or other risk factors.

4. Replacement cost in accordance with the provisions of DOD 7290.3-M.

L. DD Form 1513 - Duration of Offer.

1. Expiration Date on Offer - Standard. Each LOA will include the date upon which the offer expires. When the LOA is forwarded to the DSAA, for coordination and/or countersignature, the date (Block 7) should be completed along with the signature and typed name and title of the DOD component authorized representative. Additionally, Block 8 should contain an expiration date of 85 days after the date placed in Block 7. This 85 day period permits a 60 day review period for the country and a 25 day period for the administrative processing required for countersignature and for DOD component issuance of the LOA or Amendment to the purchaser.

2. Expiration Date on Offer - Exception. If a shorter expiration period is required because of (1) the validity of contractor quotes comprising the P&A information included on the LOA or Amendment, or (2) the time sensitivity of any information included in the LOA, then the shorter expiration period should appear and a note placed on the LOA which explains why the expiration period is less than 60 days. Offer expiration dates in excess of 85 days require DSAA approval.

M. Acceptance of Offer. The purchaser should complete the acceptance portion of the DD Form 1513. The form should be signed, dated, and copies forwarded to the MILDEP and to SAAC along with any required initial deposit before the expiration date listed on the LOA.

1. Requests for Extension. Requests by the purchasers for extensions to expiration dates will be honored only after a full review by the preparing agency to insure that all data included in the LOA remains valid. The foreign country or international organization should be advised of the new expiration date via message from the preparing DOD component along with authorization to make a pen and ink change to the expiration date listed on the LOA or amendment. SAAC and DSAA should be provided an information copy of the message. All concerned should be advised of the consequence of extensions. Normally, the greater the period of time between offer and acceptance the greater the likelihood of decreased accuracy of the ~~P&A~~ data contained in the LOA.

2. Receipt and Recording of Acceptance. When the LOA is accepted, distribution will be made in accordance with the instructions contained in the LOA.

3. SAO Notification of Acceptance or Rejection. Each SAO will immediately advise DSAA (Comptroller), SAAC, and the MILDEP issuing the LOA by priority message when each LOA has been accepted or rejected by the foreign country or international organization. In those instances when the LOAs are processed by the foreign country or international organization not served by SAOs, the LOA will have an annotation requiring the signature authority to immediately notify DSAA-Comptroller, SAAC, and the appropriate issuing organization by message when the LOA is accepted by an authorized representative of the purchaser. Each message must contain the date of acceptance. Within five calendar days of acceptance or rejection of the offer, DSAA, SAAC, and the issuing organization must be notified. If such notice is not received within ten calendar days after the expiration date, the LOA, even though accepted, will be automatically cancelled.

4. Pen-and-Ink Changes. ~~DD Forms 1513 and 1513A~~ See Section 80401.F. ** -

70103.N.

N. Addresses of Military Department Central Activities Responsible for Preparing and Processing EMS Transactions. **

1. Army: Action Address -

Department of the Army *Assistance*
U.S. Army Security ~~Affairs~~ Command
5001 Eisenhower Avenue
Alexandria VA 22333-0001

Messages - CDR USASAC Alexandria VA//AMSAC//

Information Address -

Headquarters, Department of the Army
Directorate for Security Assistance
Washington DC 20310-0512

Messages - DA Washington DC//DALO-SA//

2. Navy:

Department of the Navy
Navy Office of Technology Transfer and *International Programs Office*
~~Security Assistance~~
Washington DC 20350-5000

Messages - *NAVY IPO* NAVOFFSA Washington DC

3. Air Force:

Department of the Air Force
Director of ~~Military Assistance and Sales (AF/PRI)~~ *International Programs (AF/PRI)*
Headquarters, U.S. Air Force
Washington DC 20330-~~0001~~ 5240

GO ___ under this LOA. Reimbursement shall be limited to those costs incurred, including applicable overhead and G&A, but excluding profit.

G. Special Contingencies Provision.

1. It is understood that no contingency pricing has been included in this LOA for items a. through d. set forth in paragraph 2, below.

2. The GO ___ agrees, with respect to the Contractor, that in the event of the following situation(s) occurring as a result of effort performed in support of this LOA in [country], an adjustment to the resulting contract(s) will be made for:

a. Costs incurred due to actions brought against the Contractor or subcontractors under [country] Labor or Social Insurance Laws, provided such actions were not caused by conduct prescribed by other laws or willful contravention of [country] Labor or Social Laws.

b. Additional costs incurred resulting from GO ___ prevention of shipment of Contractor or employee belongings in or out of [country] within 120 days of the date such property is made available for shipment where transportation is otherwise reasonably available.

c. An increase or decrease in costs incurred by the Contractor resulting from war, armed conflict, insurrection, nationalization, civil or military strife, or similar conditions, or acts of God where the safety of the Contractor and subcontractor personnel is threatened, and where retention or replacement of such personnel is required; and damage or loss as a result of conditions listed above to property owned by the Contractor, subcontractor, or employees. Whether to retain or replace such personnel shall be within the sole discretion of the U.S. Government.

d. An increase or decrease in costs incurred by the Contractor or its subcontractors resulting from the GO ___ changing any laws, regulations, or policy in effect on the acceptance date of this LOA.

3. It is understood that no adjustment shall be made due to the above situations:

a. To the extent that performance would have been delayed or interrupted or that costs would have been incurred due to any circumstances not set forth in 2, above.

b. To the extent that performance would have been delayed or interrupted or that costs would have been incurred due to the fault or negligence of the Contractor; or

c. For which any adjustment is otherwise provided or excluded under any other provision of the resulting contract, such other provision shall be enforced in accordance with its terms.

(FAR, Part 31)

4. The adjustments provided for in this provision may be made in the delivery or performance dates and any other provision of the contract implementing this LOA, affected by the above conditions. Upward or downward adjustments may also be made in the contract price, but shall be limited to actual costs, including overhead and G&A, but excluding profit. ~~DAR, Section XV, Cost Principles,~~ shall be used in determining the amount of any price adjustment, and is not superseded by any provision herein. Costs reimbursed to the Contractor under this provision shall be paid out of funds which will be provided by the GO ___ under this LOA.

70301.

chg 3

SECTION 703 CONGRESSIONAL SECTION 36(b) NOTIFICATIONS AND REPORTS ~~AND SECTION 28 REPORTS OF FOREIGN MILITARY SALES SALES~~ ← (Leave in)

70301 PURPOSE. The purpose of this section is to provide DOD components with the procedures to be followed during the processing of an LOA, DD Form 1513, when that LOA meets or exceeds the thresholds established for Congressional notification in the AECA and Congressional reporting in AECA, Section 36(b), ~~and in Title 10, USC~~. This section enumerates the requirements of the AECA, Section 36(b), ~~and USC, Title 10, Section 118~~ under which Congressional notifications and reports must be submitted; defines the criteria, responsibilities, and procedures established for the submission of these Congressional notifications and reports; and prescribes the data elements, format (to include classification), and procedures for the submission of information to DSAA required for Congressional notifications and reports.

chg 3

70302 STATUTORY PROVISIONS, EXECUTIVE REQUIREMENTS, AND EXCEPTIONS.

chg 3

A. Statutory Provisions. ~~Provisions of the AECA and the USC, Title 10 require the following submissions to Congress:~~

~~1. Governmental Military Export (Section 36(b)(1)) Notification.~~

~~1.~~ Section 36(b)(1) of the AECA requires that, in the case of any LOA to sell any defense articles or services under the Act for \$50 million or more, any design and construction services for \$200 million or more, or any MDE for \$14 million or more, before such LOA is issued, a numbered certification must be submitted to the Congress indicating (a) the foreign country or international organization to which the defense article or service is to be offered for sale, (b) the dollar amount of the offer to sell and the number of defense articles to be offered, (c) a description of the defense article or service to be offered, and (d) the U.S. Armed Forces or other agency of the U.S. which is to make the offer to sell or, in the case of a sale of design and construction services, the following must be shown: (a) the purchaser, (b) the U.S. department or agency responsible for implementing the sale, (c) an estimate of the dollar amount of the sale, and (d) a general description of the real property facilities to be constructed pursuant to such sale. In either type of submission, the certification must contain a description of any contribution, gift, commission, or fee paid or offered or agreed to be paid in order to solicit, promote, or otherwise to secure such LOA, including (a) the name of the person who made or will make such payment, contribution, gift, commission, or fee; (b) the name of any sales agent or other person who is to receive or has received such payment, contribution, gift, commission, or fee; (c) the date and amount of such payment, contribution, gift, commission, or fee; (d) a description of the sale in connection with which such payment, contribution, gift, commission, or fee was or will be paid; and (e) the identification of any business information considered confidential by the person submitting it which is included in the report. Such numbered certifications shall also contain an item, classified if necessary, identifying the sensitivity of technology contained in the defense articles, defense services, or design and construction services proposed to be sold, and a detailed justification providing the reasons necessitating the sale of such defense articles or services in view of the sensitivity of such technology. The AECA, Section 36(b), Paragraph (4) requires that each certification cite any quarterly report submitted under Section 28 of the Act which listed a P&A estimate or a request for LOA, which was a basis for the proposed sale. The FAA, Section 620C(d), requires a special certification for notifications of proposed sales to either Greece or Turkey. The International Security and Development Cooperation Act of 1985, Section 130(c), requires a special certification for notifications of proposed sales to Jordan pertaining to U.S. advanced aircraft, new air defense systems, or other new advanced military weapons. These

70302.A.1.b.

Jordan certifications, prepared by the State Department and signed by the President, will be appended to Section 36(b)(1) notifications to the Congress involving such items.

~~2. a.~~ The AECA, Section 36(b)(1) states that the LOA shall not be issued to NATO, any NATO member country, Japan, Australia, or New Zealand, if the Congress, within 15 calendar days after receiving such certification, or to any other country or organization, if the Congress within 30 calendar days after receiving such certification, adopts a joint resolution stating that it objects to the proposed sale, unless the President states in his certification that an emergency exists which requires such sale in the national security interests of the U.S. If the President states in his certification that an emergency exists he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the LOA and a discussion of the national security interests involved.

~~3. c.~~ In addition, the President shall, upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, transmit promptly to both such committees a statement setting forth:

~~a. (1)~~ A detailed description of the defense articles, defense services, or design and construction services to be offered, including a brief description of the capabilities of any defense article to be offered;

~~b. (2)~~ An estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in such country to carry out the proposed sale;

~~c. (3)~~ The name of each contractor expected to provide the defense articles, defense services, or design and construction services proposed to be sold (if known on the date of transmittal of such statement);

~~d. (4)~~ An evaluation, prepared by the Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense, of the manner, if any, in which the proposed sale would:

- ~~(1) (5)~~ Contribute to an arms race;
- ~~(2) (6)~~ Increase the possibility of an outbreak or escalation of conflict;
- ~~(3) (7)~~ Prejudice the negotiation of any arms controls; or
- ~~(4) (8)~~ Adversely affect the arms control policy of the United States;

~~e. (9)~~ The reasons why the foreign country or international organization to which the sale is proposed to be made needs the defense articles, defense services, or design and construction services which are the subject of such sale and a description of how such country or organization intends to use such defense articles, defense services, or design and construction services;

~~f. (10)~~ An analysis by the President of the impact of the proposed sale on the military stocks and the military preparedness of the United States;

~~g. (11)~~ The reasons why the proposed sale is in the national interest of the United States;

~~h. (12)~~ An analysis by the President of the impact of the proposed sale on the military capabilities of the foreign country or international organization to which such sale would be made;

i. ~~(12)~~ An analysis by the President of how the proposed sale would affect the relative military strengths of countries in the region to which the defense articles, defense services, or design and construction services which are the subject of such sale would be delivered and whether other countries in the region have comparable kinds and amounts of defense articles, defense services, or design and construction services;

j. ~~(13)~~ An estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization to which the sale would be made which are needed and available to utilize effectively the defense articles, defense services, or design and construction services proposed to be sold;

k. ~~(14)~~ An analysis of the extent to which comparable kinds and amounts of defense articles, defense services, or design and construction services are available from other countries;

l. ~~(15)~~ An analysis of the impact of the proposed sale on United States relations with the countries in the region to which the defense articles, defense services, or design and construction services which are the subject of such sale would be delivered;

m. ~~(16)~~ A detailed description of any agreement proposed to be entered into by the United States for the purchase or acquisition by the United States of defense articles, defense services, or design and construction services or defense equipment, or other articles, services, or equipment of the foreign country or international organization in connection with, or as consideration for, such LOA, including an analysis of the impact of such proposed agreement upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States, an estimate of the costs to be incurred by the United States in connection with such agreement compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result from entering into such proposed agreement, and an analysis of whether such costs and such domestic economic impact justify entering into such proposed agreement;

n. ~~(17)~~ The projected delivery dates of the defense articles, defense services, or design and construction services to be offered;

o. ~~(18)~~ A detailed description of weapons and levels of munitions that may be required as support for the proposed sale; and

p. ~~(19)~~ An analysis of the relationship of the proposed sale to projected procurements of the same item.

2. Impact on Current Readiness (Section 118) Report.

a. The USC, Title 10, Section 118 has replaced the Congressional reporting requirement specified in former Section 133b of title 10.

b. The USC, Title 10, Section 118 requires that, for any LOA to sell or any proposal to transfer defense articles which are valued at \$50 million or more from the U.S. active military forces' inventories or from current production, a report shall be submitted to the Congress setting forth:

(1) The impact of such sales or transfers on the current readiness of U.S. forces;

*D-144
5/27/83*

70302.A.2.b.(2).

(2) The adequacy of reimbursements to cover, at the time of replenishment of United States inventories, the full replacement costs of those items sold or transferred; and

(3) For each article to be sold (i) the initial issue quantity requirement for United States forces for that article, (ii) the percentage of such requirement already delivered to such forces or contracted for at the time of the report, (iii) the timetable for meeting such requirement absent the proposed sale, and (iv) the timetable for meeting such requirement if the sale is approved.

c. See also Chapter 7, Paragraph 70302.C.

B. Executive Requirements.

1. Preparation and Submission of Notifications and Reports. Under Executive Order 11958, the SECDEF is delegated the responsibility of implementing Section 36(b) of the AECA in consultation with the Secretary of State. DSAA is responsible for preparing and submitting the Congressional notifications and reports under the AECA, Section 36(b), and reports under USC, Title 10, Section 118. To minimize delays in processing such notifications, consistent with the legislative and other requirements, the procedures in this section are placed in effect.

2. Advance Section 36(b)(1) Notification. In order to provide Congress with sufficient time to review the proposed sale about to be notified under Section 36(b)(1), DSAA has agreed to provide Congress with advance notification of such offer at least 20 days prior to the submission of the statutory notification. Offers to NATO, any NATO member country, Japan, Australia, and New Zealand are exempt from the advance notification agreement.

3. Sensitivity of Technology.

a. The AECA, Section 36(b)(1), as amended by Section 20(b) of the International Security Assistance Act of 1979, and the International Security and Development Cooperation Act of 1985 require a Sensitivity of Technology Statement concerning the extent to which the items to be included in the proposed sale contain sensitive technology or classified information and a justification for the proposed sale in view of the sensitivity of such technology.

(1) For purposes of this requirement, the term "sensitivity of technology" will be construed to mean the extent to which the unauthorized disclosure or diversion of any equipment, technical data, training, services, or documentation required to be conveyed in connection with the proposed sale could be detrimental to the national security interests of the U.S. The evaluation will address not only sensitive technological information contained in equipment components or technical documentation related to the sale, whether classified or not, but also restricted information contained in classified components or classified documentation required to be released in connection with the sale.

(2) It should be noted that the evaluation of sensitivity is to be made solely with reference to unauthorized disclosure or diversion of the defense equipment, technical data, training, services, and documentation to be provided and need not address either the risk of such unauthorized disclosure or diversion (covered by NDP-1 procedures and OUSD (A) review) or the foreign policy implications of authorized use by the proposed recipient (covered by Arms Export Control Board (AECB) procedures).

(3) Whenever the transfer of sensitive technological information is involved, the equipment components, types of documentation, or technical data containing the sensitive information are to be identified, and the reasons for considering them as sensitive

70302.B.3.c.

submission of Section 36(b)(5)(C) reports. A Section 36(b)(5)(A) report is not required before delivery of enhancements or upgrades previously identified in a Section 36(b)(5)(C) notification.

c. Section 36(b)(5)(C) of the AECA requires that any enhancement or upgrade, the net cost of which meets or exceeds dollar thresholds for Section 36(b)(1) certification, as outlined in Paragraph 70302.A.1.(a) of this chapter, must be treated as though it were a separate LOA. Accordingly, if the net cost of an enhancement or upgrade of the previously described sensitivity of technology or capability of major defence equipment or defense articles as well as defense services or design and construction services meets or exceeds Section 36(b)(1) thresholds, the MILDEP or agency will provide 36(b)(1) input that clearly describes the enhancement or upgrade, explains the level of sensitivity or capability that the change produces, and provides the estimated net cost of the change. The requirement to report enhancement or upgrade of previously described capability or sensitivity of technology applies only to items or services that have not been delivered or performed. When the capability was clearly described in the Section 36(b)(1) certification and there is a current request to purchase an enhancement or upgrade thereof, data will be provided on Table 703-6C only when the net cost of the enhancement or upgrade portion reaches the Section 36(b)(1) dollar threshold as follows:

Equipment/Services To Be Enhanced	Net Cost of Enhancement (Millions)
Major Defense Equipment	\$ 14
Other Defense Equipment/Services	\$ 50
Design and Construction Services	\$200

Statutory notification for enhancements or upgrades of sensitivity of technology should be submitted within 30 days of the request to purchase in the format provided in Table 703-6C to DSAA (FMSCD) for review and submission to Congress. Such changes in enhancement or upgrade requiring 36(b)(5)(C) certification may not be implemented nor may a corresponding DD Form 1513, DD Form 1513-1, or DD Form 1513-2 be issued until the certification has been processed to the Congress and the required time period pursuant to Section 36(b)(1) has elapsed. Deliveries of unmodified items on a case for which other items are to be enhanced or upgraded, such as unmodified spare parts, are unaffected and may continue to be delivered without interruption. Advance 20-day notifications prior to the statutory certifications will not be required for enhancement certifications.

Price and Availability

C. Exceptions

1. Impact on Current Readiness (Section 118) Report Exceptions. No Section 118 report is required if a proposed foreign military sale of defense articles valued at \$50 million or more is to be taken from other than a regular military component (active forces) inventories, nor is such report made if such sale is to be executed through a USG procurement contract and no concurrent procurement for the USG's own requirements is expected to be underway at the time the LOA is accepted by the purchaser.

2. Price and Availability No Section 36(b) notification is required for the provision to a prospective purchaser of separately stated P&A data even though applicable notification thresholds are met or exceeded.

70303 CRITERIA AND RESPONSIBILITIES FOR CONGRESSIONAL SUBMISSIONS.

A. Processing Letters of Offer for \$50 Million or More or for Major Defense Equipment of \$14 Million or More, or for Design and Construction Services for \$200 Million or More.

1. In compliance with the AECA, Section 36(b)(1), Congress must be provided with a notification of all "Letters of Offer" to sell any defense articles or services for \$50 million or more, any MDE of \$14 million or more, or for design and construction services for \$200 million or more, before such LOA is issued. DSAA has been designated to submit this notification to the Congress.

2. The ^{DOD}~~OSD~~ General Counsel has determined that the term "Letter of Offer" used in the AECA pertains to any proposed sale of defense articles or services to any foreign government or entity, whether or not the initial document (or set of documents) to be used to consummate the sale is a DD Form 1513 "Letter of Offer and Acceptance," or a document bearing another name. If a document other than a DD Form 1513 is used for this purpose, a DD Form 1513 shall be subsequently executed to conclude the final details of the agreement unless an exception is authorized by the Director, DSAA. If there is a conflict between the terms of the agreement and the DD Form 1513, the agreement shall provide that the DD Form 1513 will govern.

3. The statutory requirement for notification, as well as the requirement for advance notification to Congress, extend to any undertaking by DOD to establish an FMS transaction. This includes, but is not limited to FMS transactions embodied in the following:

- a. MOU for Coproduction of military items,
- b. Cooperative Research and Development Agreements, and
- c. Providing specific items or services under any existing general agreements, such as the Engineering Assistance Agreement entered into between the Army Corps of Engineers and the Saudi Arabian Government in 1965.

4. AECA, Section 36(b)(1), notifications to Congress are to be made when:

- a. An LOA under preparation is expected to meet or exceed the thresholds;
- b. An LOI, meeting or exceeding the thresholds, is authorized to be accepted by a DOD component; or
- c. An LOA amendment is prepared adding \$50 million or more to an existing FMS case unless such amendment results solely from identifiable inflationary cost increases, and to any amendment adding MDE valued at \$14 million or more. These provisions also apply to any amendment which would increase the value of an existing case from under \$50 million to a value of \$50 million or more, and any amendment which would increase the value of MDE in an existing case from under \$14 million to a value of \$14 million or more. New LOAs will be processed to cover the new requirements unless such amendments are absolutely necessary and justified, in writing, to the Director, DSAA.

5. The following are examples of MDE FMS cases that must be notified under Section 36(b)(1):

delete
~~C. Additional Required Congressional Submission Relating to Letters of Offer for \$50 Million or More. In compliance with USC, Title 10, Section 118, the SECDEF is required to submit a report to the Congress when there is a LOA to sell or a proposal to transfer defense articles that are valued at \$50 million or more from the inventories of a regular component of the armed forces or from current production.~~

70304. PROCEDURES.

A. Categories of Purchasers.

1. The AECA makes a distinction between exempted purchasers (i.e., NATO, NATO countries, Japan, Australia, and New Zealand) and non-exempted purchasers (all others).
2. For exempted purchasers:
 - a. Advance notification is not required.
 - b. The waiting period after statutory notification is 15 days.

B. State and Defense Relationship, Staffing Agreement, and Timing.

1. Prior to any advance or statutory notification to Congress under the AECA, Section 36(b)(1), the DSAA must receive clearance from the Department of State for that notification.
2. Representatives of the State and Defense ^{notification} Departments have agreed that State policy deliberations, intra-agency coordination, and submission for Presidential approval (if required) and Defense preparation of the Section 36(b)(1) ~~notice, Section 118 report,~~ and the LOA all aim toward the common objective of completing these actions within 60 days after receipt of the prospective purchaser's complete request. The procedures established in this section are designed to meet these objectives. *17/4/90*
3. Under normal circumstances the milestones indicated in Tables 703-1 and 703-2 should be met by all functional areas involved in the processing of Section 36(b)(1) notifications and LOAs.

C. Submission of Supporting Data.

Control
 1. Concurrent with LOA or LOI preparation, the cognizant DOD component must submit the supporting data required for Congressional notification to the DSAA/Comptroller-Foreign Military Sales Division (DSAA/Compt-FMSCD). If the LOR case information has not been previously entered into the 1200 system, DSAA will make the entry. Supporting data (including purchaser's reference and date of receipt by the IA) are to be submitted, using the prescribed formats, within ten days of receipt of the LOR from the purchaser. In order to enable the notification process to begin as soon as possible after receipt of the country request, it is essential that appropriate actions be accomplished by DOD components. ~~The submission is to include a statement as to whether or not a Section 118 report will be required to be sent to the Congress.~~

delete
 2. Appropriate steps will be taken by DOD components to assure that the ten-day requirement to provide data to DSAA is met. Consistent with this requirement field inputs will be obtained by DOD components on an expedited basis as necessary. Additionally, cost estimates will include separate identification of the estimated dollar value of the MDE portion of the proposed

sale. Rough order of magnitude cost estimates are acceptable for processing Congressional notifications. In the exceptional situation, if it is determined by DOD component that the ten-day requirement cannot be met, approval for extension must be sought from the DSAA Comptroller (Chief, FMS Control Division).

3. Requests from exempted prospective purchasers require the following data to be submitted: Military Justification (see Table 703-4), Statutory Notification (see Table 703-5), and, as required, Sensitivity of Technology Statement (see Table 703-6A), ~~and Impact on Current Readiness Report Data (see Table 703-7).~~

4. Requests from non-exempted prospective purchasers require the following data to be submitted: Notification as specified in Table 703-3, Advance Notification; Table 703-4, Military Justification; and, as required, Table 703-6A, Sensitivity of Technology.

5. To the extent possible for non-exempted prospective purchaser requests, the submission should also include the supporting data required to meet the statutory notification requirement as specified in Table 703-5. If these data can be provided during the initial submission, ~~and no Section 118 report is required,~~ no further data are needed by DSAA to process the advance and statutory Section 36(b)(1) notifications. However, if all data are not available, the advance notification data only should be submitted to meet the ten-day data submission requirement.

6. To the extent that it is not possible for DOD component to provide statutory notification Table 703-5 data with the initial submission, these data ~~along with data in support of Section 118 reporting requirement (Table 703-7), if appropriate,~~ will be forwarded to DSAA/Compt-FMSCD as early as possible but no later than ten days after the start of the 20 day advance notification period so that the follow-on statutory notification will not be delayed. Should it be impractical to meet the ten day deadline, approval for extension must be sought from Chief, FMS Control Division, DSAA.

7. As the process evolves, the cognizant DOD component will be informed via message of each Congressional notification and provided with a copy of the letters which transmit the advance and statutory Section 36(b)(1) notifications to Congress.

8. Following completion of the 20 day advance notification period and after State clearance, the Director, DSAA, will provide the statutory Section 36(b)(1) notification of the proposed sale to the Congress. At this time, and after receiving express authority from the Comptroller, DSAA, and coordination with DSAA Operations, the cognizant DOD component will furnish a copy of the unsigned LOA to the purchaser as an enclosure to a transmittal letter in the format of Table 703-8 (Transmittal Letter for the Unsigned LOA). If Congress adopts a joint resolution objecting to a proposed sale, the Director, DSAA will promptly notify the applicable DOD component of that fact, seek the guidance of the President as to the course of action which should be taken, and advise the cognizant DOD component of the action to be taken.

9. DOD components will submit signed LOAs to the DSAA/Compt-FMSCD, Countersignature Branch no later than five working days prior to completion of the statutory 15 or 30 day Congressional review period. Unless there are appropriate reasons to do otherwise, the expiration date assigned by DOD components will allow for normal country review periods beyond the final date of the Congressional review. When the signed LOA and all subsequent amendments and notices are submitted to the DSAA, they will include in Block 11 under "DSAA Accounting Activity" the identifying DSAA Transmittal Number used for the statutory Congressional notification (e.g., 85-29). This number will be shown on the message sent to DOD component advising of the dispatch of the statutory notification.

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70305.D.

DOD 5105.38-M

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~~D. Impact on Current Readiness Section 118 Reports. Classification guidance indicated in paragraph A.1 or A.2 above is to be followed in submitting the USC, Title 10, Section 118, supporting data to the DSAA/Compt-FMSCD.~~

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**TABLE 703-3
ADVANCE NOTIFICATION DATA**

(CLASSIFICATION)

**MEMORANDUM FOR (or LETTER TO) THE COMPTROLLER, DSAA
(ATTENTION: FMSCD)**

SUBJECT: Data for a Possible Advance Section 36(b)(1) Notification (U)

✕ (U) The following supporting data are provided in accordance with Chapter 7, Security Assistance Management Manual:

- a. (*) Prospective purchaser:
- b. (*) Purchaser's reference and date of receipt by implementing agency:
- c. (*) Description and quantity or quantities of all articles and/or services under consideration for purchase (to include all MDE and non-MDE items, segregating the MDE items and indicating the MDE value):
- d. (*) Estimated total dollar value of this case (to include all costs associated with this proposed sale e.g., packing, crating, handling, transportation, administrative changes, etc.) and the dollar value of major defense equipment, if any, included in the case:
- e. (*) Description of total program of which this case is a part (including any associated weapons, training, construction, logistical support, or other direct supply implications not included in the case itself):
- f. (*) Estimated value of total program of which this case is a part (including the estimated number and dollar value of any increments and the duration of the total program, if it is a multi-year project):
- g. (*) Prior related cases, if any (including case designators, descriptions, values, acceptance dates, etc.):
- h. (*) DOD component:
- i. (*) Estimated date LOA will be ready for statutory notification to Congress:
- j. (*) Case designator:

CLASSIFIED BY: (See DOD 5105.38-M, Chapter 7, Section 703.)

(CLASSIFICATION)

TABLE 703-3. Advance Notification Data.

(CLASSIFICATION)

k. (*) A description of each payment, contribution gift, commission or fee paid or offered or agreed to be paid in order to solicit, promote or otherwise to secure such LOA. Description should include:

- (1) Name of person who made such a payment, contribution, gift, commission, or fee:
- (2) The name of any sales agent or other person to whom such payment, contribution, gift, commission, or fee was paid:
- (3) The date and amount of such payment, contribution, gift, commission, or fee:
- (4) A description of the sale in connection with which such payment, contribution, gift, commission, or fee was paid:
- (5) The identification of any business information considered confidential by the person submitting the information under the AECA, Section 39 to the Secretary of State:

l. (*) Sensitivity of technology contained in the defense articles or defense services proposed to be sold (see Paragraph 70302.B.3. of this section for definitions, Note 1 below for entry requirements, and Table 703-6A for details of required data and format):

m. (*) Previously reported under DSAA(A) 1138 Report requirements? If so, for which fiscal year quarter?

n. (*) Third party transfer certification:

- (1) Name of the proposed third party recipient of these articles, training, or other defense services:
- (2) Reason for the proposed transfer:
- (3) Date on which such transfer is proposed to be made:

o. (*) Expected security classification of the case and LOA after statutory notification (If the case and LOA will be classified, cite rationale and attach justification.):

p. (U) Action officer's name, office, and telephone number (For individuals located in the Washington area provide commercial number, others are to provide AUTOVON and commercial numbers.):

2. (*) Impact on Current Readiness (Section 118) Report will/will not be required. (If deemed as not required, provide rationale and attach justification.)

(*) Indicate required security classification paragraph markings per Chapter 7, Section 703.

Attachment (see Note 2 below.):

(CLASSIFICATION)

TABLE 703-3. (Continued)

(CLASSIFICATION)

Note: 1. Whenever a proposed sale involves no transfer of sensitive technology or classified information, the word "None" will be entered under this heading. Whenever the transfer of sensitive technology or classified information is involved, the words "See Attachment ____" will be entered under the heading and the data specified in Table 703-6 will be attached to the submission.

Note: 2. Attach the Military Justification (Table 703-4) and, if required, the Sensitivity of Technology Data (Table 703-6A), justification for security classification of the case and LOA after statutory notification, and the rationale why Section 118 report will not be required. ~~If data is available and Section 118 report will be required, the data required by Table 703-7 may also be attached.~~

TABLE 703-3. (Continued)

(31)

**TABLE 703-5
STATUTORY NOTIFICATION DATA**

(CLASSIFICATION)

MEMORANDUM FOR (or LETTER TO) THE COMPTROLLER, DSAA (Attention: FMSCD)

SUBJECT: Data for a Possible Statutory Section 36(b)(1) Notification (U)

X (U) The following supporting data are provided in accordance with Chapter 7, DOD 5105.38-M:

- a. (*) Prospective purchaser;
- b. (*) DOD component;
- c. (*) Case designator;
- d. (*) Total dollar value (amount to be the same as that entered in block 26 of the DD Form 1513) and the dollar value of major defense equipment;
- e. (*) Description and quantity or quantities of all articles and/or services under consideration for purchase (to include all MDE and non-MDE items, segregating the MDE items and indicating the MDE value);
- f. (*) Expected security classification of the sale after statutory notification (If the sale is to be classified, cite rationale and attach justification.);
- g. (*) Sales commission, fee, etc. paid, offered, or agreed to be paid (See Note 1);
- h. (*) The impact of such sales or transfers on the current readiness of United States forces;
- i. (*) The adequacy of reimbursements to cover, at the time of replenishment to United States' inventories, the full replacement costs of those items sold or transferred;
- j. (*) If reimbursements are inadequate, explain impact and justification for such disparity;

CLASSIFIED BY: (See DOD 5105.38-M, Chapter 7, Section 703.)

(CLASSIFICATION)

TABLE 703-5. Statutory Notification Data.

(32)

(CLASSIFICATION)

k. (*) Sensitivity of technology contained in the defense articles or defense services proposed to be sold (see Paragraph 70302.B.3. of this chapter for definitions, Note 2 below for entry requirements, and Table 703-6A for details of required data and format);

l. (*) Previously reported under DSAA(Q) 1138 Report requirements? If so, for which fiscal year quarter?

m. (*) Third party transfer certification;

(1) Name of the proposed third party recipient of these articles, training or other defense services;

(2) Reason for the proposed transfer;

(3) Date on which such transfer is proposed to be made;

n. (*) Security classification of the LOA after statutory notification (If the LOA will be classified, cite rationale and attach justification.);

o. (U) Action officer's name, office, and telephone number (For individuals located in the Washington area provide commercial number, others are to provide AUTOVON and commercial numbers.).

~~2. (*) Impact on Current Readiness (Section 118) Report will/will not be required. (If deemed as not required, provide rationale and attach justification.) (See Note 3 below.)~~

Attachments (See Note ³ below.):

(CLASSIFICATION)

(*) Indicate required security classification paragraph markings per Chapter 7, Section 703.

Note: 1. Information supplied under g. shall be in the same detail as is required to be supplied under 1.j. of Table 703-3.

Note: 2. Whenever a proposed sale involves no transfer of sensitive technology or classified information, the word "None" will be entered under this heading. Whenever the transfer of sensitive technology or classified information is involved, the words "See Attachment ____" will be entered under the heading and the data specified in Table 703-6A will be attached to the submission if required and previously not provided.

TABLE 703-5. (Continued)

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~~Note: 3. If the advance notification data submission addressed this subject by either providing the rationale for not reporting Section 118 data or by submitting the data required for this report as specified in Table 703-7 state: "Information has been provided." However, if the prospective purchaser is an exempted entity this paragraph must be completed and, if required, the data required in Table 703-7 attached.~~

} —

Note: ³ ~~* If the prospective purchaser is an exempted entity attach the Military Justification (Table 703-4) and, if required, the Sensitivity of Technology (Table 703-6A), and Section 118 reports (Table 703-7).~~ Also, if case and LOA are to be classified per paragraph f. and/or n. above, attach the required justification.

*ADD
12/1/90*

K. (*) Has the proposed sale of the enhancement or upgrade in capability or sensitivity of technology previously been reported in a DSAA(Q)1138 Report? If so, for which fiscal year quarter?

AAW/12/15/90
L. (*) Provide data for Section 118 report, if net value of enhancement or upgrade equals \$50 million or more.

2. Provide detailed justification including reasons necessitating the sale of the item(s) or service(s) in view of the sensitivity of such technology:

Attachment: Copy of original Section 36(b)(1) Notification.

CLASSIFIED BY: (See DOD 5105.38-M, Chapter 7, Section 703.)

(CLASSIFICATION)

(*) Indicate required security classification paragraph markings per Chapter 7, Section 703.

**TABLE 703-7
IMPACT ON CURRENT READINESS REPORT DATA
(CLASSIFICATION)**

**DATA FOR POSSIBLE IMPACT ON CURRENT READINESS (Section 118)
REPORT (U)**

1. (U) The following supporting data are provided in accordance with Chapter 7 of the Security Assistance Management Manual:

- a. (*) Prospective purchaser:
- b. (*) Selling DOD component:
- c. (*) Type and quantity of equipment:
- d. (*) Total estimated dollar value:
- e. (*) Source of supply:
- f. (*) Impact of sale of articles on current readiness of U.S. forces:
- g. (*) Adequacy of reimbursements to cover replacement cost:
- h. (*)

(1) The Initial Issue Quantity (IIQ) requirements for U.S. forces:

(2) Percentage of such requirement already delivered to U.S. forces or contracted for at this time:

(3) The timetable for meeting the requirement for U.S. forces absent this proposed sale:

(4) The timetable for meeting the requirement for U.S. forces if this sale is approved:

2. (U) Action officer's name, office, and telephone number:

CLASSIFIED BY: (See DOD 5105.38-M, Chapter 7, Section 703.)

(CLASSIFICATION)

(*) Indicate required security classification paragraph markings per Chapter 7, Section 703.

TABLE 703-7. Impact on Current Readiness Report Data.

TABLE E-6
Statutory Reports to Congress Submitted by DOD on Security Assistance

REPORT ITEM	AUTHORIZING LEGISLATION	RECIPIENT*	TRIGGER	RESPONSIBLE DOD COMPONENT
1. Notification to Congress of Defense Articles, Services, Education and Training provided under emergency drawdown authority	Sec. 506(b)(2), FAA of 1961	SHR, Pres. of Senate, HFAC, SFRC, HAC, SAC	Any provision of aid under Sec. 506, FAA of 1961; at least monthly	DSAA/COMPT/FMD
2. Stockpiling of Defense Articles	Sec. 514(e), FAA of 1961	SHR, Pres. of Senate, HFAC, SFRC	Creation of new, or addition to an existing stockpile valued at more than \$10M.	P&I/DASD for Logistics & Materiel Management
2. <i>Repealed</i>	PL 101-510			
3. U.S. Armed Services Personnel Assigned to SAOs: two reports				
(a) Presidential waiver of Congressional limitation of six Armed Forces personnel in country	Sec. 515(c)(1), FAA of 1961	HFAC, SFRC	30 days prior to introduction of additional personnel	DSAA/Plans/Training Organization and Manpower
(b) Notification of increase in U.S. Armed Forces personnel over levels indicated in the CPD for the FY in which the increase occurs	Sec. 515(c)(2), FAA of 1961	HFAC, SFRC	30 days prior to introduction of additional personnel	DSAA/Plans/Training Organization and Manpower
4. Notification of Program Changes (Dollar Levels)	Sec. 634A, FAA of 1961	HFAC, SFRC, HAC SAC	15 days in advance of obligation of funds not justified, or in excess of amounts justified to the Congress for obligation under the FAA and AECA	DSAA/COMPT/FMD

TABLE E-6. Statutory Reports to Congress Submitted by DOD on Security Assistance.

E-10

Change No. 2, 2 July 1990.

(37)

DOD 5105.38-M
Change 3

REPORT ITEM	AUTHORIZING LEGISLATION	RECIPIENT*	TRIGGER	RESPONSIBLE DOD COMPONENT
5. Notification of Obligation of Funds not justified for a particular fiscal year; Also, transfers under Sec. 610, FAA to IMET or to Foreign Military Financing	Foreign Assistance & Related Programs Appropriations Act, (For FY 1990, Sec. 523, P.L. 101-167) See also Sec. 514, first proviso	HAC, SAC 1991 513	15 days in advance of <u>obligation</u> of funds not justified, or in excess of amounts justified to the Appropriations Committees for a particular fiscal year	DSAA/COMPT/FMD
6. Program Content Notification	Foreign Assistance & Related Programs Appropriations Act, (For FY 1990, Sec. 523, first proviso, P.L. 101-167)	HAC, SAC 1991 513	15 days in advance of <u>commitment</u> of loan or grant funds for MDE or major defense items not justified, or 20% in excess of quantity previously justified	DSAA/OPS/MGMT
7. Notification of Status of FY 1989 MAP Merger Funds	Foreign Assistance Export Financing & Related Programs Appropriations Act for Military Assistance (For FY 1989, P.L. 100-461)	HAC, SAC OK AS IS	NLT March 1st each year	DSAA/COMPT
8. Annual Assessment on NATO Readiness	PL 101-510 10 USC, Sec. 117	HASC, SASC, HAC, SAC	Part of annual budget release to Congress	OASD/ISP
9. Notification of sales or transfers from U.S. active forces inventories or current production	10 USC, Sec. 118	SHR, Pres. of Senate, HASC, SASC	Before signing of an LOA to transfer any defense article valued at \$50M or more from active U.S. forces inventories or from current production	DSAA/COMPT/FMS. Control

TABLE E-6. (Continued) Page 2 of 9.

E-11

Change No. 2, 2 July 1990

(38)

Change 3
DOD 5105.38-M

REPORT ITEM	AUTHORIZING LEGISLATION	RECIPIENT*	TRIGGER	RESPONSIBLE DOD COMPONENT
10. Sale of U.S. War Reserve Stocks, POMCUS, or decrement stock to non-NATO purchasers	10 USC, Sec. 975	SHR, Pres. of Senate, HASC, SASC	NLT 60 days after Presidential determination of an "international crisis"	DSAA/OPS/Country Desk Officer
11. Report on NATO acquisition of non-interoperable major weapons systems to be used by U.S. forces in Europe under the terms of the North Atlantic Treaty	10 USC, Sec. 2457(d)	SHR, Pres. of Senate, HASC, SASC	NLT February 1st each year	USD(A)
12. Notification of grant transfer of excess defense articles (See also Item #23)	Sec. 516, FAA Sec. 517, FAA Sec. 518, FAA Sec. 519, FAA	HAC, SAC, SFRC, HFAC, SASC, HASC	30 days prior to transfer	DSAA/OPS
13. Report on Significant Hostilities or Terrorist Acts	Sec. 21(c)(2), AECA	SHR, Pres. Pro Tem. Senate	Within 48 hours of change in status of hostilities or terrorist acts which would endanger American lives or property	General Counsel, DOD
14. Billing upon delivery from stock with 120-day interest-free period after delivery	Sec. 21(d) (last sentence), AECA	SHR, Pres. of Senate, HAC, SAC	Presidential determination and budget request for emergency funds	DSAA/OPS/MGMT
15. Report on FMS Training Standardization Agreements with NATO, Japan, Australia, or New Zealand	Sec. 21(g), AECA	SHR, HAC, SAC, HASC, SASC, HFAC, SFRC	U.S. conclusion of any standardization agreement on training for identified purchaser	DSAA/COMPT/Training Organization and Manpower

TABLE E-6. (Continued) Page 3 of 9.

E-12

Change No. 2, 2 July 1990.

(39)

Change 3
DOD 5105.38-M

REPORT ITEM	AUTHORIZING LEGISLATION	RECIPIENT*	TRIGGER	RESPONSIBLE DOD COMPONENT
21. Proposed Agreements for NATO Cooperative Projects	Sec. 27(f), AECA	SHR, HASC, SASC, HFAC, SFRC	NLT 30 days prior to signature of agreement on behalf of USG	DSAA/OPS/MGMT
22. Quarterly Report on Price and Availability; LOA Requests for \$7M or more of MDE/\$25M or more of defense articles and services or for air-to-ground/ground-to-air missiles	Sec. 28, AECA	SHR, SFRC	NLT 15 days after end of each calendar quarter	DSAA/COMPT/DMD
23. List of all accepted and unaccepted LOAs to sell excess defense articles through FMS procedures (See also Item #12)	HFAC Report No. 96-70 (International Security Assistance Act of 1979), 24 March 1979, page 25; <i>See 548 (1st provision), FY 91 Foreign Operations Appropriations Act</i>	SHR, SFRC	NLT 60 days after end of each quarter. This is included in reports required by Sec. 36(a), AECA. See Report Item #25	DSAA/COMPT/FMD
24. Waivers of non-recurring recoupment charges	HGOC Report No. 97-214, 31 July 1981	SHR, SFRC	Included in reports required by Sec. 36(a), AECA. See Report Item #25	DSAA/OPS/MGMT
25. Quarterly Reports on Commercial and Governmental Military Exports:	Sec. 36(a), AECA	SHR, SFRC	NLT 60 days after end of each quarter	DSAA/COMPT/DMD
(a) List of all unaccepted LOAs valued at \$1M or more for MDE	Sec. 36(a)(1), AECA			DSAA/COMPT/DMD

TABLE E-6. (Continued) Page 6 of 9.

E-15

Change No. 2, 2 July 1990

(40)

DOD 5105.38-M

Change 3

TABLE E-6. (Continued) Page 7 of 9.

REPORT ITEM	AUTHORIZING LEGISLATION	RECIPIENT*	TRIGGER	RESPONSIBLE DOD COMPONENT
(b) List of all accepted LOAs valued at \$1M or more for MDE; total value of all defense articles and services sold during the fiscal year	Sec. 36(a)(2), AECA			DSAA/COMPT/DMD
(c) Cumulative dollar amounts of FMS direct credit and guaranty agreements made during the fiscal year	Sec. 36(a)(3), AECA			DSAA/COMPT/CMMD
(d) Dollar amounts of Foreign Military & Construction Sales Agreements concluded during the quarter, projections for remaining quarters (FMCS stated separately)	Sec. 36(a)(5) & (6), AECA			DSAA/COMPT/DMD
(e) Foreign Military Construction Sales (Sec. 29, AECA) made during the quarter	Sec. 36(a)(9), AECA			DSAA/COMPT/DMD
(f) Third-party transfer of defense articles or services whose value (in terms of original acquisition cost) is \$1,000,000 or more	Sec. 36(a)(10), AECA			DSAA/COMPT/DMD
(g) Transfers to non-DOD USG agencies of munitions list items worth \$250,000 or more	Sec. 36(a)(11), AECA			P&L/DASD for Logistics
(h) See Items 19, 23 & 24				
26. Notification of LOAs for sale of excess defense articles	SEC 548 1st proviso Fy 91 Foreign Operation Appropriation Act	SAC, HAC	15 Days prior to issuance of LOA	DSAA / OPS

DOD 5105.38-M

Background

3 December 1990

Memorandum for Mr. Silber J. Silber 12/5/90
Mr. Malachowski JM
Mr. Brandt WB 12/6/90

Subject: SMM Update

Changes at Tabs A and B are based on Mr. Silber's recommendation next under. Please review and provide your comments/clearance for inclusion in SMM Change 3.

This is my original, and only complete, copy. If you return to me when you have reviewed, I will be able to track its progress and avoid requesting status unnecessarily.

Thanks,

Wayne Wells
Wayne Wells
OPS-E/78108

Attachments
as

pscwd1

Background
Wells

Wells
E
action
7.11.28.90

**DEFENSE SECURITY ASSISTANCE AGENCY
General Counsel**

November 28, 1990


MEMO FOR Diehl McKalip

SUBJECT: SMM Update

Sec. 1301 of the National Defense Authorization Act for Fiscal Year 1991 (Pub.L. 101-510, approved Nov. 5, 1990) repealed, *inter alia*, sections 117 and 118 of title 10 United States Code, and sec. 1303(b) repealed section 514(e) FAA.

These reporting requirements as cited in SMM Table E-6 as items #2, #8, and #9 should be eliminated. SMM Section 703 needs to be purged of references to 10 USC 118. Also, item #12 of SMM Table E-6 should be expanded to cover sections 518 and 519 FAA, while item #23 should be supplemented with the new EDA sales notification in sec. 548 (1st proviso) of the FY91 Foreign Ops Appropriations Act.

Perhaps Willy Brandt and Ron Malachowski could help Wayne Wells update the SMM in their respective areas now.


Jerome H. Silber

cc: Ron Malachowski, DSAA(C)FMSCD
Wayne Wells, DSAA(OPS-E)

c. Discrepancies identified in paragraph 2.g.(1)(a) must be documented in accordance with Processing Discrepancy Reports Against Foreign Military Sales Shipments (DLAR 4140.60, AR 12-12, NAVMATINST 4355.72, AFR 67-7, MCO 4140.1B) with the ROD sent to the DOD component.

8. Small Parcel Shipments.

(a) Small Parcel Defined. Although basic policy prescribes consolidation of shipments, it is frequently necessary to ship small items or packages on an individual basis. More information may be found in Chapter 206, Military Traffic Management Regulation.

(b) Authorized Transportation Modes. Transportation officers are authorized to utilize either the U.S. Postal Service parcel post facilities or commercial small parcel carrier equivalents. ↗

(c) Use of Commercial Package Carriers. Shipments through such commercial carriers as United Parcel Service (UPS) may be made when such shipment mode is responsive and cost-effective. Charges for such shipments will be assessed the FMS purchaser. Commercial shipments will be addressed to the agents or representatives specifically designated by the purchaser in the MAPAD. When shipment is to be via domestic parcel post or commercial package carrier equivalents, the transportation officer should consult the various tariffs or package carriers to ensure that the desired service is available and meets the following criteria:

(1) Cost. Shipments will be made at the least cost for the service required.

(2) Audit Trail. The transportation service selected must provide a proof of entry into the transportation network.

(3) Speed of Service. The service selected must be responsive to required delivery date and priority.

~~d. Proof of Delivery. To preclude extensive DOD component involvement in FMS claim submissions, small parcel shipments should be made by traceable means and sufficient records kept to enable proof of delivery. Insured shipments are authorized, if appropriate. Mode of shipment will be governed by the cost, evidence of shipment, and speed of service requirement criteria. Complete guidance for processing FMS RODs is provided in DLAR 4160.60 and this Manual.~~ 120802

d. Shipments Beyond CONUS. If movement is directed beyond CONUS, international parcel post, if specifically authorized by an FMS case, may be utilized and the purchaser charged pursuant to DOD 7290.3-M, if a better means of shipment is not available. As a rule, Military Postal Service (MPS) through APO or FPO will not be used for FMS shipments; however, exceptions to policy are authorized for classified shipments when the purchaser does not have approved facilities to receive classified items in the U.S., or where the sales order specifies delivery in country through the resident U.S. SAO. Such exceptions will be kept to the minimum and the cost of such shipments will be assessed to the purchaser.

9. Transportation of Classified Materiel. If in the case of FMS processing or direct commercial contract processing, the purchaser proposes to take delivery and custody of classified materiel in the United States and use its own facilities and transportation for forward shipment to its territory, the foreign purchaser or its designated representative shall be required to submit a transportation plan for review and approval by the cognizant DOD component. This plan, as a minimum, shall specify the storage, facilities, delivery and transfer points, carriers, couriers or escorts, and methods of handling to be used from the CONUS point of origin to the final

80206.B.12.a.(4)

(4) Initiating transportation discrepancy actions and documents prescribed in AR55-28/NAVSUPINST 4610.33C/AFR 75-18/MCO 4610.19D, DLAR 4500.15, Reporting of Transportation Discrepancies in Shipments.

b. Where there are U.S. military forces positioned or deployed in areas that are receiving FMS materiel, and where these forces are supported by U.S. Military Terminal Units or Support Activities, arrangements may be initiated by the local U.S. military representative who may designate these units to act as the agent or representative of the local U.S. representative to accomplish the functions incident to the delivery of FMS materiel to the recipient country via the DTS.

c. If compliance with Paragraphs ^a(1) or (2) above is not feasible or possible, the responsible DOD components will amend all agreements for FMS materiel to provide that custody shall pass within CONUS and that transportation support beyond CONUS will be the responsibility of the purchaser.

13. Re-delivery Policy and Use of the DTS.

a. When a DOD component solicits the buy back of a defense item from an FMS purchaser, use of the DTS may be authorized if deemed appropriate by the cognizant DOD component with funding by that DOD component.

b. When a DOD component is requested by an FMS purchaser to buy back previously purchased defense articles, transportation normally should be arranged and funded by the FMS purchaser. Unsolicited buy backs of sensitive, hazardous and classified cargoes may be moved within the DTS, with reimbursement from the FMS customer, if deemed appropriate by the cognizant DOD component.

14. Government Bill of Lading.

a. Shipment via GBL is not authorized except when specified in the LOA and approved by the cognizant DOD component as an exception.

b. When the GBL is used, the DOD retains responsibility for the associated administration of processing claims against carriers or for obtaining proof of delivery at destination on movements to freight forwarders/country representatives, military controlled terminals, and commercial ports.

c. When a GBL is used, the DOD is performing a reimbursable service for the FMS purchaser and custody must not be construed to mean retention of title or acceptance by DOD of the risk of loss or damage.

15. CCBL or Prepaid Shipment to Freight Forwarder/Country Representatives. This procedure normally will be used for FMS shipments on movements to freight forwarders and country representatives. Purchasers will be informed by the DOD component concerned that they are responsible for: (1) acceptance and payment of CCBL shipments made in accordance with DD Form 1513 terms, (2) providing appropriate insurance coverage from the point of delivery to the carrier, and (3) in-transit accounting and settlement of claims against carriers. When shipment cannot be effected by collect CBL, due to tariff restrictions, refusal of carriers to accept collect freight shipments, or other reasons, the following are applicable:

a. Only when the LOA so authorizes may the shipping transportation office guarantee payment of charges on collect CCBLs, or;

Change 3

U.S. Air Force

Address: ~~140000000~~ ^{Command}
 Air Force International Logistics ~~Center~~
 ATTN: ~~Code XMTA~~ DSTTI
 Wright-Patterson AFB, OH 45433-~~5000~~
 5001

Telephone:
 Commercial
 (513) 257-~~8222~~
 3422

Defense Logistics Agency

Address:
 Headquarters, Defense Logistics Agency
 ATTN: Code DLA-OT
 Cameron Station
 Alexandria, VA 22304-6100

Telephone:
 Commercial
 (202) 274-6754

13. **Claims for Loss or Damage.** The purchaser should assure that the freight forwarder can place claims for loss or damage of FMS materiel while in custody of the carrier, and that the purchaser is credited with an amount recovered. RODs covering shortages (non-receipt) should be submitted by the purchaser to the freight forwarder for review and response prior to submitting them to the appropriate DOD Component's Security Assistance Organization.

14. **Claims Against the DOD For Incorrect Shipment.** The purchaser agrees by acceptance of the LOA, to provide complete and timely supporting documentation for claims, if any, against DOD for those alleged improper or incomplete shipments which are not the responsibility of commercial carriers.

15. **Reparable Return Materiel.** All materiel returned to the U.S. Government for repair and return (repair, overhaul, servicing, etc.) should normally be shipped at purchaser expense and handled outside the DTS unless use of the DTS is authorized on the LOA. Shipments are normally moved through the freight forwarder, who is responsible for clearing the shipment through U.S. Customs and transshipping materiel prepaid to the designated CONUS repair facility. The purchaser should assure that all such reparable shipments are accompanied by appropriate shipping documents and a customs declaration, and that the purchaser's freight forwarder has the capability for receiving and transshipping such materiel.

16. **Insurance.** Unless a purchaser is self-insured, commercial insurance should be obtained to provide coverage against loss and damage of property, injury to or death of persons, or other transportation risks incurred while the purchaser's property is in custody of the freight forwarder, aboard any carrier, or transiting any port facility. This includes shipment of reparable materiel. It is recommended that any commercial insurance be placed with United States private firms, to the extent possible. Freight forwarders will normally be covered for liability insurance against injury or death of persons. Purchase of separate liability insurance by the customer would be a duplication.

17. **Updating the MAPAD.** This is a directory of purchaser representatives and freight forwarder addresses and codes ("Ship to," "Mark for") used by DOD shipping activities. It is essential that the purchaser maintain this directory in current status to assure delivery.

E. Responsibilities of the Freight Forwarder.

1. **General.** The services of an international freight forwarder are procured under contract by the purchaser for the purpose of receiving, processing, and transshipping FMS materiel. The purchaser is responsible for negotiating with the freight forwarder for services and for management of the functions related to handling of FMS materiel. The USG has no jurisdiction, nor responsibility for, accomplishing these functions. This paragraph lists actions and

Background



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE LOGISTICS COMMAND
WRIGHT-PATTERSON AIR FORCE BASE, OHIO 45433-5001

31 JUL 1990

REPLY TO
ATTN OF: DST

SUBJECT: Request for Change to DOD 5105.38-M, Security Assistance
Management Manual

TO: HQ USAF/PRIP *WAO*
DSAA/OPS-E
IN TURN

1. Request the following change be made to subject manual,
paragraph 80206.D.12, page 802-20:

U.S. AIR FORCE

Address:
HEADQUARTERS AIR FORCE LOGISTICS COMMAND
ATTN: DSTTI
WRIGHT-PATTERSON AFB OH 45433-5001

Telephone:
Commercial
(513)257-3422

2. Our point of contact is Mr Earnest Campbell, HQ AFLC/DSTTI,
AUTOVON 787-3422.

FOR THE COMMANDER

John R. Rephlo
JOHN R. REPHLO, Colonel, USAF
Director of Transportation
DCS/Distribution

cc: AFLC ILC/XMXB

80401.

SECTION 804 - AMENDMENTS AND MODIFICATIONS

**

80401 GENERAL.

A. Use of DD Form 1513, 1513-1, or 1513-2. In general, DD Forms 1513-2 are faster and simpler to develop and process than DD Forms 1513-1 which are faster and simpler than DD Forms 1513. Conversely, use of DD Forms 1513-1 or 1513-2 makes long term accounting more difficult, makes program reconciliation more cumbersome, and delays LOA closeout. FMS programs are best served through use of the DD Form which best safeguards U.S. and non-U.S. interests while most efficiently accomplishing the needed program change within the constraints of Paragraphs 80402 and 80403. This must include both short and long term considerations. If there is doubt as to whether to use the DD Form 1513, 1513-1, or 1513-2, the issue should be referred to DSAA Operations for resolution.

B. Major Changes in Scope. Major changes in scope normally require the preparation of a new LOA, DD Form 1513. Examples include addition of SME, including MDE, or a substantial expansion after the program has matured.

C. General Conditions. All DD Forms 1513-1 and 1513-2 will contain the following note:

'Except as expressly amended hereby, all terms and conditions of the subject LOA (including without limitation the General Conditions) continue in full force and effect.'

D. Identification of Percentage Rate for Certain Costs. Percentage rates, such as those used for determining PC&H, general administrative, or other costs should not be shown on LOAs, amendments, or modifications.

E. \$50,000 Break Point for Recording Amendments. The DSAA data base will record amendments reflecting net increases of more than \$50,000 in the fiscal year the DD Form 1513-1 is accepted. DD Forms 1513-1 which reflect net increases of \$50,000 or less will be recorded in the year of the basic FMS case.

1513 on
F. Pen and Ink Changes. Except for DSAA-issued changes to financing terms, pen and ink changes to DD Forms 1513-2 are not authorized. Pen and ink changes to DD Forms 1513-1 may only be accomplished prior to case acceptance. Pen and ink changes are authorized when the changes are minor, administrative, or corrective in nature, such as extension of the offer expiration date or adjustment to the initial deposit or payment date. If the change provides for an increase in scope or revision of the terms of sale or total costs, the IA must obtain the concurrence of DSAA FMS Control Division and the Operations Directorate Regional Division prior to IA authorization. The IA must authorize all pen and ink changes, prior to the expiration date, by message or letter to the purchaser with a copy to SAAC/FRS. The IA must submit appropriate changes to the 1200 System data base in the S3 transaction type format (Chapter 15) whenever a pen and ink change to the expiration date of LOAs is authorized. Extensive changes must be made by issuance of a restated DD Form 1513-1. Copies of LOAs and amendments, including revised TLWs if applicable, that have been modified by authorized pen and ink changes must be distributed by the IA to SAAC and other organizations following customer signature.

48

70002.C.2.a.

Material or services (normally identifiable to one or more end items) with no definitive listing of items or quantities.

a. Price and availability information for Blanket Order FMS cases is not required because the purchaser normally estimates requirements and requests an appropriate case value.

b. The customer's materiel requirements will normally be filled from procurement rather than from DOD stocks.

c. Blanket Order cases are established to facilitate and simplify procedures for foreign purchasers.

d. *The scope of a BO LOA will be determined by the value of funds made available for ordering. The LOA value for ordering may be increased only during the 12 month period following implementation of the basic LOA.*
~~The ordering period of a BO LOA will normally be 12 to 36 months.~~

e. Blanket Order cases reduce administrative lead time since requirements are submitted directly to the cognizant Military Department International Logistics Control Office (or control point) or appropriate Defense Agency.

f. Although the materiel and services described below *may* be provided under Defined Order cases, these items and services lend themselves to Blanket Order FMS case processing:

(1) Spare and Repair Parts. Consumable or reparable items which become part of a higher assembly during period of use. Items are normally those listed in Allowance Part Lists, Initial Spares Support Lists, Initial Outfitting Lists, and the Provisioning Master Data record. The case line items will identify the end item, weapon system or category of article or services for which spare or parts will be provided.

(2) Publications. The LOA for forms, catalogs, manuals, stock lists, reports, books, maps, etc., required to order, maintain and support defense items and services must identify the weapon system or end item for which release of technical information is authorized. Technical data will not be provided on a blanket order case.

(3) Support Equipment. Repair parts, assemblies, components, special tools, test equipment, supplies and/or materiel recommended and/or allocated for supply and maintenance support of a weapon or end item.

(4) Minor Modifications/Alterations Performed at U.S. Installations. Changes to an existing configuration as authorized by the DOD component concerned. The level of services must be specified in the case.

(5) Technical Assistance Services. Services in the form of technical advice or performance of actions which require the expertise of a specialist. Technical assistance services include such processes as: determining the economy and feasibility of repair; estimating the level and nature of repair to be accomplished; analyzing feasibility to update the configuration of items; determining the range and depth of spare parts needed to sustain repair at various levels; establishing failure rates and analyzing reported failure data to make adjustments. Examples are: Engineering or Technical development; Site Survey Teams; installation and checkout of major items; systems evaluation; study groups to develop such essentials as engineering requirement plans; systems integration and training programs; Program Activation Teams; and Technical Assistance Teams.

(6) Training. Formal (classroom) or informal (on the job (OJT)) instruction of foreign students by DOD components, contractors (including instruction at civilian institutions),

70002.C.4.

4. **Non-Standard Support.** This includes hardware or services required to support commercial end items; support of obsolete end items, including end items which have undergone system support buy outs; and to support selected non-U.S. origin military equipment.

a. In the absence of special circumstances such as existing commercial support arrangements, security assistance for these items may be provided through normal FMS procedures.

b. Requests involving sensitive technology or which have significant impact on U.S. programs should be coordinated with DSAA

70003 PROCEDURES.

A. **LOR.** An eligible foreign country or international organization which desires P&A data or an LOA from the USG conveys that desire to the U.S. Government in an LOR. *

1. **Format.** Although no specific format is required for an LOR, the requestor must assure that the request is complete as indicated below:

a. The LOR must specify what is desired. *For BO LOAs, the required level of funding must also be provided.*

b. The LOR must contain the name and address of the originator and a traceable reference number (e.g., letter serial number).

c. The articles and services requested in an LOR must be sufficiently detailed to be understood clearly and provide a firm basis for estimates by the DOD component.

d. When LORs are received which do not meet the requirements of paragraphs a. through c. above, the DOD component initially receiving the request shall notify the requestor of the deficiency and hold action on the request until the information is received.

e. LORs transmitted by U.S. embassies or SAOs should, when possible, refer to the country letter or message requesting data. This can then be referenced in the LOA or other U.S. response. **

2. **Channels of Submission of LOR.** The Department of State has statutory responsibility for approving all requests for Foreign Military Sales to eligible countries and international organizations. All requests for P&A or an LOA are divided into one of two categories: "Significant Military Equipment" as defined in the ITAR and "all other Foreign Military Sales." The Department of State has established the following procedures for the submission of requests: *

a. **SME.** Requests to purchase SME, which originate in country should be transmitted by the U.S. Embassy (rather than by the SAO or similar military element of the Embassy) and should be addressed to the cognizant DOD component (see Paragraph 70103.N) with an information copy to the Bureau of Politico-Military Affairs, Department of State (SECSTATE-PM) and the Office of the Secretary of Defense, Defense Security Assistance Agency (SECDEF/DSAA), and the unified command. Requests to purchase SME which originate with purchaser country representatives in the United States should also be addressed to the cognizant DOD component with an information copy to the Bureau of Politico-Military Affairs, Department of State, and DSAA. For MDE items, the cognizant DOD component will provide the applicable unified command and SAO with a copy or details of the purchaser's request, as appropriate. The following must be addressed in transmission of the request by the U.S. Embassy:

(50)

70003.B.3.h.

h. Key factors which will effect the above planning data, for example:

(1) Current contract for this item expires on (indicate date) and an LOA must be accepted by (indicate date) so that options can be added to the current contract. If an LOA is not accepted by the indicated date, the price may rise substantially and new data will be required.

(2) Production line is due to phase out by (indicate date). Start-up costs would have to be applied if an LOA is not accepted by (indicate date).

(3) Materiel has a shelf-life of (indicate date).

i. Expiration Date: _____. After this date, if the article/service is still under review, revised data should be requested.

j. Validity: The above information is not valid for purposes of preparing an LOA and may not be adequate for budgetary purposes. It is planning information for review purposes only, to assist in your government's determination of the feasibility of requesting an LOA.

k. The DD Form 1513 will not be used to provide P&R data.

4. P&A Estimates are not Commitments. All responses for P&A data will include the following note: "The provisions of the foregoing P&A data does not constitute an agreement between the U.S. Government and the Government of (insert the appropriate foreign country), nor a U.S. Government commitment to provide the articles or services for which these estimates are provided."

5. Agents Fees or Commissions. Any P&A quotation which contains agents fees or commissions will be coordinated with the Management Division of the DSAA Operations Directorate before dispatch.

6. DD Form 1513 - LOA.

a. Purpose. The DD Form 1513 will be used for all FMS of defense articles and services and sales of design and construction services by all DOD components. Annex A of the LOA contains the General Conditions which are an official part of every offer issued.

b. Periods of Effectiveness. The LOA will itemize the defense articles and services offered, and when executed becomes an official tender by the USG. An accepted LOA is effective until all articles offered are delivered and all services completed. LOAs for blanket order ~~FMS cases, training cases or cases covering the provision of a continuing service (e.g. contractor administrative services or engine or component improvement programs), may provide for up to a two year's duration, provided the total value of the case does not exceed \$5 million. Exceptions to this effective period and dollar limitation require the approval of the DSAA.~~ BO LOAs remain in effect until the purchaser has requisitioned articles or services up to funds available on the LOA.

(Also see section 130503)

c. Acceptance. Signing of the LOA by the designated foreign official, together with applicable funding constitutes the agreement of the foreign government or international organization to the offer and constitutes a contractual commitment between the U.S. and foreign government or international organization.

7. Response to Requests which Involve Less than EOQ. When a request is received for P&A or an LOA which cannot be supplied from stock and cannot be immediately obtained from normal procurement because it represents less than an EOQ, the response to such requests should provide the following information to the country or international organization:



SECURITY ASSISTANCE ACCOUNTING CENTER
DENVER CO 80279-5000

REPLY TO
ATTN OF: FS

18 JAN 1991

SUBJECT: Change to Security Assistance Management Manual (SAMM), DOD
5105.38-M, Blanket Order Letter of Acceptance

TO: DSAA/OPS-E
ATTN: Wayne Wells
The Pentagon, Room 4B740
Washington DC 20301-2800

1. In reply to your memorandum, 10 December 1990, reference I-58198/90, on subject SAMM change the following comment is provided. Proposed paragraphs 70003 B.6.b. and 130503 A. appear to contradict one another. Paragraph 70003 states that the Letter of Acceptance (LOA) is effective until all performance is completed while paragraph 130503 states the LOA is a candidate for closure if there is no performance within 180 days. Recommend that the following statement be added to paragraph 70003 B.6.b. "or if the DOD component takes action to close the BO LOA if no orders have been placed against an open BO LOA for 180 days or more". *

2. If there are any questions please contact John Hopper, AFAFC/FSXP, DSN 926-6249.

T. F. CONRAD, COLONEL, USA
Deputy Director

cc: DSAA(C)/FMD

* Added "(Also see section 130503)" to 70003 B.6.b. called to DISAM 1/23/91

70103.H.2.h.

h. Schedules of Personnel Training.

(1) **Schedules Included in DD Form 1513.** LOAs which call for training of foreign personnel, should include firm scheduling of personnel into specific training courses. When this is not feasible, LOAs should set forth training plans and schedules in general terms, and should include information required to arrange for definitization of specific training requirements at a later date.

(2) **Purchasing Nation's Responsibilities.** LOAs must specify purchasing nation's responsibilities such as providing pay and allowances, housing, qualified students, and any required supervision thereof.

(3) **Blanket Order Cases.** Blanket Order LOAs for training will include "Notes" to explain scope of coverage, methods for definitizing and requesting specific courses, and duration of applicability of the case. ~~Such cases may be authorized only if approved by the DSI/A, provided the total value of the case does not exceed \$5 million unless an exception is approved by the DSI/A.~~

i. Logistics Information.

(1) **Supplemental Conditions to DD Form 1513.** The sale of weapons systems normally requires the establishment of understandings between the USG and the purchaser regarding logistics arrangements and support. This subject must be addressed in the "Supplemental Conditions" to the LOA to delineate USG responsibilities, specify the type of equipment being provided, identify subsequent actions which must be taken by both the USG and the purchaser, and occasionally to advise the purchaser of the nature of procurement action which will be taken.

(2) **Configuration.** LOAs will specify the configuration of equipment being sold, but will furnish detailed equipment specifications only if required. Variations from standard USG configurations will be noted, together with any risks which might be assumed as a result of the variance. The notes will highlight any purchase of equipment being made of a configuration contrary to that recommended by the USG.

(3) **Logistics Conferences or Site Surveys.** LOAs will include the requirement for, and scheduling of logistics conferences or site surveys for the purpose of definitizing procurements of spare parts and support equipment, when applicable.

(4) **Concurrent Spare/Repair Parts.** The DOD components authorized to make offers will assure that at least a one-year supply of "in-country" concurrent (initial) spare/repair parts, through fourth echelon requirements at U.S. peace-time usage rates, shall be included with equipment being offered. Such spare and repair parts packages should be identified by category and total value rather than by item. Normally, pricing of individual repair parts is not done.

(5) **Spare Parts Support Availability.** For offers of MDE items, the purchaser will be advised of the estimated period that USG spare and repair parts support will be available, providing that a termination of such support can be identified.

(6) **Sole Source Procurement.** If the purchaser has specifically requested that procurement of a particular item is to be provided from a sole source, the designation will be addressed in the "Notes" to the LOA. (See Chapter 8, Section 801, paragraph 80102, for Sole Source Procurement Provisions.)

(52)

80402.A.

80402 DD FORM 1513-1 - AMENDMENTS TO LOAs.

A. General.

1. Revision to an LOA which requires purchaser acceptance must be by an amendment (see Table 804-1).

2. Initial deposits will be included (see Paragraph 130401) when the existing LOA payment schedule does not include sufficient amounts to cover costs from the expiration date of the DD Form 1513-1 until the next billing cycle. Show the initial deposit requirement in the right-hand corner of Block 28 by typing "28(a) Initial Deposit (Amendment __): \$_____." Also, include the initial deposit in the financial annex payment schedule.

3. For undercollected LOAs, unless prior approval is obtained from DSAA, IAs will inform the purchaser that the amendment cannot be implemented until sufficient payments have been received to cover current financial requirements, including termination liability.

B. DSAA Countersignature Required. DSAA countersignature on the DD Form 1513-1 is required for the following:

1. The LOA has been the subject of a Congressional notification [Sec 36(b), AECA] or qualifies for notification based on the amendment (see Section 70303.A.4).

2. The LOA value is increased ~~(see exception in C.6 below)~~

3. Amendments to LOAs which involve FMS credit, MAP, SDAF, or third country financing, including those that change the payment schedule or method of financing. All types/sources and amounts of financing should be shown.

4. Amendment is outside parameters in C. below.

C. DSAA Countersignature Not Required. Copies of the following amendments, which are exempt from countersignature, will be provided to SAAC (FRSC) by the IA at the time of release to the FMS purchaser:

1. Changes in performance periods of services LOAs, such as training or technical assistance, and changes in requirements for training LOAs, provided that the period during which the service is to be performed is not extended to more than a total of 36 months.

~~2. Extensions to the ordering period on BO LOAs, provided that the period during which items are to be ordered is not extended to more than a total of 36 months.~~

2. Addition of supporting articles (non-SME) or services, or definitization of undefined support lines, provided that the addition does not extend the date of delivery more than 12 months past the longest projected availability on the original LOA.

3. Minor increases in quantity of a defined line LOA for non-SME items, provided the time for ultimate delivery is not increased by more than 12 months past the longest projected availability on the original LOA.

4. Changes in article or service configuration which do not substantially increase capability.

80403.B.1.

1. Modifications to LOAs which have been the subject of Congressional [Section 36(b), AECA] notifications (see Section 70303.A.4).

2. Modifications to LOAs which involve FMS credit, MAP, SDAF, or third country financing, including those that change the payment schedule or method of financing. This includes modifications that change the method of financing after purchaser signature on the LOA or amendment, but prior to implementation. All types/sources and amounts of financing should be shown.

3. Shifts of case value between two or more FMS cases by concurrent modifications. The following conditions must be met:

a. The FMS country official who requests the shift in value has the authority to accept LOAs.

b. Total amount(s) increased are no more than the total amount(s) decreased. If addition(s) to the LOA(s) being increased will generate a requirement for an initial deposit, a DD Form 1513-1 must be used.

c. LOA(s) decreased have adequate funds available to cover remaining obligations.

d. All Forms 1513-2 are provided to DSAA as a package for countersignature and cross-reference each other in Block 11 as follows: (On decreased LOA) "Value of \$ ___ is hereby transferred to FMS ___-___ (reference notice ___)" and (on increased LOA) "Value of \$ ___ is hereby transferred from FMS ___-___ (reference notice ___)."

4. Delivery commitment date extensions of more than 90 days.
C. Modifications Not Requiring DSAA Countersignature. Copies of the following modifications, which are exempt from countersignature, will be provided to SAAC (FRSC) by the IA at the time of release to the FMS purchaser:

1. Price increases *not otherwise requiring countersignature as discussed in B above.*

2. Price decreases resulting from price reductions or from article or service reductions or deletions.

~~3. Changes, including extensions of 90 days or less, of the delivery commitment~~
date.

~~4. Extensions of BOLOA periods of performance up to a total ordering period of 60 months.~~

3, 4, 5. Changes to transportation codes due to the requirement to use the DTS (e.g., shipment of hazardous or sensitive cargo).

4, 5. Addition to or revision of clarifying notes.

5, 6. Changes in payment schedules where MAP, FMS credit, SDAF, or third country financing are not involved.

6, 7. Changes in Generic or MASL coding to correct an administrative error only. There should be no change to the configuration (or description) of articles or services to be sold.

130503.

130503 FMS CASE CLOSURE.

A. **General.** When ordered articles have been physically delivered and ordered services performed, ~~an FMS case becomes~~ a candidate for closure. IAs should submit FMS Case Closure Certificates to SAAC in accordance with DOD 7290.3-M, Chapter 5 after the following actions are complete:

**on no orders have been placed against an open SO LOA for 180 days or more, the IA should consider the LOA*

1. **Performance and Billing.** Reports of Performance submitted to SAAC to report all delivered articles and services have processed and billed to Purchaser on FMS Quarterly Billing Statements.

2. **Reimbursement of Costs.** Costs of articles and services have been reimbursed from FMS Trust Funds to DOD appropriations or USG equity accounts.

3. **FMS Accounting Balances.** IA and SAAC accounting balances have been reconciled and all performance and disbursements have been properly reported and accounted for.

4. **Item Discrepancies.** All outstanding ROD claims have been submitted to SAAC.

B. **Estimated Case Closure Dates.** IAs should provide an "Estimated Case Closure Date" in all LOAs. Although a case closure date will not normally duplicate the final estimated delivery date referred to in LOAs, there should be a close correlation. The DOD Executive FMS Reconciliation and Case Closure Board provides the means whereby IAs can recommend final closure of cases when all deliveries are complete although charges on open contracts remain unbilled for the case and cannot otherwise be closed under current DOD guidelines. It is no longer necessary that cases remain unclosed on active files for years after full delivery of articles and services because contract overhead, renegotiation of profit, and similar costs are not finalized.

C. **Case Status.** Cases must be implemented (status "I") in the SAAC FMS accounting data file and the DSAA 1200 System in order to be reclassified closed (status "C"). This also applies to instances when the Purchaser requests cancellation of a case (see paragraph 130705.B.3.).

130504 DOD EXECUTIVE FMS RECONCILIATION AND CASE CLOSURE BOARD.

A. **Purpose.** A DOD Executive FMS Reconciliation and Case Closure Board has been established as a means to close cases that cannot otherwise be closed. The general purpose, organization, and functions of this high-level board are described in DOD 7290.3-M, Section 503. The Deputy SECDEF has empowered the Board to authorize the billing actions and accounting adjustments which IAs recommend to bring case level records into agreement and allow closure in accordance with established DOD policy.

B. **Qualifying Criteria for Board Review:** The criteria which should be used by IAs to select cases for submission to the Board are as follows.

1. The case cannot be closed under current DOD policy.
2. There are abnormal balances in SAAC's central accounting system general ledger accounts and the case level trial balance.

55

Background - change 3



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800 10 DEC 1990

In reply refer to:
I-58198/90

MEMORANDUM FOR DIRECTOR DEFENSE LOGISTICS AGENCY

*verbal OK
C. Graham DLA Policy
1/11/91*

ASSISTANT DEPUTY CHIEF OF STAFF FOR LOGISTICS
(ADCSLOG) (SECURITY ASSISTANCE)
DEPARTMENT OF THE ARMY

*verbal OK
P. Collins DALS
1/10/91*

DIRECTOR, NAVY INTERNATIONAL PROGRAMS OFFICE
DEPARTMENT OF THE NAVY

*verbal OK
Navy (J. Truini)
1/7/91*

DIRECTOR OF INTERNATIONAL PROGRAMS/PRI
DEPARTMENT OF THE AIR FORCE

*verbal
"concerns w/ cost
account" - B. Marshall 1/11/91
(considered - w/)*

DIRECTOR SECURITY ASSISTANCE ACCOUNTING CENTER

as of 1/11/91

SUBJECT: *DSAA comp 2 plans Attached*
SAMM Change, Blanket Order LOAs

- References: a. DOD 5105.38-M, SAMM
- b. DSAA memorandum I-02805/90, 6 June 1990,
subject: Period of Performance on Blanket Order
and FMSO II LOAs (attached)

The SAMM presently requires an ordering period of one to three years for blanket order (BO) and FMSO II LOAs. Reference b. requested input to validate or adjust the period.

We propose to incorporate the following into change 3 to the SAMM:

- Paragraph 70002.c.2.d. Replace with "d. The scope of a BO LOA will be determined by funds made available for ordering. The LOA value for ordering may only be increased during the 12 month period following implementation of the basic LOA."
- Paragraph 70003.A.1.a. Add "For BO LOAs, the required level of funding should also be provided."
- Paragraph 70003.B.6.b. Replace with "b. Periods of Effectiveness. The LOA will itemize the defense articles and services offered and, when executed, becomes an official tender of the USG. An accepted LOA is effective until all articles offered are delivered and all services completed. BO LOAs remain in effect until the purchaser has requisitioned articles or services for up to the value of funds available on the LOA."

Background

- Paragraph 70103.H.2.h.(3), third line. Delete "Such cases may be written for up to two years duration, provided the total value of the case does not exceed \$5 million, unless an exception is approved by the DSAA."

- Paragraph 80402.C.2. Delete. Renumber C.3 through C.5 as C.2 through C.4.

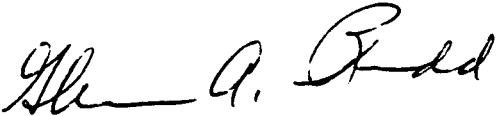
- Paragraph 80403.C.1. Change to read "1. Price increases not otherwise requiring Countersignature as discussed in B above."

- Paragraph 80403.C.4. Delete. Renumber C.5 through C.8 as C.4 through C.7."

- Paragraph 130503.A. Change to read "A. General. When ordered articles have been delivered and ordered services performed, or no orders have been placed against an open BO LOA for 180 days or more, the IA should consider the LOA a candidate for closure. IAs should submit FMS Case Closure Certificates to SAAC in accordance with DOD 7290.3-M, Chapter 5 after the following actions are complete:"

For the present time, the period of performance for FMSO II LOAs will remain unchanged.

Extracts of the SAMM, with changes annotated, are attached. Comments concerning these changes should be provided by 4 January 1991. The DSAA point of contact is Mr. Wayne Wells, DSAA/OPS-E, DSN 227-8108.


GLENN A. RUDD
DEPUTY DIRECTOR

Attachment
as stated

cc: CDR, DISAM



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

Background

21 DEC 1990

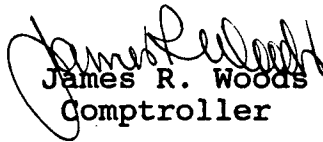
MEMORANDUM FOR OPERATIONS - E (MR. WAYNE WELLS)

SUBJECT: SAMP Change, Blanket Order LOAs

Reference: Your memo dated 11 Dec 90, same subject

We have no comments and concur with the proposed SAMP change for Blanket Order LOAs.

Our point of contact is Mr. Jerry Friesz, COMPT-FMD, 614-1173.


James R. Woods
Comptroller

(58)

Background

11 December 1990

MEMORANDUM FOR DSAA COMPTROLLER
DSAA PLANS

SUBJECT: SMM Change, Blanket Order LOAs

The memo attached, concerning a change to the ordering period for blanket order LOAs, is presently out for staffing.

Any comments which your directorate might have should be provided to the undersigned by 4 January 1990.

Wayne Wells
Wayne Wells
OPS-E, 78108

Attachment
as

[Signature]

DSAA Plans

pscnd3

- 1) SDAF *[Signature]* 12/12 (no changes)
- 2) Weps *[Signature]* 12/24
- 3) Dr Ryan for *[Signature]* 12/27 coordination.

80402.C.6.

6. A change in transportation delivery code(s), resulting in increased costs to the purchaser *but does not cause an overall LOA value increase*
7. Changes to FMSO cases which do not change fund levels or the range of items to be ordered.

80403 DD FORM 1513-2 - NOTICE OF MODIFICATION OF LOA.

A. General.

1. DD Forms 1513-2 (see Table 804-2) are used for U.S. unilateral changes. They record modifications to existing LOAs which do not constitute an increase in scope when acceptance of the change by the purchaser is not required.

2. Acknowledgement of receipt of the DD Form 1513-2, while not required for implementation, serves to confirm that the Notice of Modification has been received by an authorized official of the FMS country.

3. Costs charged under an LOA should not exceed the funds available on that LOA, and FMS countries do not normally want funds to sit in their FMS accounts unnecessarily. Balancing these factors is a key program management responsibility (Section 704) which requires analyses and careful monitorship to ensure LOA funding is adequate to avoid program disruption.

a. If monitorship shows that early costs incurred on the implemented LOA are deviating from those estimated to the degree that later deviations are unlikely to bring overall costs into balance, or OA above case value will be required at some point in the program, a modification should normally be processed.

b. The U.S. is committed to apply best efforts to provide the purchaser a modification when one of the following conditions exist:

- (1) Estimated total costs increase by ten percent,
- (2) The payment schedule changes, or
- (3) Significant delivery delays occur.

A modification should also be provided for cost adjustments, even when relatively minor, when all items are on order and prices are reasonably firm.

c. For cost increases, Block 11 should include, as applicable, reasons for the increase, contract status, FMS purchaser options to avoid the increase and financial impact of selecting the options, time limits for notifying the USG of a desire to cancel or reduce quantities, and terms of financing.

d. Price increase modifications will be provided by the IA before the actual accrued costs exceed those estimated on the LOA.

4. Price increases or decreases discovered during case closure will be assessed during final billing if a closure certificate can be provided to SAAC within six months of the supply completion date. When case closure certification will take longer than six months from the supply completion date, a DD Form 1513-2 adjusting the case value is required.

B. Modifications Requiring DSAA Countersignature. The following modifications require DSAA coordination and countersignature:

UNCLASSIFIED

Change 3 Backup
Mr. Wells

PC

SA

JOINT STAFF
INFO SERVICE CENTER

ZYUW RUEKJCS3546 3301546

ROUTINE
R 261546Z NOV 90
FM SECDEF WASHINGTON DC//USDP//
TO AIG 8797
XMT USMTM DHAMRAN SA//CC//
USOMC CAIRO EG
DIVENGR CDRUSAEDME RIYADH SA

USMTM RIYADH SA//CC//
AFLC LSG RIYADH SA
PMSANG RIYADH SA

UNCLAS
FROM DSAA/COMPT-FMSCD
SUBJ: LOAS EXEMPT FROM COUNTERSIGNATURE
REF: SAMM, CHAPTER 8, SECTIONS 80402.B. AND 80402.C.
1. PARA 80402, B.2 OF REF A CONTAINS THE PARENTHETICAL
PHRASE QUOTE (SEE EXCEPTION IN C.6 BELOW) UNQUOTE IN ERROR AND IS
HEREBY AMENDED TO DELETE THAT PHRASE.
2. FOR FURTHER CLARIFICATION, PARA 80402, C.6 IS REVISED
TO READ AS FOLLOWS: QUOTE A CHANGE IN TRANSPORTATION DELIVERY
CODE (S) WHICH MAY RESULT IN INCREASED COSTS TO THE PURCHASER BUT
DOES NOT CAUSE AN OVERALL LOA VALUE INCREASE. UNQUOTE.
3. THE FOREGOING CHANGES ARE EFFECTIVE IMMEDIATELY AND
WILL BE PUBLISHED IN THE NEXT CHANGE TO REF. BT

STAFF

J5(3) USDP:FILE(1) DIA(1) (D,U,A,6,F)
CJCS(1) VCJCS(1) J3(4) NIDS(1) J4(9) QUAL CONTROL(1)
SECDEF-N(1) USDP:DSAA(4) USDP:CIS(1) USDP:TCS(1)
JSDP:OUTREAC(1) USDP:MUN(1) NMIC(1) DA-SA(1)
VIC-2(1) DIO-WE(1)
AF

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61

INSTRUCTIONS FOR PREPARING THE UNITED STATES DEPARTMENT OF DEFENSE
NOTICE OF MODIFICATION OF OFFER AND ACCEPTANCE (DD FORM 1513-2)

A. BLOCK (1) PURCHASER.

1. For a country, enter "Government of (name of country)" and show the office and address of the purchaser's activity designated to receive the Note of Modification of Offer and Acceptance (e.g., Defense Attache, 1111 24th Street, N.W. Washington D.C. 20301).

2. For an international organization, enter the title of the organization along with the appropriate office and address.

B. BLOCK (2) PURCHASER'S REFERENCE. A reference will be shown when appropriate. A reference may be a letter, message, conference, meeting, oral request, etc. The reference will always include a date.

C. BLOCK (3) NOTICE NO. Use numbers in consecutive sequence. Do not mix Notice Numbers with Amendment Numbers. Number of Amendments (DD Form 1513-1) and Notices (DD Form 1513-2) are independent, thus a possible sequence of events might be: (1) Letter of Offer; (2) Notice 1; (3) Amendment 1; (4) Notice 2; (5) Amendment 2.

D. BLOCK (4) CASE IDENTIFIER. Enter the appropriate country or international organization code, implementing agency code and case designator (e.g., UK-P-DLG).

E. BLOCK (5) SIGNATURE. This block should be filled in by an authorized representative.

F. BLOCK (6) TYPED NAME AND TITLE. Type or stamp the name and title of the U.S. representative who signed Block(5).

G. BLOCK (7) ADDRESS. Enter the name of the issuing organization along with the address.

H. BLOCK (8) DATE. Enter the day, month, and year.

I. BLOCK (9) COUNTERSIGNATURE. The authorized representative for countersignature within the DSAA Comptroller will sign all DD Form 1513-2's within this block except as specifically exempted in this chapter. Signature will not occur unless all the necessary information is contained on the DD Form 1513-2, and all required attachments are furnished. Modifications exempted from countersignature should contain the following implementing agency entry: " Not Required: SAMM, Paragraph 80403.2, Date Reviewed (Enter Date)."

J. BLOCK (10) TYPED NAME AND TITLE. Type the name and title of the DSAA Comptroller authorized representative for countersignature who signed Block (9).

K. BLOCK (11) DESCRIPTION OF AND REASONS FOR MODIFICATION. Describe briefly the modification(s) and the reason(s) for the modifications(s). Such information should be sufficiently clear, complete and specific that it could reasonably be anticipated to satisfy the customer without recourse to further correspondence. (These remarks may be continued on the reverse of the DD Form 1513-2, under Box 26, Continuation). Enter the acceptance date of LOA or amendment being revised. If the sales agreement is financed by a combination of sources of financing, each term of sale and applicable amount will be cited.

Table 804-2 (continued)

Replaces present 90101-90104

SECTION 901 - ELIGIBILITY

90101 GENERAL. To the extent feasible, foreign governments purchasing U.S. defense articles and services should be encouraged to pay cash. This helps to reduce the number of demands on an always limited availability of credit and also helps customers to obtain their purchases at the lowest overall cost. In those cases where cash purchases are not feasible, the purchasing country should be encouraged to use private financing (without USG guaranty), thus helping to conserve limited FMS credit resources. Credit financing will normally be extended when allowed by U.S. legislation and it has been determined that purchases of defense items cannot be financed reasonably by other means, taking into account any U.S. military and economic assistance that such countries may be receiving, and indigenous private financing. In addition to being evaluated for consistency with U.S. foreign policy interests (including human rights), other proposed arms purchases by the country and the suitability of items being purchases will also be taken into account. Of particular attention is the level of weapons sophistication and the capability of the country to maintain, support, and employ the items effectively. FMS credit assistance will not be extended solely to consummate a sale.

90102 USE OF FINANCING.

A. Loans issued under the AECA may be used to finance defense articles and defense services, including design and construction services, of U.S. origin.

B. FMS Credit financing shall not normally be approved when:

1. the transaction would place an undesirable burden on a purchasing country's foreign exchange resources, create excessive claims on future budgets (e.g., induce burdensome expenditures for maintenance, spare parts, replacement, and indirect support and organizational costs), or otherwise materially interfere with its development;

2. it is to be used to finance production or coassembly/ coproduction projects overseas; and

3. there is not a reasonable expectation of loan repayment.

C. Commercial contracts valued at less than \$100,000.00 will ~~not be~~ be financed with country funds and will not be considered for FMS financing.

D. SAOs should ensure that the host government is aware of basic U.S. policies on uses for which FMS credit financing may be applied. Any requests for exceptions must be fully justified and submitted through the Chief of the U.S. Mission to DSAA for interagency coordination and approval/disapproval. No commitment whatsoever should be made to the host government prior to receipt of the resources from DSAA.

62.A.

~~Change 3~~

Change 3

DOD 5105.38-M

90209.A.1.e.(1).

(1) If the items or services are available from production in the U.S., purchases of materiel should be made to the maximum extent feasible from the prime manufacturer of assemblies or items, the assembler or a U.S.-based distributor licensed by the manufacturer who has had a longstanding relationship with the manufacturer and who has been provided with general domestic and/or international sales regions.

(2) A prime contractor must demonstrate to the DSAA (by means of a DOD pre-award survey or other means) its capability--including, for example, expertise, experience, facilities, and financial soundness--to perform by itself a substantial portion of the work. Prior successful completion of recent direct commercial contracts financed with FMS funds or DOD contracts for the same or essentially similar items shall normally satisfy this requirement.

(3) Funding with FMS financing will not be considered for a procurement agent, broker, import-export firm or other intermediary unless justified on factors relative to specific country needs and the country's ability to conduct commercial contracting. A request for exception will be considered if sufficient justification is provided by the purchasing government as to why the purchase is sought from a firm other than the manufacturer.

(4) A list of suppliers and subcontractors for the proposed contract, showing names, addresses, and the materiel and services to be procured by the ~~prime contractor~~ ^{intermediary} must be provided as part of the purchasing government's justification. ~~Prime contractors are~~ ^{intermediaries} required to identify names and addresses of all projected suppliers and subcontractors applicable to this contract. In such a case it is assumed that the purchasing government will be aware of the extent of additional cost or markup by the ~~prime contractor~~ ^{intermediary} and this data can be provided upon request.

f. Acquisition programs that include contingent agent fees up to \$50,000 may be approved for financing. DSAA will disapprove FMS financing for acquisition programs, the price of which includes sales commissions or contingent fees which exceed \$50,000. Contract splitting within an acquisition program is not authorized as a means to exceed the maximum allowable agents fee. It is not DSAA's intent to determine the amount of fees which suppliers may pay to a contingent agent for services performed to secure a contract or sales agreement, but rather it is intended to place a dollar limitation upon the amount of FMS funds which a country may use to pay such costs. Such fees decrease the buying power of FMS funds, thereby reducing the advantages which the country can achieve from the FMS financing. DOD regulations have limited the amount of agents' commissions payable for FMS transactions. Under the DOD FAR Supplement 25.7305, sales commissions in excess of \$50,000 on contracts implementing FMS transactions are not allowable costs.

g. U.S. firms which are selling or have sold the same items to DOD are generally recognized as having adequate production and performance capabilities. It is recognized that many small businesses or firms that have not previously sold to DOD may be the best qualified to provide articles or services unique to country needs. To verify contractors' statements and determine their capability to perform under the contract terms, a DOD pre-award survey may be required as a condition to FMS financing. Such pre-award surveys normally are not required for firms with previous DOD contracting experience.

h. Contractors and country representatives should plan for the time required by DOD to determine the extent of FMS financing authorization. The processing time for contracts that are fully in compliance with these guidelines is approximately 60 days. When the prospective purchase is from a contractor that does not regularly sell to the USG, the purchaser should allow an additional 90 days for USG representatives to conduct a survey of the contractor since this may be required by DSAA as a condition for FMS financing of the contract.

62.8

herein are cumulative and not in limitation of or substitution for other rights or remedies of the Grantor.

7.2 Any notice, demand or other communication hereunder shall be deemed to have been given if in writing and actually delivered at the addresses shown below:

(a) In the case of the Grant Recipient to:

(To be inserted at the time the Grant Agreement is issued.)

(b) In the case of MARAD to:

Director, Office of Market Development
Maritime Administration
U.S. Department of Transportation
Washington, D.C. 20590-0001

** to make payment of principal and interest owed to the United States Government under any loan made or guaranteed pursuant to the Arms Export Control Act except principal and interest not due at the time payment is to be made.*

(c) In the case of the Grantor to:

Director, Defense Security Assistance Agency
The Pentagon
Washington, D.C. 20301-2800

or to such other addresses as may be specified in writing.

7.3 Notwithstanding Section 1.2 hereof, the Grant Proceeds shall also be available for ~~refinancing any principal debt of the Grant Recipient outstanding as of December 22, 1987, not in arrears under Loans made or guaranteed pursuant to Section 23 or Section 24(a) of the United States Arms Export Control Act.~~ Advances requested to be made for such purpose shall be made upon delivery to the DSAA of a letter request from the Grant Recipient not less than fifteen business days before the disbursement date.

7.4 (a) This Agreement shall be construed and interpreted in accordance with the laws of the United States of America, and if none is applicable, with those of the District of Columbia, United States of America.

(b) In the event of a dispute regarding a Purchase Agreement between the Grant Recipient and a Military Department or Defense Agency of DOD that is approved for grant financing under this or other Grant Agreements, the Grantor reserves the right to make an advance hereunder, notwithstanding Section 1.3 hereof, if the Grant Recipient fails to deliver to DSAA a letter request for disbursement in the form set forth in Annex II or fails to comply with the documentation requirements set forth as Exhibit B, within fifteen business days after the date the disbursement was to have been made.

(c) In the event of a dispute regarding a Purchase Agreement between the Grant Recipient and a Commercial Supplier that is approved for grant financing under this or other Grant Agreements, no advance hereunder can be made until the Grant Recipient complies with the provisions of Section 1.3 hereof, notwithstanding any dispute settlement provisions or procedures included in such a Purchase Agreement or dispute resolution.

TABLE 902-3A. (Continued)

(c) In the case of the Lender to:

Director, Defense Security Assistance Agency
The Pentagon
Washington, D.C. 20301-2800

to make payment of principal and interest owed to the United States Government under any loan made or guaranteed pursuant to the Arms Export Control Act except principal and interest not due at the time payment is made to be made.

or to such other addresses as may be specified in writing.

8.4 Notwithstanding Section 1.3 hereof, the Loan Proceeds shall also be available ~~for refinancing any principal debt of the Borrower outstanding as of December 22, 1987, not in arrears under Loans made or guaranteed pursuant to Section 23 or Section 24(a) of the United States Arms Export Control Act.~~ Advances requested to be made for such purpose shall be made upon delivery to the DSAA of a letter request from the Borrower not less than fifteen business days before the disbursement date.

8.5 This Agreement and the Note shall be construed and interpreted in accordance with the laws of the United States of America, and if none is applicable, with those of the District of Columbia, United States of America.

8.6 This Agreement shall be binding upon and inure to the benefit of the Borrower and the Lender and their respective successors and assigns, except that the Borrower may not assign its rights or obligations hereunder without the prior written consent of the DSAA. All agreements, covenants, representations and warranties made herein shall survive the delivery of the Note and the making of the advances hereunder.

8.7 This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute a single instrument. Annexes I, II, III, and IV attached hereto are, by this reference, made a part of this Agreement.

8.8 All notices, demands, or other communications given under this Agreement, unless submitted in the English language, shall be accompanied by an English translation and such translation shall govern.

8.9 In case any one or more of the provisions contained in this Agreement or the Note should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein or therein shall not in any way be affected or impaired. This Agreement or the Note may be amended only with the mutual written consent of the Borrower, Lender, and holder of the Note.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and representatives on the day and year first above written.

GOVERNMENT OF _____

By _____

GOVERNMENT OF THE UNITED STATES OF AMERICA

By _____

TABLE 902-3. (Continued).

Background

DEFENSE SECURITY ASSISTANCE AGENCY
General Counsel

January 16, 1991

MEMO FOR Joan Brubaker, FMD

THRU: Billy Murrell

SUBJECT: Amendment of Standard Form of
Loan/Grant Agreement

Due to the enactment on November 5, 1990,
of section 23(e) AECA, please amend Section 8.4
of the Loan Agreement form to read:

"Notwithstanding Section 1.3 hereof, the Loan
Proceeds shall also be available to make payment
of principal and interest owed to the United
States Government under any loan made or
guaranteed pursuant to the Arms Export Control
Act except principal and interest not due at the
time payment is to be made. Advances requested
to be made for such purpose shall be made upon
delivery to the DSAA of a letter request from
the Borrower not less than fifteen business days
before the disbursement date."

Section 7.3 of the Grant Agreement form should
read:

"Notwithstanding Section 1.2 hereof, the
Grant Proceeds shall also be available to make
payment of principal and interest owed to the
United States Government under any loan made or
guaranteed pursuant to the Arms Export Control
Act except principal and interest not due at the
time payment is to be made. Advances requested
to be made for such purpose shall be made upon
delivery to the DSAA of a letter request from
the Grant Recipient not less than fifteen
business days before the disbursement date."

Jerome H. Silber
Jerome H. Silber

*DSAA Compliance, J.
Brubaker agrees per
call 1/17/91. Add
to change B.*

SAMM

902-45

SAMM

902-63

see 580 ATTACHED

62.E

States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, and the European Bank for Reconstruction and Development.

WITHHOLDING OF OBLIGATIONS FOR THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Sec. 579. (a) None of the funds made available by this Act for the European Bank for Reconstruction and Development may be obligated until the President reaches an agreement or agreements, as necessary, with the Polish Government or with other creditors, the authority to enter into which he is hereby granted notwithstanding any other provision of law, which accurately reflect the real collectability of the debts of the Polish Government to the Government of the United States and which adjusts the amount of debt and debt service payable by the Polish Government to the Government of the United States accordingly, subject to the following conditions:

Poland.
Credit.
President.
International
agreements.

(1) an International Monetary Fund agreement is in effect with respect to Poland, and it is clear that it is the intent of the Polish Government to continue full implementation of that program, and

(2) the recent historic change of the Polish Government into a democracy has been maintained, and

(3) the Polish Government is seeking comparable treatment of both public and private external debt.

(b) If the President determines that, in order to substantially increase the probability of other creditor governments and commercial bankers taking actions adjusting or restructuring their Polish debt to reflect its real collectability, it is best for the United States to use the authority contained in subsection (a), then the President may exercise the authority of subsection (a) unilaterally.

(c) Funds may be obligated notwithstanding subsection (a) subject to the regular notification procedures of the Committees on Appropriations.

FMF FOR FMS DEBT REPAYMENT

Sec. 580. Section 23 of the Arms Export Control Act is amended by inserting a new subsection (e), as follows:

22 USC 2763.

"(e)(1) Funds made available to carry out this section may be used by a foreign country to make payments of principal and interest which it owes to the United States Government on account of credits previously extended under this section or loans previously guaranteed under section 24, subject to paragraph (2).

"(2) Funds made available to carry out this section may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1)."

FUTURE ASSISTANCE PROJECTIONS

Sec. 581. The Congress finds that, as is the case with most domestic programs, overall constraints on the Federal budget will have a significant impact on the ability of the United States Government to meet program requirements in the coming years. Therefore, in order to assist the Congress to make the difficult policy choices attendant to budget shortfalls, the Congressional Presentation Documents of departments and agencies included within this Act shall contain funding projections for each of its major program components for each of the three years following the year for which new budget or other authority is being requested. The requirements of this section shall be effective for the Congressional Presentation Documents submitted for the fiscal year 1992.

Effective date.

HUMAN RIGHTS

Sec. 582. Not later than thirty days after submission of the report required by section 502B(b) of the Foreign Assistance Act of 1961, the Secretary of State shall submit to the Committees on Appropriations a listing of those countries the governments of which are found, based upon the criteria and findings in the report required by section 502B(b) of the Foreign Assistance Act of 1961, to engage in a consistent pattern of gross violations of internationally recognized human rights. This list shall be accompanied by a report from the Secretary of State describing how, for each country receiving assistance under the Foreign Military Financing Program, such assistance will be conducted to promote and advance human rights and how the United States will avoid identification with activities which are contrary to internationally recognized standards of human rights.

Reports.

OTHER ASSISTANCE FOR EASTERN EUROPE

Sec. 583. Notwithstanding any other provision of law, a total of \$500,000 of the Polish currencies which are held by the United States as of the date of the enactment of this Act which are derived from programs administered by the Commodity Credit Corporation, or pursuant to the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, shall be made available for the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland: *Provided*, That such currencies shall be made available notwithstanding 31 U.S.C. 1306 and section 570 of this Act: *Provided further*, That local currencies made available for the Jagiellonian University under this heading shall be made available only to the extent that they do not diminish planned funding for the American Children's Hospital, Krakow, Poland.

Poland.
Foreign
currencies.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Sec. 584. In all negotiations concerning the structure, bylaws, and operating procedures of the European Bank for Reconstruction and

UNCLASSIFIED

**DEFENSE SECURITY ASSISTANCE AGENCY
OPERATIONS DIRECTORATE
MANAGEMENT DIVISION
WASHINGTON, D.C. 20301-2800**

FACSIMILE TRANSMISSION

TO: VICKI MOYZIS
PHONE NUMBER: DSN 785-2994
OFFICE: DISAM
TELECOPIER NUMBER: 9-1-513-255-4319

REMARKS, INSTRUCTIONS, COMMENTS:

FROM:

MR. WELLS, DSAA/OPS-E
AV 227-8108, CM (703) 697-8108

TELECOPIER NUMBER: (703) 697-1656

NUMBER OF PAGES INCLUDING HEADER: 5

UNCLASSIFIED

TABLE 1001-1
TABLE OF DAILY SUPPLEMENTAL LIVING ALLOWANCES
FOR IMET INTERNATIONAL MILITARY STUDENTS

	Officer [And Civilian Equivalents]	Enlisted(1)
In Travel Status, Including Unscheduled Delays(2).	Various	Various
In Training Status:		
Dependents Authorized (3)(4)(10) (12).....	\$40	N/A
Neither Quarters Nor Mess Available.....	40	\$40
Orientation Tour Participants (5).....	27	N/A
Mess Available, Quarters Not (6).....	27	22
Quarters Available, Mess Not (6).....	24	20
Both Quarters and Mess Available (6)(7)(11).(13).....	17	9
Both Quarters and Mess Available, Officers Charged for Mess (Aboard Ship).....	12	N/A
Both Quarters and Mess Available, Free of Charge (Aboard Ship).....	9	9
In Military Hospital (8).....	9	9
On Leave (10).....	Various	Various

NOTES:

- (1) Not applicable to enlisted international military students (IMS) attending training at the Small Craft Instruction and Technical Training School (SCIATTS) or the Inter-American Air Forces Academy (IAAFA). The daily living allowance rate authorized for these enlisted IMS is \$3.50 per day.
- (2) When IMET pays travel and living allowance, travel allowance rate is authorized to include the day of departure from home country to the day of arrival at, and day of departure from, each training installation, and the day of arrival at home country. Rates on travel status, including unscheduled delays, are based on rates equal to those in the JTR for U.S. personnel.
- (3) An additional \$5 per day is authorized for accompanied IMS attending senior level professional military education courses as follows: Army Command and General Staff College, Army War College, and National Defense University; Air Force Command and Staff College and Air War College; Naval Staff College and Naval Command College; USMC Command and Staff College, Armed Forces Staff College; and USARSA Command and Staff College.
- (4) This rate is authorized only for accompanied IMS attending the following courses designated by the MILDEPs: Army Command and General Staff College, Army War College, and National Defense University; Air Force Squadron Officer School, Air Force Command and Staff College, Air War College, and Air Force Institute of Technology; Naval Staff College, Naval Command College, and Naval Postgraduate School; USMC Command and Staff College, USMC Amphibious Warfare School, Armed Forces Staff College; and USARSA Command and Staff College. This rate is also authorized for prerequisite courses, follow-on courses, and authorized leave periods. This rate is applicable regardless of availability of quarters and is payable whether IMS lives on or off post.

- (5) Meal Allowance Only. Cost of quarters to be paid from programmed funds by Class A agent/cashier escort officer.
- (6) In overseas areas, including Hawaii where U.S. Government quarters and mess are not available, the rates authorized are equal to those authorized for U.S. personnel in the JTR. "Quarters Available" means that U.S. Government quarters were either furnished or made available. "Mess Available" means three meals per day were available in a U.S. Government mess, whether or not actually consumed. U.S. Government mess excludes open mess and is not considered available to officer IMS except during maneuvers, field exercises, training in the field or when an officer's field ration mess is specifically available (e.g., officers field ration mess is available at Lackland AFB and Maxwell AFB, both with a heavy student load). All IMS not authorized a U.S. Government living allowance will pay for their meals. Meals taken in other food service facilities will be paid for by the IMS at the menu rates.
- (7) Enlisted students from countries that participate in partial cost-sharing of living allowances who are not entitled to meal cards may receive living allowance in an amount greater than \$9. A higher rate is authorized as long as the programmed rate is less than the \$9 plus the daily cost of mess hall meals. When the programmed rate reaches or exceeds the \$9 plus the cost of meals, students will be issued meal cards and will be paid \$9 per day.
- (8) In those cases where an officer IMS is authorized an increased living allowance for accompanying dependents and is subsequently hospitalized, an increased living allowance (\$40) shall apply during period of hospitalization rather than the reduced rate specified herein.
- (9) Living allowance for leave periods following termination of training is not authorized. Leave with living allowances may be granted during periods of class breaks, authorized holidays, between consecutive courses and delays at a port while awaiting transportation at the rate that is appropriate to the training status.
- (10) ~~This rate is authorized for guest instructors at CONUS-USARSA.~~ *Guest instructors assigned to School of the Americas will be paid a living allowance based upon the installations by grade and a standard subsistence allowance regardless of rank.*
- (11) ~~The rate of IMET living allowance for guest instructors at ~~USARSA~~ FSCIA/TTS and IAAFA will be the minimum necessary as determined by the appropriate MILDEP agency but not to exceed the rates authorized for students.~~ *concomitant with the person's grade and position as determined by the appropriate MILDEP.*
- (12) Foreign enlisted students are not authorized accompanied dependents except for students attending the U.S. Army Sergeant's Major Academy (SMA). The authorized living allowance for accompanied IMS at the SMA is \$36 per day.
- (13) In addition to the \$9 the enlisted IMS will receive directly, the MILDEPs will program additional funds to include reimbursement for meals and billeting fees. The programming figure will vary depending on type of government quarters available.

*the U.S. Army
BAR/VAA notes*

Background ~~Change 3~~



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

22 JUN 1990

In reply refer to:
I-002845/90

MEMORANDUM FOR MR. WAYNE WELLS, DSAA OPS-E

SUBJECT: Change to Table 1001-1, Footnote 10 of DoD 5105.38-M,
Security Assistance Management Manual (SAMM)

The Department of the Army (DA) has identified an inequity in the amount of living allowance (LA) paid Guest Instructors at the U.S. Army School of the Americas (USARSA) as presently noted in subject table. Therefore, DA has requested the change noted below be made to subject table.

Delete footnote 10 current language and in lieu thereof insert: "Guest Instructors assigned to the U.S. Army School of the Americas will be paid a living allowance based upon the installation's BAQ/VHA rates by grade and a standard subsistence allowance regardless of rank."

This office poses no objection to this request since the LA in question is funded with Army OMA funds and not by Security Assistance.

At the same time, this office recommends that the following other changes be made to subject table:

Page 1001-10:

- a. Delete the reference to footnote (10) under "In Training Status: Dependents Authorized"
- b. Change the reference to footnote (10) to footnote (9) under "In Training Status: On Leave"

Page 1001-11: change footnote (11) to read as follows:

"The rate of IMET living allowance for Guest Instructors at SCIATTS and IAAFA will be the minimum necessary consonant with the person's grade and position as determined by the appropriate U.S. MILDEP."

Request the above changes be included in the next SAMM revision.

M P Medlock
M.P. MEDLOCK
COL, USAF
CHIEF, PLANS TO&MD

(65)

Change 3
DOD 5105.38-M
(Mr. Silber) D.N.
Bough 1/11/91

SCHEDULE A
TO
LEASE AGREEMENT
BETWEEN

THE UNITED STATES GOVERNMENT, DEPARTMENT OF THE _____ (LESSOR)
AND
THE GOVERNMENT OF _____ (LESSEE)

I. This Lease Agreement authorizes the use of U.S. Government property identified herein:

QTY	NSN	REPLACEMENT COSTS		RENTAL CHARGE (INCLUDING DEPRECIATION) PER MONTH
		UNIT VALUE	TOTAL VALUE	
A.				
B.				
C.				
D.				
E.				
TOTAL VALUE				\$ _____

II. Rental Payment

- A. Initial Payment (with acceptance - as applicable);
- B. ___ Qtr FY ___ : (Amount due) Date Due: (15th day of month preceding quarter)
- ___ Qtr FY ___ : (Amount due) Date Due: (15th day of month preceding quarter)

Total Rental \$ _____

III. Related FMS Case Designator (if known) per paragraph 12:

65.A.

130001.

CHAPTER THIRTEEN

FINANCIAL PRINCIPLES AND PROCEDURES

SECTION 1300 - GENERAL

130001 PURPOSE. The purpose of this chapter is to provide a general description of the financial principles and procedures which apply to FMS transactions. It is designed to provide an overview of FMS financing and the responsibilities of DOD components. Detailed guidance on financial policies relating to pricing, budgeting, accounting and billing is included in DOD 7290.3-M. This chapter has a section corresponding to each of the nine chapters contained in that Manual. See Chapter 14 for SDAF item management.
additional information concerning

TABLE OF CONTENTS

CHAPTER FOURTEEN

SPECIAL PROGRAMS AND ACTIVITIES

	Page	
Section 1400 - Special Programs and Activities		**
140001 Authority and Purpose	1400-1	
140002 Management	1400-1	
140003 Funding	1400-2	
140004 Overview of Operations	1400-2	
140005 Procurement Criteria	1400-3	
140006 Program Implementation	1400-4	
140007 Pricing Sales to the SDAF (Buy-In)	1400-5	
140008 Inventory Control and Reporting	1400-6	
140009 Pricing Sales From the SDAF (Sell-Out)	1400-7	
140010 FMS Sales of SDAF Items ^{NOA Preparation}	1400-8	-
140011 SDAF Delivery Reporting	1400-9	
140012 Equipment Loans	1400-10	
140013 Reporting ^{SDAF} ^{Procurement}	1400-10	
Table 1400-1 - Schedule for Plan Development	1400-12	-
Table 1400-2 - SDAF Cost Checklist	1400-13	
Table 1400-3 - SDAF Inventory Report	1400-14	-
Table 1400-4 - SDAF Financial Analysis Worksheet	1400-15	-
Table 1400-5 - SDAF Loan Agreement	1400-17	-
		-
Section 1401 - Foreign Manufacture of U.S. Defense Equipment	1401-1	
140101 Purpose	1401-1	
140102 Background and Scope	1401-1	
140103 Authority to Negotiate and Sign International Agreements	1401-1	
140104 Principles Regarding Coproduction Policy	1401-2	
140105 Security Assistance Coproduction Agreements	1401-4	
140106 Cooperative Projects Under the AECA, Section 22	1401-10	
140107 Requests for Offset Procurement	1401-14	
140108 Release of Technical Data	1401-14	
140109 Royalty Fee Management	1401-22	
Table 1401-1 - Data Sheet for TDP Transferred for Operation and Maintenance	1401-26	
Table 1401-2 - Data Sheet for TDP Transferred for Study or Production	1401-27	

CHAPTER 14

**

SPECIAL PROGRAMS AND ACTIVITIES

SECTION 1400 - SPECIAL DEFENSE ACQUISITION FUND

140001 AUTHORITY AND PURPOSE.

The A. **Authority.** SDAF was authorized in 1981 by enactment of Chapter 5 of the AECA. SDAF Charter and Operation Instructions were approved by the Principal Deputy Assistant Secretary of Defense (Comptroller) on 30 December 1982. Sec 51(a) of the AECA (22 U.S.C. 2795(a)) was amended in 1989 and provided that SDAF may be used for narcotics control purposes. SDAF receives obligational authority through an annual appropriations act which addresses SA programs.

B. **Purpose.** SDAF funds the procurement of defense articles in anticipation of their sale or transfer to foreign governments. The basic objective of the fund is to facilitate delivery of materiel in advance of normal PLT and establish a readily available source of selected items of materiel. Such source enhances USG capability to satisfy urgent military requirements of allied and friendly nations while avoiding diversions from production for U.S. forces or withdrawals from U.S. stocks.

C. **Policy Guidance.** This chapter is the principal source of policy necessary for implementation of SDAF. In addition, other guidance facilitating program execution include Section 718, DOD 7290.3-M, SDAF Charter, Standard Operating Procedures (SOPs) previously distributed to DOD components; and IA implementing instructions.

140002 MANAGEMENT. SDAF is implemented through the following components of the DOD organizational structure:

A. **DSAA.** DSAA has overall management responsibility for SDAF. Specific DSAA responsibilities include, but are not limited to, the following:

1. Preparation of the annual procurement plan;
2. Issuance of SDAF funding documents to procure articles and services by the Fund;
3. Allocation of SDAF assets for the USN and the USAF;
4. Review of SDAF LOAs prior to DSAA countersignature;
5. Periodic assessment of fund status to include Profit and Loss analysis; and
6. The preparation of annual reports.

B. **IAs.** The IAs have overall responsibility for program implementation of SDAF. Tasks performed by IAs for DSAA include, but are not limited to, those cited below:

1. Submissions to the annual procurement plan;
2. Program management of SDAF assets;

3. Contract management;
4. Allocation of selected assets for NSA and the USA; and
5. FMS LOA management for sell-out of SDAF equities from LOA preparation through delivery reporting.

C. **SAAC.** SAAC performs centralized accounting and no other activity is authorized to disburse SDAF funds; ~~however, see Paragraph 140013-B. below.~~ Other accounting duties include, but are not limited to, the following:

1. Performing general ledger accounting in accordance with applicable DOD Comptroller guidance;
2. Performing contract accounting and disbursing functions in accordance with the FAR;
3. Performing FMS LOA accounting for SDAF LOAs in accordance with DOD 7290.3-M;
4. Assuring the adequacy of FMS Trust Fund deposits to meet case requirements of SDAF sell-out and transferring such amounts to the SDAF account as required; and
5. Performing other accounting responsibilities as agreed between Director, AFAFC and Director, DSAA.

140003 FUNDING.

A. **Sources of Capitalization.** SDAF is a revolving fund managed by DSAA. From FY 82-86, SDAF was incrementally capitalized with miscellaneous receipt FMS funds from NC, asset use charges, and contractor rental payments for use of USG plant and production equipment. Following capitalization of SDAF, sale of defense articles that it has procured, became the principal source of replenishment. This permits SDAF dollars to revolve within the limits established by Congress. The capitalization ceiling for SDAF was set at \$1.07 billion for FY 1987 and each year thereafter.

B. **Method of Collection for Capitalization.** ^{is used when} The ^{process} ~~procedure~~ outlined in Paragraph 140003.A. ~~would only be followed if~~ the SDAF ~~were to be~~ ^{would} recapitalized or for an increase to the capitalization ceiling. This method of collection, ^{would} go into effect upon issuance of guidance by DOD Comptroller in coordination with DSAA Comptroller. IAs deposit amounts collected on FMS and commercial sales to SDAF Account Symbol 11X4116. Monthly, each IA reports deposits to DSAA via the RCS 1147(M) Report.

C. **Administrative Expenses.** The cost to administer SDAF is included in the annual FMS Administrative Budget. Guidance is provided to IAs with each FMS Administrative Budget call.

140004 OVERVIEW OF OPERATIONS.

A. The operation of SDAF primarily encompasses two overlapping processes. These processes are described as buy-in and sales ~~(or sell-out)~~.

1. Buy-in involves procurement of defense articles and services through the IAs.

2. Sales involve procurement by foreign countries, through the established FMS process, of defense articles and services previously acquired.

3. Sales value is typically \$200-\$300 million per year.

B. Other operational activities related to the buy-in and sales processes include:

1. **Procurement Plan.** An annual procurement plan, developed by DSAA in consultation with the IAs, the JCS, the CINCS, OMB, and DØS, determines the articles and services which the SDAF will procure citing a particular fiscal year of funding.

→ 2. **Apportionment.** Following Congressional passage of the SA Appropriations Act, the OMB provides an annual apportionment to the SDAF account. This apportionment determines the amount of obligations SDAF can incur out of its total capitalization.

→ 3. **Procurement.** Prior to the issuance of a MIPR, DSAA will coordinate with the procuring IA to define item configuration, ancillary items, and delivery scheduling for the purchase.

→ 4. **MIPR Issuance.** Following the decision to buy an item, DSAA issues a MIPR, DD Form 448, to the appropriate IA to procure the item.

→ 5. **Allocations.** When a sale is pending, SDAF assets are allocated by DSAA or the IAs as applicable, and reserved for the foreign purchaser. At the time of LOA acceptance, the asset moves from an allocated to a sold status.

→ 6. **LOAs.** Normal SDAF operation allows FMS countries to buy out the SDAF equity from on-going contracts prior to physical delivery to the USG. In general, standard procedures for developing, implementing, and closing an FMS LOA are followed by the SDAF.

140005 PROCUREMENT CRITERIA. No single criterion determines whether an item qualifies for SDAF procurement; however, statute requires that emphasis be placed on items that are in short supply for U.S. forces and that also have anticipated FMS customer requirements. Items should:

A. Be those which, based on experience, judgement, and an analysis of the historical data and a projection of needs, are most likely to be needed to meet foreign requirements in less than normal PLT;

B. Be those whose withdrawal from active or reserve force inventories, or diversion from production dedicated to active or reserve forces, would result in seriously adverse impact on the combat readiness of U.S. forces;

C. Be capable of being produced from existing or expanded production lines;

D. Be required to meet established acquisition objectives of U.S. forces, if not transferred to meet foreign requirements;

E. Have significant anticipated FMS demands;

F. Be those with long PLTs (particularly over 24 months);

G. Have the capability of being approved for foreign sales under current NDP.

← Additionally, Sec~~x~~ 51 (a) of the AECA states that SDAF may be used for procurement of defense articles that are particularly suited for narcotics control purposes.

→ There are certain items that do not meet procurement criteria because of uncertain future production of weapons; however, these items may be considered for procurement by SDAF~~x~~ or production bases may be maintained as deemed necessary by DSAA when customer requirements exist for these items.

→ Decisions to buy with SDAF funds also take into account service levels, production base availability, mobilization base requirements, availability of procurement options for replacement items, modification to meet foreign demand, NDP, available capital in the SDAF, and investment in items from previous procurements.

140006 PROGRAM IMPLEMENTATION.

A. **Plan.** DSAA develops an annual SDAF procurement plan in consultation with the IAs, the JCS, the CINCS, OMB, and DØS. The procurement plan is provided annually to Congress in accordance with the AECA, Sec 53. The development of the plan is described in detail in Table 1400-1.

B. **Apportionment.** In recent years, three-year obligational authority has been granted to the SDAF. Such authority is approved by Congress through an annual Appropriations Act. OMB gives the approval to obligate the funds through an annual apportionment to the SDAF account at a line item level. Later requests to amend the approved final Procurement Plan necessitate~~x~~ reapportionment by OMB.

DFARS 208.70, Coordinated Acquisition

C. **MIPR Issuance.** DSAA issues MIPRs to the appropriate IA for the purchase of SDAF items. ~~The MIPR is processed generally in accordance with DOD FAR Supplement Subpart 8.70 Coordinated Procurement.~~ IAs negotiate, wherever possible, separate contracts for SDAF procurements. Where separate contracts are not feasible, SDAF items must be on separate contract lines. Category II method of funding (Direct Citation) is normally utilized. SAAC will be identified in each contract as the paying station. Each SDAF MIPR is restricted to one major end item and associated spare parts, ground support equipment, or other related items.

→ 1. Upon receipt of the MIPR, the IA processes "Acceptance of MIPR," DD Form 448-2. Affixing a stamp to the DD Form 448-2 as acceptance of the MIPR is not acceptable. ^{use of a} Category I Method of Funding (Reimbursable) is prohibited unless agreed upon by DSAA in advance. Acceptance of MIPR requires the identification of costs in the categories shown in Table 1400-2 "MIPR Cost Checklist," to assure SDAF fuel cost recovery. A completed copy of Table 1400-2 must accompany the basic MIPR acceptance and balance to the MIPR value. See DOD 7290.3-M, Sections 700-722 for clarification on how to accumulate the costs for Table 1400.2. MIPR adjustments (i. e., requests for additional funds, withdrawing funds, change of quantity) are the responsibility of the procuring IAs to initiate. Any later requests to amend existing MIPRs will be justified in Blocks 12 and 13 on DD Form 448-2. Upward adjustments in funding requirements can only be requested via the IA, and require a MIPR amendment processed by DSAA. Adjustments changing MIPR quantity require DSAA approval. MIPR acceptances must be accompanied by a forecast of disbursements for the procurements covered by the MIPR. The disbursement forecast requires updating based on the cumulative disbursements for all contracts and in-house efforts. MIPR acceptances must also include estimated delivery dates and subsequently provide contract delivery dates, including adjustments, when known.

→ 2. If it is determined ^{to be necessary} that, due to the urgency of the requirement, and modification of an LOA is not possible, a reverse MIPR ^{may be} is used. ^{also} Additionally, a reverse MIPR is required when SDAF-

owned assets are used to pay back the IA for assets diverted from the IA's inventory to satisfy urgent FMS requirements. A reverse MIPR authorizes IAs to purchase defense equipment and services from the SDAF account. The procuring activity prepares and sends a MIPR to DSAA providing funds and requesting the purchase of assets previously identified by mutual agreement between the IA and DSAA. DSAA accepts the IA's MIPR and forwards the MIPR and MIPR Acceptance to SAAC.

D. Procurement of SDAF Items. Procurements for SDAF are subject to the FAR and, in particular, to DFAR Supplement 25.7303 on notification to prospective sources of the procurement for a potential FMS and to DFAR Supplement 25.7304 on pricing such acquisitions. Copies of contracts for SDAF procurements (except ammunition) must be provided to SAAC, FRSR, Denver, Colorado 80279-5000, within ten days of contract award.

E. Allocation Process. ^{The} SDAF allocation process is as follows:

1. The applicable IA verifies the availability of SDAF assets to meet a foreign purchaser's request;
2. IA ~~will~~ ^{notified} notify DSAA SDAF Division immediately upon receipt of an LOR when SDAF assets are involved, and DSAA ~~will~~ make a determination as to asset distribution.
3. SDAF Division initiates the decision process for allocating assets.
4. Generally, SDAF assets are allocated by DSAA. In some instances, NSA issues priority allocations for COMSEC. The USA has allocation authority for ~~all~~ the SDAF assets it manages upon approval by DSAA.
5. DSAA or USA issues an allocation message directing LOA preparation and specifying the item, quantity, etc.
6. IAs prepare LOAs. Originally, all SDAF LOA designators were assigned by DSAA and used an IA Code of "Q." Currently, the USA is utilizing a "B" IA Code, "J" designator with "F" Source of Supply Code to indicate SDAF. The USAF has also been authorized the use of a "D" IA Code, "JQ" designator for its SDAF LOAs. *duplicate 140010.B.1*
- 6.7. Asset allocations are reviewed periodically by DSAA and the IAs to assure that all transactions are completed or to initiate proper follow-up.

140007 PRICING SALES TO THE SDAF (BUY-IN).

A. General. Sales of materiel and recurring services in support of purchases to the SDAF will be priced according to the requirements in DOD 7290.3-M, Section 71802. *Price elements may be found in Table 1400-2.*

B. Pricing from Procurement. The factors cited below are used to derive the price of items procured from SDAF.

1. Contractor Hardware/Related Equipment
2. Contractor Engineering/Support
3. Government Furnished Materiel
4. Engineering Services
5. Direct Labor
6. Unfunded Civilian Pay Costs

duplicate 1400-2

7. ~~Unfunded Military Pay Costs~~
8. ~~Engineering Change Orders~~
9. ~~Proof and Acceptance~~
10. ~~First Destination Transportation~~
11. ~~Test Ammunition~~
12. ~~Quality Assurance~~
13. ~~Contingent Liabilities~~

B. ~~Ø~~ Pricing of SDAF Items Purchased From Stocks. Stock funded items sold to SDAF will be priced at standard price plus the current replacement surcharge rate for non-CLSSA customers. The price of major items sold from stock will be based upon a determination as to when the items will be replaced in kind, replaced with an improved item, or not replaced. Also see DOD 7290.3-M, Section 71802.

C. ~~Ø~~ Interdepartmental Orders. Sub-MIPRs issued by one IA to another may not cite SDAF funds. Sub-MIPRs must cite the issuing IA's funds.

D. ~~Ø~~ Payments for CAS. IAs bill CAS to SAAC simultaneous with other CAS billings for FMS and SAAC makes payments to the IAs from the CAS account. The CAS account will be replenished at a 1.5% rate applied to contract disbursements on SDAF purchases. In the event SDAF assets or equities are sold to an FMS customer for which a reciprocal waiver of CAS is in effect, the amount for CAS paid to the IA will be refunded to the SDAF account. Payment of CAS is also required on ammunition purchases.

14008 INVENTORY CONTROL AND REPORTING.

A. Custodial Responsibility. SDAF inventory is the responsibility of the IAs. The procedures for proper inventory management followed for the IAs own inventory should be followed for the SDAF. SDAF items, as defined in the MIPR, are accounted for and traceable by established mechanisms such as serial numbers. Additionally, quarterly inventory reporting to DSAA in the format shown in Table 1400-3 is a responsibility of the IAs.

B. Reporting Deliveries to the SDAF Account. Delivery of items to SDAF will be reported to DSAA as part of the quarterly inventory report (Table 1400-3). Delivery of items should correlate to the same end items for which MIPRs were provided. For items provided from DØD sources, SF 1080 billings with accompanying back-up detail, will serve as the source documents. For items provided from new procurement, SF 250s with accompanying back-up detail, will serve as the source documents.

C. Storage of SDAF Inventories. Major SDAF equipment held in DØD inventories will normally be segregated from other DØD items. However, as an exception to this general policy, SDAF items may be co-mingled with Service inventories for specific purposes such as reduction of loss for shelf life items. IAs will forward bills for SDAF storage to SAAC. Bills will be for direct out-of-pocket costs incurred on major equipment.

D. Inventory Losses. Secondary item prices include a pro-rata inventory loss cost; therefore, inventory losses related to SDAF secondary items will be absorbed at the time of the loss by the IA responsible for managing the items. If SDAF major items are lost while held in inventory, the responsible IA will conduct an investigation in accordance with the requirements of

DOD 7200.10-M. Results of this investigation will be forward to the Director, DSAA for disposition.

140009 PRICING SALES FROM THE SDAF (SELL-OUT). Sales from SDAF will be priced according to DOD 7290.3-M, Section 718. Sales from SDAF are distinguished from sales of DOD stocks and sales from new procurement.

A. **Stabilized Pricing.** Stabilized pricing insures that the price of major items remains the same from initial appearance on the LOA to delivery reporting and LOA closure. SDAF items will be quoted as firm prices and the LOA will be annotated accordingly. Amendments or modifications are generally not processed for SDAF LOAs in order to accommodate normal changes in buy-in costs. For stock funded items, the reported price at time of delivery may not agree with the LOA price due to the IA catalog pricing. The pricing elements outlined in Table 1400-4 and in DOD 7290.3-M, Section 71802, Paragraph B, C, and D comprise the selling price of items sold from SDAF. The AECA requires the USG to determine and recover all costs relating to FMS except where authority exists for reduction. DSAA is responsible for reviewing SDAF prices to assure full cost recovery and for changing proposed SDAF prices to achieve that objective. The major components of the selling price, if applicable, include:

1. SDAF contract or latest DOD contract
2. Support contracts
3. DOD work orders
4. Other source unit price
5. Contract administration services
6. First destination transportation
7. Production and Engineering Charges/other
8. Contract recurring support cost
9. Government recurring support cost
10. Long-lead recoupment
11. Other SDAF adjusted cost
12. NC (RDT&E)
13. NC (Production)
14. Other FMS adjusted unit cost

*Duped
1400-4*

B. **Sales to FMS Countries.** The selling price for SDAF assets sold to FMS countries will be computed by establishing a base acquisition price as described below. Applicable NC charges will be added to the base price to arrive at the SDAF selling price. Applicable charges for PC&H and transportation, and FMS administrative surcharges are additives to and not a component of the item selling price.

1. The SDAF full value base price will be the higher of the SDAF procurement price or the current DOD contract price which must match the current MIPR value.

a. The SDAF procurement price is the total estimated unit price as reflected on SDAF procurement requests for the item being priced, and includes appropriate add on charges.

b. The current DØD contract price, identifying add on charges, will be estimated by the DØD component involved.

2. In accordance with DOD 7290.3-M, Section 71802, if DSAA determines an SDAF item to be of reduced utility, an appropriate reduction to the price may be made. Such a reduction could conceivably lower the selling price to below the SDAF cost.

140010 FMS SALES OF SDAF ITEMS.

A. **P&A Data.** Requests for P&A for items that are on contract for SDAF procurement are coordinated with DSAA prior to responding to the LOR. DSAA, in conjunction with the IAs, will decide whether to fill the request from SDAF contracts, DØD inventories, or new procurements. The IA responds with P&A data (see Section 70002). Pricing information will be coordinated with DSAA prior to release.

B. **LOA Management.** LOAs for SDAF items prepared by IAs will be prepared in accordance with guidance provided in Chapter 7 except as follows:

1. Originally, all SDAF LOA designators were assigned by DSAA and used an IA code of "Q". Currently, the USA is utilizing a "B" IA Code, "J" designator with "F" Source of Supply Code to indicate SDAF. The USAF has also been authorized the use of a "D" IA Code, "JQ" designator for its SDAF LOAs.

2. SDAF and non-SDAF items are normally not included on the same LOA. Army "J" cases include both SDAF and non-SDAF lines. SDAF and non-SDAF items will not be commingled on the same LOA line.

3. The SDAF FAW (Table 1400-4) must be provided for each line and is to be used in lieu of the regular FMS FAW when source of supply is SDAF. The SDAF FAW must include the SDAF MIPR line and support line numbers. DSAA SDAF Division requires an extra DD Form 1513 accompanied by three sets of SDAF FAWs (one copy for DSAA/Plans/SDAF Division; one copy for SAAC/SDAF; and one for SAAC/Country Manager). When a variation in price occurs on the LOA, a new SDAF FAW must be submitted for each line affected on the basic LOA (a new LOA need not be prepared unless directed by DSAA).

4. For "J" cases, payment schedules must distinguish payments required for SDAF lines. Payment schedules must reflect disbursement profiles for applicable SDAF contracts. Payment schedule changes on SDAF LOAs must be approved by DSAA/SDAF Division.

5. Initial deposits as normally computed for FMS LOAs will be increased by the value of disbursements already made for SDAF items being sold. SAAC will provide disbursement information on SDAF items upon request to activities preparing SDAF LOAs.

6. Amendments or modifications to SDAF LOAs are generally not processed for normal changes to SDAF buy-in costs. However, country-specific changes which affect SDAF buy-in costs should be reflected by an amendment or modification. Other changes such as those relating to quantities, delivery schedules, and policy changes should also utilize an amendment or modification (section 804).

7. Signed copies of DD Forms 1513, 1513-1, and 1513-2, involving SDAF items, should be forwarded to DSAA, Attention: DSAA/Plans/SDAF Division.

C. **Requisitioning and Billing Procedures for Items Purchased from DOD Stocks (MILSTRIP).** For stock funded items, the requisitioning activity uses its own fund code, signal code L, and the activity's DODAAC. SAAC is billed by SF 1080 for all reimbursable cost.

D. **Payment for Transportation of SDAF Items.** Costs incurred to transport materiel to assembly or holding points that are not included in the item price are funded on the original MIPR issued for such materiel. When a GBL is processed by a transportation officer, a copy of the GBL will be forwarded to SAAC. This will alert SAAC that transportation costs will be incurred against the original MIPR. Thus, SAAC will inform SDAF that additional funds might be needed for transportation on the original MIPR. USAFAC is the paying office for all FMS GBLs. Attach copies of the GBLs to the copy of the Daily Register of Meal Tickets and Transportation Transactions provided to SAAC. Recoupment of transportation expenses for FMS sell-out will follow existing FMS guidance in DOD 7290.3-M, Chapter 8.

E. **Reports of Discrepancy.** This supplements guidance contained in DOD 7290.3-M Section 802 and DOD 5105.38-M Section 130802. It is DOD policy that the appropriation that is credited with the proceeds of a sale ~~to~~ ^{will} pay the ROD or replace the material when the USG is deemed to be liable to the FMS customer. Hence, it is DOD policy that SDAF should finance RODs on SDAF cases, when applicable.

F. **LOA Closure.** See Section 130503. SDAF LOA closure involves additional reviews as follows:

1. **SDAF LOA Closure - "Q" Cases.** SAAC informs DSAA/SDAF Division monthly of those LOAs for which all collections have been made, accounts are balanced, and which are ready for closure.

2. **Combined SDAF/IA LOA Closure - "B, D, P, M" LOAs - SAAC as Financial Manager.** SAAC is the financial manager for any FMS LOA line on IA LOAs that sell SDAF assets. Closure responsibilities are accomplished as agreed between SAAC and the appropriate IA for each SDAF LOA line. Once an LOA line is balanced, SAAC informs DSAA/SDAF Division that the line is ready for closure and requests approval. Final closure of an LOA line will not be accomplished until the amount of SDAF reimbursement is approved by DSAA/SDAF Division.

3. **SDAF LOA Closure - SAAC is not Financial Manager.** LOA closure responsibilities for the sale of SDAF assets transferred to a purchaser, wherein SAAC is not the LOA line manager, resides with the appropriate IA responsible for the FMS LOA or LOA line. DSAA SDAF Division assures recoupment of the appropriate amount to the SDAF account.

140011 SDAF DELIVERY REPORTING

A. **Delivery Reporting.** Assets sold to an FMS customer will be reported to SAAC by the IAs on DD 1517 (See DOD 7290.3-M, Sections 80302 and 80303). LSC must be excluded from the reported delivered price. Two categories of items will be reported to SAAC.

1. **Major Equipment.** Major SDAF equipment items shipped to FMS customers will be reported to SAAC by the IAs on DD 1517 within ten days of shipment.

2. **Support Items.** Support items owned by SDAF and sold to an FMS customer will be reported to SAAC by the IAs on DD 1517 (DOD 7290.3-M, Sections 80302 and 80303). Reports will be submitted to SAAC within seven days of the date of the drop from inventory and contain the latest FMS price for the items being sold.

B. Delivery Codes. SDAF shall use three delivery source codes.

1. SA - Sale of items originally purchased from DOD inventories.
2. SD - Sale of items procured from contractors by the Fund. This delivery source code will compute PC&H.
3. SE - Sale of items procured from contractors and shipped directly from the contractor to the FMS customer, providing there is no requirement for any special packing, crating, or handling. This delivery source code will not compute PC&H.

140012 EQUIPMENT LOANS. The AECA and the SDAF Charter and Operation Instructions permit assets procured by SDAF to be loaned to the IAs with SECDEF approval; however, leases of SDAF items are not permitted. SDAF items loaned to the IAs require either restoration to their original condition at the end of the loan period or replacement at IA expense. The receiving IA is responsible for storage and O&M costs incurred for the loaned equipment. In the event loaned equipment is permanently transferred to a IA the transaction is priced at the amount specified in the loan agreement (See Table 1400-5).

140013 REPORTING. Input for the report requirements (A through C) will be provided by SAAC. As part of the annual written report to Congress, required by Sec 2431(a) of Title 10, U.S.C., regarding procurement schedules for each weapon system for which funding authorization is required, DSAA shall provide a report estimating the likely procurements to be made through the Fund.

A. **Reporting.** SAAC prepares a number of reports in accordance with applicable sections of DOD 7220.9-M, DOD Accounting Manual.

B. **Collection Reporting.** If the SDAF were to be recapitalized, DOD components would be responsible for identifying SDAF collections from authorized sources and for depositing these collections to account 11X4116. Monthly reporting of SDAF deposits to DSAA COMPT/FR&CPD is required by the 25th day of each month. As a minimum, a segregation of the SDAF deposits into the following subheads (limits) that show the source of collections is required.

<u>Accounting Subhead</u>	<u>Source</u>
.1	Non-excess principal/major end items which will not be replaced within the obligation availability of current procurement appropriations.
.2	Excess stock fund and procurement secondary items.
.3	NC charges.
.6	Contractor rental payments for ^{USG} U.S. Government plant and production equipment.
.7	Payments from FMS Trust Fund or Military Assistance Appropriations for sale of SDAF equity in contracts and inventories.

.8 Payments from IA Appropriations for SDAF items transferred to the IA for temporary use and which are not returned.

~~D.~~ **Congressional Reporting.** By 31 December of each year, DSAA will submit to Congress a report to include:

1. A description of each contract for the acquisition of defense articles or services which was entered into during the preceding fiscal year;
2. A description of each contract for the acquisition of defense articles or services which is anticipated to be entered into during the current fiscal year;
3. A description of each defense article or service acquired that was transferred to a foreign country or international organization during the preceding fiscal year; and
4. An evaluation of the impact of the utilization of the authority of the SDAF on U.S. defense production and the readiness of the U.S. Armed Forces.

~~c.~~ **DOD Internal Reporting.** Defense items received from SDAF and taken into property accountability by the IAs require quarterly reporting to DSAA as described in Table 1400-3.

Table 1400-1

SDAF Schedule for Procurement Plan Development

Planning Date*	Activity
15 Jan	DSAA memos (IAs and DSAA Operations and message (CINC/SAOs) Sent, requesting nominations.
31 Mar	Nomination replies to DSAA Plans.
Apr – May	DSAA Plans prepares FY Plan (Draft).
25 May	DSAA distributes FY Plan (Draft) for review.
5 Aug	Replies to DSAA Plans
Aug – Sep	DSAA Plans prepares FY Plan (Final).
25 Sep	DSAA FY Plan (Final) to OMB.
1 Oct	DSAA FY Plan (Final) to Congress
Oct – Dec	DSAA Comptroller signs and issues MIPRs to implement Plan. (Note: Depends upon when Congress passes Appropriation.

* The exact calendar date will vary slightly from year to year, based on weekends, holidays, or similar adjustments.

Table 1400-2

Special Defense Acquisition Fund
MIPR Cost Checklist

MIPR #: _____ Line #: _____ Quantity: _____

MIPR Line Value: \$ _____

<u>MIPR Cost Element Price</u>	<u>Unit Price</u>	<u>Total</u>
a. Contractor Hardware & Related Equipment Costs	_____	_____
b. Contractor Engineering & Support	_____	_____
c. Government Furnished Material	_____	_____
d. Engineering Services, Government	_____	_____
e. Direct Labor (Example: AIF)	_____	_____
f. Unfunded Civilian Pay Costs	_____	_____
g. Unfunded Military Pay Costs	_____	_____
h. Engineering Change Orders	_____	_____
i. Proof and Acceptance	_____	_____
j. First Destination Transportation	_____	_____
k. Test Ammunition	_____	_____
l. Quality Assurance	_____	_____
m. Contingent Liabilities	_____	_____
n. Other (Explain)	_____	_____
MIPR VALUE	_____	_____

[Acceptance of related MIPR requires identification of costs in the categories shown to assure full cost recovery. Accumulate above costs in accordance with DOD 7290.3-M, Sections 700-722. Other applicable surcharges will be applied at time of sale; such as, NC and PCH&T.]

TABLE 1400-3

**DEFENSE SECURITY ASSISTANCE AGENCY
SPECIAL DEFENSE ACQUISITION FUND
INVENTORY REPORT**

By the tenth day following the end of the reporting quarter, the responsible Military Department will submit to DSAA an SDAF Inventory Report identifying items received and transferred during the quarter and the physical quarter-end inventory on hand.

Minimum data required:

1. Procurement Directive Program line and sub-line (i.e., MIPR)
2. Item Description
3. NSN
4. Contract Date
5. Total Quantity Due In
6. Cumulative Quantity Received through End of Current Quarter
7. Quantity Due In Next Quarter
8. Date Last Due In
9. Quantity Shipped - By FMS LOA
10. Anticipated Shipments Next Quarter - Qty and FMS LOA
11. Quantity Allocated - By Country and LOA
12. Quantity On Hand at End of Current Quarter

1400-14

Inventory Report Format

MIPR Line	Item Description	NSN	Contract Date	Total Quantity Due In	Cumulative Quantity Received	Quantity Due In Next Qtr	Date Last Due In	Quantity Shipped By LOA	Shipments Next Qtr Quantity & LOA	Quantity Allocated By Ctry & LOA	Quantity On Hand, Current Quarter

Change No. 3

(8)

DOD 5105.38-M

Table 1400-4

Defense Security Assistance Agency
 Special Defense Acquisition Fund
 Financial Analysis Worksheet

LOA	_____	LOA Preparer	_____
Item	_____	Organization	_____
LOA Line	_____	Telephone No.	_____
Quantity	_____	Date Prepared	_____

I. SDAF Component Price

A. SDAF Source Stabilized Unit Price; Higher of:

(1) SDAF Contract	_____.	MIPR-Line	_____
(2) Latest DOD Contract	_____.	FY	_____

B. SDAF Other Source Unit Price

(1) Support Contracts	_____.	MIPR-Line(s)	_____
(2) DOD Work Orders	_____.	MIPR-Line(s)	_____
(3) Stock Funded	_____.	MIPR-Line(s)	_____
(4) Other (Explain)	_____.	MIPR-Line(s)	_____

C. SDAF Adjusted Unit Price

(1) Contract Administration Services	_____.		
(2) First Destination Transportation	_____.	MIPR-Line	_____
(3) Production & Engineering/Other	_____.	MIPR-Line	_____
(4) Recurring Support Cost:			
(a) Contract	_____.	MIPR-Line	_____
(b) Government	_____.	MIPR-Line	_____
(5) Long-Lead Recoupment	_____.	MIPR-Line(s)	_____
* (6) Logistical Support Charge	_____.	MIPR-Line(s)	_____
(7) Other (Explain)	_____.	MIPR-Line(s)	_____

D. Sub-Total SDAF Adjusted Unit Price (IA+IB+IC) _____

Table 1400-4

DSAA SDAF Financial Analysis Worksheet (Continued)

II. FMS Component Price

A. FMS Adjusted Unit Price

- ** (1) NC (RDT&E) _____
- ** (2) NC (Production) _____
- (3) Other (Explain) _____

B. Sub-Total FMS Adjusted Unit Price (IIA) _____

III. Total SDAF Unit Price (ID+IIB) _____

IV. Remarks

Note: To be used in lieu of regular FAW when source of supply is SDAF. Three of the SDAF FAWs are required. Distribution includes:

- First Copy: DSAA/Plans/SDAF Division
- Second Copy: SAAC/SDAF
- Third Copy: SAAC/Country Manager

- * LSC is computed on base price plus all add-ons.
- ** If Applicable

Table 1400-5

Defense Security Assistance Agency
Special Defense Acquisition Fund
Loan Agreement

Under the authority of Chapter 5 of the Arms Export Control Act (AECA) and enacted by the International Security and Development Cooperation Act of 1981, the defense items listed on the attached listing are loaned to the _____ (Implementing Agency). The _____ (Implementing Agency) will bear the cost of operation and maintenance of the loaned items, the cost of restoration, or the cost of replacement with a new item upon the termination of the loan period. If the items are to be replaced at the end of the loan period, the replacement items will be of like kind and quantity and will be new and of equal or greater utility. The loan period begins _____ (Date).

At the end of the loan period, _____ (Date) the _____ (Implementing Agency) will have completed the restoration, replacement, or purchase of the loaned items and will have reported the status and disposition of the loaned items to the Director, DSAA. If, at the end of the loan period, the _____ (Implementing Agency) has not restored, replaced, or purchased the items, the _____ (Implementing Agency) will not use the items any further without first executing a new SDAF loan agreement.

Director, DSAA
(Signature)

(Date)

Implementing Agency
(Signature)

(Date)

pre-pub plan to D15AM
11/29/20

Background

USD/P INTEROFFICE COORDINATION SHEET

DATE (YYMMDD)
900816

I-061740

SUBJECT

SAMM Change, SDAF Chapter 14

CURRENT SUSPENSE DATE (YYMMDD)

SUMMARY (Describe briefly the origin, purpose, action recommended and coordination - (Attach original tasking - SD Form 14 etc))

BACKGROUND. Section 1400, "Special Programs and Activities" as now published is at TAB B. Purpose of change is to improve the management and implementation of the SDAF. SAMM Change (TAB A) has been coordinated with the Implementing Agencies, DSAA Plans and Comptroller, and OPS. The General Counsel has reviewed.

That the Director, DSAA,)

RECOMMENDATION. Approve for SAMM Change 3 by initialing below. Please return to SDAF for forwarding to OPS-E.

SEQ NO.	DIR / OFC	INITIAL	DATE (Mo. Day)	SEQ NO.	DIR / OFC	INITIAL	DATE (Mo. Day)	SEQ NO.	DIR / OFC	INITIAL	DATE (Mo. Day)
	OUUSD/P				ISP (Continued)				PDUSD / S&R (Cont'd)		
	USD / P				DIR EUR POL				ADUSD(SEE)		
	AT USDP								ADUSD(R&P)		
	MA				DASD / NF&ACP				D / CSO		
	SA				MA				NET ASSESSMENT		
	ADMIN				TNF				NA		
	COMM MGT				STRAT FORCES				ODUSD / SP		
	ISA				SACP				DUSD / SP		
	ASD / ISA								MA		
	MA				DASD / SDS&VP				ADUSD / C&S		
	SA				MA				DIS		
	PDASD / ISA				VERIF POL				POL SUPPORT		
	MA				SD & SPACE				EMERG PLAN		
	FMRA				SPACE POLICY				CCC		
									SPEC ADV STF		
	DASD / AFR				DASD / CF&ACP				PSYOP		
	AFR				MA				ODUSD / TSP		
					EUR SEC NEGOT				DUSD / TSP		
	DASD / EAP				MULTI-NEGOT				MA		
	EAP				SO-LIC				ADUSD / TSP		
	PW / MIA				ASD / SO-LIC				D TSA		
					MA				DIR		
	DASD / I-A				PDASD / SO-LIC				DEP DIR		
	I-A				MA				RESOURCE MGT		
									IGA		
	DASD / NESA				DASD / F&R				MUNITIONS		
	NESA				DIR, PA				MUN TECH		
					DIR, B&E				WPNS SEC PLAN		
	DASD / GA				DIR, A				STRAT TRADE		
	HUMAN ASSIST								TECH COOP & SEC		
	NON-PROLIF				DASD / P&R				TECH SEC OPS		
	ISP				DIR, PP				DSAA		
	ASD / ISP				DIR, R			X	DIR		
	MA							X	DEP DIR		
	SEC DEF REPS				DASD / M&A			X	EXEC OFFICER		
	PDASD / ISP				DIR, MA			X	COUNSEL		
	MA				DIR, CT			X	PLANS		
					PDUSD / S&R				CONG REL		
	DASD / EUR-NATO				PDUSD / S&R			X	COMPT		
	EXEC OFFICER				AT PDUSD / S&R			X	OPS		
	PD EUR-NATO				MA				OTHER		
	DIR NATO POL				ADUSD(PP)				SDAF		

Handwritten notes and signatures:
 11/18-22
 M Aug 2
 Has been
 no sig
 8-2
 Putwoods 8/15
 8/15
 8/16

NAME OF ORIGINATOR
BOBBY DAVIS

DIRECTORATE / OFFICE
Plans/SDAF

EXTENSION
X54448

SIGNATURE
Bobby Davis

(7) **"FMS Credit (Non-Repayable)."** This term applies to payment for an FMS case wholly financed with non-repayable credit funds thereby qualifying the LOA for pricing benefits (exclusion of military salaries and NC of research, development, and production of MDE) as provided for in Sec. 503(A)(3) of the FAA of 1961 and Sec. 21(E) of the AECA. (Procedures for requesting advances of non-repayable FMS credits are contained in Table 902-3A. These advances are not automatic, as in the case for MAP merger disbursements. Purchasers should be encouraged to follow the procedures in Table 903-3A so as not to delay needed disbursements. **

b. **Related Information.**

(1) If more than one of the above Terms of Sale apply to a particular LOA, the IA will cite all of the appropriate Terms of Sale on the LOA. No attempt should be made to break out the estimated costs of each or some line items; however, where FMS Credit or MAP funds are cited a dollar breakout will be shown. Applicable line items for credit will be coded "TAZ." Mixed line items will show "TAZ" and other appropriate "TA" code. (See paragraph D. below.)

(2) In addition to the applicable Terms of Sale, the IA will enter the following statement in the "Terms" block of the LOA: "Payment will be in accordance with the provisions of the Financial Annex subject to paragraph B.3.f. of Annex A." However, this statement does not apply to Cash with Acceptance and FMSO I cases. If the purchaser is not authorized a Dependable Undertaking for Section 22 or Section 29 sales, the Term of Sale will be "Cash with Acceptance," unless specific DSAA approval is obtained. A Financial Annex is required for all LOAs except FMSO I agreements. Paragraph 70213.A.4., this section sets forth instructions for Financial Annexes.

3. **Type of Assistance (TA) Codes.**

a. **Codes Identified.**

- Code 3: Sec 21 (b), AECA; Source of Supply "S", "R", "E".
- Code 4: Mixed Sec 21(b), 22(a), or Sec 29 AECA or source undetermined; Source of Supply "X".
- Code 5: Sec 22(a), AECA; Source of Supply "P".
- Code 6: Sec 21(d), AECA; Payment on Delivery; Source of Supply "S", "R", "E".
- Code 7: Sec 22(b), AECA; Dependable Undertaking with 120 days payment after delivery; Source of Supply "P".
- Code 8: Sec 21(d), AECA; Stock sales with 120 day payment Source of Supply "S", "R", "E".
- Code M: Sec 503(a)(3) Foreign Assistance Act, MAP Merger.
- Code N: Sec 23 or 24, AECA; FMS Credit (non-repayable).
- Code U: FMSO I, Source of Supply "P".
- Code V: FMSO II, Source of Supply "P". "S"
- Code Z: Sec 23 or 24, AECA; FMS Credit.

b. **Use with Source of Supply Codes.** The type of assistance code may be interchanged when used in the "Availability and Remarks" block of the LOA. Example: TA3, TAZ. The Source of Supply codes shown in paragraph 3, Explanatory Notes, Annex A, to the LOA, must be determined and indicated independently of TA codes. For example, the source of supply coding for FMSO II should be "5(*)" and the TA code for FMSO II should be "TAV" with both designations being shown in the "Availability and Remarks" block of the LOA. A summary of Terms of Sale and Type of Assistance Codes is at Table 1301-2.

TABLE 1301-2. (Continued)

TYPE OF SALE	TYPE OF ASSISTANCE CODE	SOURCE OF SUPPLY CODE	AVAILABILITY	TERM(s) OF SALE	INITIAL DEPOSIT
8. Article(s)/Services(s) sold only from procurement, Secs. 22(a)/29	5	P	a. To be delivered/performed over a period requiring 100% initial deposit	Cash with Acceptance	100% of "S" coded services
			b. To be delivered/performed over a period requiring initial deposit of less than 100%	Dependable Undertaking	As shown in the Financial Annex
9. Mixed stock and procurement or source not predetermined, Secs. 21(b)/Secs. 22(a)/29	4	X	Not predetermined	Dependable Undertaking Cash Prior to Delivery	As shown in the Financial Annex
10. Article(s) and/or service(s) sold from stock, Sec. 21(b) and first sentence of 21(d)**	6	As Required	Anytime	Payment on Delivery	None
11. Article(s) and/or service(s) sold from Procurement Sec. 22(b)***	7	As Required	Anytime	Payment 120 days after Delivery	None
12. Article(s) and/or service(s) sold from stock, final sentence of 21(d)***	8	As Required	Anytime	Payment 120 days after Delivery	None
13. FMSO I, DODI 200.8	U	P	N/A	Cash with Acceptance, \$_____ balance as billed	5/17 of estimated cost plus 100% of Administrative charges
✓ 14. FMSO II, DODI 200.8	V	P S	N/A	Cash Prior to Delivery, Dependable Undertaking	As shown in the Financial Annex



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS INTERNATIONAL LOGISTICS CENTER (AFLC)
WRIGHT-PATTERSON AIR FORCE BASE, OHIO 45433 - 5000

19 SEP 1991

REPLY TO
ATTN OF: XMXB

SUBJECT: Security Assistance Management Manual (SAMM) Change 3 (DSAA Ltr, 1 Mar 91)

TO: DSAA/OPS-E (Wayne Wells)

1. The Source of Supply code for Cooperative Logistics Supply Support Arrangement (CLSSA) Foreign Military Sales Order II (FMSO II) cases was changed from "X" to "S" in Change 3 of the SAMM. Source of Supply code "X" means that the items will come from a mixture of stock and procurement. Source of Supply code "S" means that the items will come from stock.

2. Under the USAF managed CLSSA program we allow the foreign customer to order items forecasted and other spares and repair parts that are not forecasted on their FMSO II case. The forecasted requirements are shipped from stock, however requirements not forecasted are normally obtained through procurement. The appropriate Source of Supply code for USAF managed FMSO II cases is "X" since the foreign customers receive their requirements from stock and procurement.

3. The use of Source of Supply code "S" on our FMSO II cases is giving our foreign customers the wrong impression that all of their requirements are coming from stock. Request you give us authority to continue using Source of Supply code "X" for our FMSO II cases, and that the SAMM be updated accordingly in the next change. Please advise us of your decision by 11 October 91.

4. POC is Dick Carter, ILC/XMXB, DSN 787-8168.

Nancy A. Hudson
NANCY A. HUDSON, Chief
Policy and Analysis Branch
Directorate of Plans & Policy

cc: GB
EC

*9/26/91 - Passed to Nancy that
the USN recommended/DSAA A Compt
FMD approved change was from
"P" (not "X") to "S".*

*She agreed they can tell
countries "S" is normal but some
items will be "P" (especially non-
CLSSA programmed).*

No more needed -

W.

Background

*OPS-E
B 8/23*



DEPARTMENT OF THE NAVY
NAVY INTERNATIONAL PROGRAMS OFFICE
WASHINGTON, D.C. 20350-5000

4920
Ser 09A/OU003723
28 AUG 1990

FIRST ENDORSEMENT on Commander, Naval Supply Systems Command
ltr 4920 Ser 073B/2291 dtd 17 Aug 1990

From: Director, Navy International Programs Office
To: Director, Defense Security Assistance Agency (DSAA/OPS)

Subj: SOURCE OF SUPPLY CODE FOR FMSO II CASES

1. Forwarded, recommending approval.

G. A. HUCHTING
Deputy Director

Not agreeing from J. Frieg thru m. needs approving NAVY recommend.

Background

DEPARTMENT OF THE NAVY
NAVAL SUPPLY SYSTEMS COMMAND
WASHINGTON, D.C. 20376-5000

TELEPHONE NUMBER
COMMERCIAL
AUTOVON
IN REPLY REFER TO:

4920
Ser 073B/2291

AUG 17 1990



From: Commander, Naval Supply Systems Command
To: Director, Defense Security Assistance Agency (DSAA/OPS)
Via: Director, Navy International Programs Office

Subj: SOURCE OF SUPPLY CODE FOR FMSO II CASES

Ref: (a) PHONCON (DSAA/OPS-E) W. Wells/NAVSUP (SUP 073B) P. Baduini of 13 Aug 90
(b) DOD 5105.38-M, Security Assistance Manual

1. As discussed during reference (a), pages 1301-5 and 1301-10 of reference (b) are erroneous in stating that Source of Supply Code "P" (procurement) is the appropriate Source of Supply Code for FMSO II cases. These cases are for the requisitioning and supply of material from stock (Source of Supply Code "S") only. Request reference (b) be changed to avoid confusion among DOD personnel and FMS customers.

2. The NAVSUP point of contact is Mr. P. Baduini, 073B, X53757.

A handwritten signature in black ink, appearing to read "C. E. McKenna", is written over a large, stylized flourish.

C. E. McKenna
Acting Deputy Commander
Security Assistance

TYPE OF SALE	TYPE OF ASSISTANCE CODE	SOURCE OF SUPPLY CODE	AVAILABILITY	TERM(s) OF SALE	INITIAL DEPOSIT
15. Any, Section 23 or 24	Z	As Required	N/A	FMS Credit Loan Agreement with NR Dated (line items)	As shown in the Financial Annex
16. Sec. 503(A)(3), FAA	M	As Required	Anytime	FY MAP Merger	As shown in the Financial Annex
17. Combination of above resulting in more than one term of sale				(Show two or more terms, as appropriate)	As shown in the Financial Annex
18. Federal Republic of Germany				The DOD will draw required payments from the FRG's U.S Treasury Deposit Account as specified in the monthly statement of fund requirements in accordance with DODI 2110.12	
19. Any, Section 23 or 24	N	As Required	N/A	FMS Credit Loan Agreement with NR Dated (line items) <i>Repayable</i>	As shown in the Financial Annex

- Contractor rebuild/repair modifications must be coded "P."
- Requires approval of Director, DSAA.
- Requires approval of the President.

TABLE 1301-2. (Continued)

1301-12

Change No. 2, 2 July 1990

20

Change 3
update DOD 5105.38-M

Background
to chg 3

Table 1301-2, Page 1301-12, FOR TYPES OF SALE 15, 16, AND 19,
CHANGE THE "TERMS(s) OF SALE" COLUMN AS SHOWN BELOW:

TYPE OF SALE	TA CODE	TERMS(s) OF SALE	
		DELETE	SUBSTITUTE
15. Any, Sec 23 or 24	Z	Loan Agreement with _____, NR._____ Dated _____, (_____ line items)	FMS Credit
16. Sec.503(A)(3),FAA	M	FY_____MAP Merger	MAP Merger
19. Any, Sec 23 or 24	N	Loan Agreement with _____, NR._____ Dated _____, (_____ line items)	FMS Credit (Non- Repayable)

Brubaker, FMD (Rossllyn), 43110, 27 Sep 90

mr Failer &
mr wada copy
was attached
when received-

(5)

TABLE 1301-3
FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS
AUTHORIZED DIRECT ARRANGEMENTS FOR DEPENDABLE
UNDERTAKING

COUNTRIES

Africa

Algeria
Botswana
Cameroon
Kenya
Liberia

Morocco
Nigeria
Sudan
Tunisia

Europe

Austria
Belgium
Denmark
France
Germany (Fed.
Rep. of)
Greece
Iceland
Ireland
Italy
Luxembourg

~~Republic~~
Netherlands
Norway
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom
Yugoslavia

Far East

Australia
Brunei
Indonesia
Japan
Korea
Malaysia

New Zealand
People's Republic
of China (PRC)
Philippines
Singapore
Taiwan
Thailand

Near East and South Asia

Bahrain
Bangladesh
Egypt
India
Israel
Jordan
Kuwait
Malta
Nepal

Pakistan
Oman
Qatar
Saudi Arabia
~~The United Arab Arab~~
Emirates
Yemen ~~Arab~~
Lebanon

DISAM:
OK, Law
m.

Western Hemisphere

Argentina
Bahamas
Barbados
Brazil
Canada
Colombia
Costa Rica
Dominica
Dominican Republic
Ecuador
El Salvador
Guatemala

Haiti
Honduras
Jamaica
Mexico
Panama
Peru
St. Lucia
St. Vincent
Surinam
Trinidad and
Tobago
Uruguay
Venezuela

International Organizations

NATO (North Atlantic Treaty
Organization and its agencies)

TABLE 1301-3. Foreign Countries and International Organizations Authorized
Direct Arrangements for Dependable Undertaking.

130301.

SECTION 1303 - ACCOUNTING

130301 FINANCIAL ADMINISTRATION OF THE FMS PROGRAM

A. **Trust Funds.** A separate trust fund has been established to account for payments received from customers and disbursements against implemented FMS cases. This fund can be either cited directly on contracts for the procurement of defense articles or services for that customer or used to reimburse MILDEP appropriations for deliveries from DOD stocks.

B. **SAAC Responsibility.** SAAC has been established as the central DOD office for dispatching billings to, and receiving payments from FMS customers. It provides the customer with a single source to which payments can be made and queries concerning these payments or other financial matters can be addressed.

C. **Payments to Trust Funds.** Cash payments deposited to the customer trust fund other than for initial deposits are based on requests for funds (FMS Billing Statement, DD Form 645) submitted by SAAC. FMS customers are provided detailed information in support of billings for defense articles, defense services, design and construction, and related surcharges. SAAC is responsible for assurance that sufficient cash is available from the foreign government to cover accrued expenditures, costs to be incurred during the remainder of the current quarter, and to meet charges to be incurred during the forthcoming 90 day period; such as, contractor progress payments, contractor holdbacks, potential termination charges, and deliveries from DOD inventories. Therefore, billings will be the amount shown on the payment schedule (financial annex) attached to the DD Form 1513, or the quarterly forecast of the financial requirements accompanying the DD 645 bill, whichever is greater. The quarterly forecast will include accrued expenditures through the billing cutoff plus estimates of the costs to be incurred on behalf of the FMS customer through the calendar quarter following the quarter in which the bill will be mailed; for example, a statement prepared in January (December cutoff with payment due March 15) will project financial requirements through June (see Table 702-1). Accumulation of large unexpended balances in customer trust accounts for substantial periods must be avoided, except where related to contract holdbacks and other accrued or potential liabilities.

D. **Excess Payments.** Payments received for an individual FMS case may be in excess of the final charges. These funds can be retained in the customer's holding account pending further instructions (see para 130402C.). Implementing agencies should not enter any remarks on FMS documents in regard to transferring Purchaser funds from one case to another. Such remarks can be misleading, contradictory to instructions given to SAAC by the Purchaser, and not effective if crossleveling is required. Any excess funds on a case are processed to the Purchaser's Trust Fund and can only be applied to another case at the Purchaser's request.

130302 AUDITS AND INSPECTIONS

A. **Purpose.** This section prescribes the action to be taken by SAOs, UCOMs, and other activities having responsibilities for MAP, IMET, and FMS programs on audits, inspections, and reports by GAO; the DODIG; and MILDEP Audit Agencies.

B. Types of Audits/Inspections

1. **GAO Audits.** The GAO is empowered by law and DOD authority to conduct independent audits of DOD agencies and functions. The audits consist of comprehensive examinations of an agency's organization, activities, and results of operations. The audit results are set forth in reports containing findings, conclusions, and recommendations that provide a

1304-2

130401.H.

H. Purchaser Requests For Payment Schedule Review.

**

1. Purchasers are encouraged to raise payment schedule questions or problems at Security Assistance Reviews, Program Management Reviews, Program Reviews, etc., hosted by IAs.

2. Purchasers who wish a review or revision of a specific case payment schedule should forward a request to the appropriate IA. Addresses of the three principal IAs are shown below: in 70103.N.

a. **U.S. Army:**

Commander, U.S. Army Security Assistance Command
5001 Eisenhower Avenue
Alexandria VA 22333-0001

b. **U.S. Navy:**

Navy International Programs Office
Director, ~~Office of Technology Transfer and Security Assistance~~
Department of the Navy
Washington DC 20350-5000

c. **U.S. Air Force:**

Director of International Programs, DCS/~~PA&R~~ *PRL*
Headquarters USAF
Washington DC 20330-5240

↳ Requests for payment schedule review or revision should be directed to DSAA only in extraordinary circumstances following the IA's review and/or revision.

130402 COLLECTION OF FMS PAYMENTS.

A. **Trust Fund Accounts.** The AECA requires FMS monies to be collected in advance of delivery, service performance, or contractual progress payments. SAAC performs accounting operations from two parent FMS trust fund accounts: (1) 978242, (Deposits, Advances, Foreign Military Sales, Defense) and (2) 97-11X8242, (Advances, Foreign Military Sales, Executive, Defense). The 978242 account is used for "receipt" of payments from customers for FMS sales. Account 97-11X8242 is for "disbursements" made to suppliers on behalf of FMS purchasers.

B. **Integrity of Payment Identification.** Cash collections into the FMS Trust Fund are the result of initial deposits at acceptance or are based on requests for funds (billings) prepared by SAAC. Each deposit made is recorded to the appropriate FMS case accepted by the purchaser. If the deposit is not identifiable at the time of payment it is recorded in the FMS customers' "Holding Account" pending identification. Throughout the life of the FMS case, the integrity of case-level accounting for deposits will be maintained by SAAC.

C. **Holding Accounts.** Payments in excess of the value of a particular case may be transferred into Trust Fund "Holding Accounts," similar to pseudo-cases, under the following conditions:

TABLE 1304-1

FINANCIAL ANNEX
SUPPLEMENTARY FINANCIAL TERMS AND CONDITIONS

1. This agreement is financed entirely with cash, FMS loan ^{or grant} funds, MAP funds, or any combination thereof as indicated in Block 27 of DD Form 1513, Letter of Offer and Acceptance (LOA), or Block 28 of DD Form 1513-1, Amendment to Offer and Acceptance. The Purchaser agrees to make payments in such amounts and at such times as may be specified by the USG, including any initial deposit indicated on the LOA required to meet financial requirements arising from this case.

2. The Foreign Military Sales Billing Statement, DD Form 645, will serve as the statement of account and billing statement. An FMS Delivery Listing identifying items physically or constructively delivered, and services performed during the billing period, will be attached to the billing statement. The Security Assistance Accounting Center (SAAC) forwards billing statements to Purchasers no later than 45 days before payments are due, and Purchasers will forward payments in U.S. dollars (cash or request for advance of loan funds) to the USG in time to meet prescribed due dates. For cases financed with MAP funds, these funds are merged in the trust fund and applied to the cases. Such costs as may be in excess of the amount funded by MAP or credit agreement funds must be paid by the purchaser, if additional MAP/credit funds are not available. Questions concerning the content of DD Form 645 billing statements and requests for billing adjustments should be submitted to the Security Assistance Accounting Center (SAAC/FS), Lowry AFB, Colorado 80279-5000.

3. Cash payments in U.S. dollars for initial deposits and amounts due and payable on Quarterly Billing Statements (DD Form 645) are to be forwarded to the SAAC or other formally agreed upon repository in time to meet prescribed payment dates. The preferred method for forwarding cash payments is by bank wire transfer to the Department of the Treasury account at the Federal Reserve Bank of New York using the standard federal reserve funds transfer format. Wire transfers will be accepted by the Federal Reserve System (FRS) only from banks that are members of the FRS, therefore, non-U.S. banks must go through a U.S. correspondent FRS member bank. The following information is applicable to cash payments:

- a. Wire Transfer:
Treasury Department Name: TREAS NYC
Treasury Department Code: 021030004
Agency Name: AFAFC/SAAC
Agency Code: (3801) Air Force
Third Party Information: Identify reason for funds transfer.
- b. Check Mailing Address:
AFAFC/ACFC/SAAC/FSR
P.O. Box 20030
Denver, CO 80220-0030

4. ~~To authorize payments of initial deposits required on LOAs or amounts due and payable on FMS billing statements from funds available under loan agreements, the Borrower will submit a letter of request for each advance of loan funds addressed to the Secretary, Federal Financing Bank, c/o U.S. Department of the Treasury, Washington D.C. 20220. Each request to the Federal Financing Bank for an advance will be forwarded to the Defense Security Assistance Agency, DSAA-COMPT-A&FD, Pentagon, Room 4B659, Washington, D.C. 20301, with a letter~~

TABLE 1304-1. Supplementary Financial Terms and Conditions

See attached

~~requesting DSAA approval. Letter formats and specific instructions for processing loan advance requests are included in applicable provisions of each loan agreement. Questions pertaining to status of loans and associated balances should be directed to the above DSAA address.~~

5. If full payment is not received by SAAC by the prescribed due date, interest shall be charged as outlined in General Conditions, Paragraph B.3.g. of Annex A to the LOA. The principal of the arrearage will be computed as the excess of cumulative financial requirements over cumulative collections (cash and loan) shown in the FMS Billing Statement after the payment due date.

6. The initial deposit of \$ _____ required to accompany this LOA is an integral part of the Purchaser's acceptance. If the advance payment is made from loan funds, the Credit Programs Division, DSAA, will submit payments to the SAAC in accordance with Borrower requests for loan advances described above.

7. The payment schedule provided below is for planning purposes. The SAAC shall request Purchaser payment in accord with the payment schedule, unless DOD costs (including 90-day forecasted requirements) exceed the amounts required by the payment schedule. Should this occur, DOD would be unable to comply with the advance payment requirement of the Arms Export Control Act and the U.S. will use its best efforts to provide a revised payment schedule (DD Form 1513-2) at least 45 days prior to the next payment due date. The Purchaser is required to make payments in accordance with quarterly billings (DD Form 645) issued by the SAAC regardless of the existing payment schedule.

8. It is understood that the values on the LOA are estimates, and that the final amount to be charged for items or services furnished will be equal to the final total cost to the USG. When final deliveries are made and all known costs are billed and collected, the SAAC will provide a "Final Statement of Account" which will summarize total final costs of this agreement. Should the final total costs be less than the funds collected, such excess funds will be available for payment of unpaid billings for other agreements. If there are no such unpaid billings, excess funds will be disposed of as agreed upon between the Purchaser and the Comptroller, DSAA.

9. To assist the Purchaser in developing fiscal plans and annual budgets, the USG provides its best estimate of anticipated costs of this agreement in the following estimated payment schedule:

ESTIMATED PAYMENT SCHEDULE

<u>PAYMENT DATE</u>	<u>QUARTERLY</u>	<u>CUMULATIVE</u>
Initial Deposit:		

TABLE 1304-1. (Continued)

PROPOSED CHANGES TO DOD 5105.38-M, SAMM

Table 1304-1, FINANCIAL ANNEX, SUPPLEMENTARY FINANCIAL TERMS
AND CONDITIONS

Please rewrite paragraph 4. as follows:

4. To authorize payments of initial deposits required on LOAs or amounts due and payable on FMS billing statements from funds available under loan or grant agreements, the Borrower will submit a letter of request for each advance of loan or grant funds (where requested by loan or grant agreement being cited as source of payment) addressed to the Defense Security Assistance Agency, 1400 Wilson Blvd., Suite 535, Arlington VA 22209-235. Letter formats and specific instructions for processing required loan or grant advance requests are included in specific provisions of the applicable loan or grant agreement. Questions pertaining to status of loan or grant balances should be directed to the above DSAA address.

*change 3 Background B 9/13
OPS-E*



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

12 SEP 1990

MEMORANDUM FOR DIRECTOR, OPERATIONS

SUBJECT: Proposed Changes to DOD 5105.38-M, SMM

The attached Table 1304-1, Financial Annex, Supplementary Financial Terms and Conditions, of DOD 5105.38-M reflects our proposed changes as annotated. Paragraph 4 is being updated to include grant agreements and the correct mailing address for the Borrower's letter of request on advance funds.

Request the changes to Table 1304-1 be included in Change 3 to DOD 5105.38-M.

Our point of contact is Mr. Jerry Friesz, DSAA/COMPT-FMD, 694-1173.

James R. Woods
James R. Woods
Comptroller

Attachment
As stated

130705.C.2

2. **DD Form 1513 Presentation.** The LSC is to be included in the single selling price presented to FMS purchasers in the LOA for those lines coded with the applicable generic codes listed in DOD 7290.3-M.

3. **Reporting.** SAAC will apply ^{a 3.1 percent LSC, as applicable,} ~~the applicable percentage (3.1 percent for FYs 1987 and 1988)~~ to the extended value amounts reported by the IAs in the DD Comp(M) 1517 billing reports. However, in accordance with Paragraph 71704C of the DOD 7290.3-M, the IAs will determine from SAAC the amount of LSC to include in the IA's Case Closure Certificate to be submitted to SAAC.

D. Nonrecurring Cost Recoupment Charges.

1. **Background.** Section 21 of the AECA requires that an appropriate charge be made for a proportionate amount of any NC of RDT&E, and production of MDE. Implementation guidance on establishment of charges, collections, and waivers is contained in DOD Directive 2140.2.

2. **DOD Component Responsibility.** ^{DOD controller} DOD components are responsible for determining recoupment charges for all items of defense equipment. DOD components must use actual, not program, cost data and may use estimates where the development of more precise data is not possible; however, in the latter case, it must be demonstrated that a reasonable approach was used and prior approval of alternative costing methods must be obtained from OSD(C) (Accounting Policy), with DSAA concurrence. The costs to be applied against the foregoing threshold levels shall normally be determined based upon the roll-away, sail-away or fly-away cost of the end item, and assessments for product sales shall be made on the basis of end item sales. In the event an end-item contains one or more components which individually meet these thresholds, recoupment will be made on both end item and component sales. Nonrecurring RDT&E costs are those costs funded by an RDT&E appropriation to develop or improve the product or technology. This includes costs of any ECP initiated prior to the date of the contract with the customer, as well as projections of such costs, to the extent additional effort applicable to the sale model or technology is necessary or planned. It *does not* include costs funded by either procurement or O&M appropriations to improve the product or for costs of publications. The costs of improvements are recurring costs and will be recovered in accordance with DOD 7290.3-M. Nonrecurring production costs are those one-time costs incurred in support of previous production of the model specified and those costs specifically incurred in support of the total projected production run from which delivery is to be made which would normally be expenses against a production run. These NCs include such costs as pre-production, special tooling, special test equipment, production engineering, product improvement, destructive testing, and pilot model production, testing, and evaluation. They do not include costs of government property or facilities for which rental or asset use charges will be assessed. "Special" nonrecurring RDT&E or production costs are those incurred at the request of, or for the benefit of, the customer in developing a special feature or unique requirement. These "special" costs must be paid by the customer as incurred. The objective of applying these recoupment charges is to ensure that a purchasing customer pays a fair price for the value of DOD "sunk" investment costs. The pro rata recoupment charge is to be included in the FMS or direct commercial sales price of the product or technology unless reduced or waived as outlined in paragraph h. below. Fair Pricing legislation exempted the assessment of NC for those countries/organizations whose cases are fully funded with FMS Credit (non-repayable), effective with deliveries reported to SAAC after 1 December 1989. *
*
*

3. **DSAA Approval.** Prior to applying pro rata NC recoupment charges to sales of items on the MDEL, components will insure that the proposed pro rata charge has been approved by the Director, DSAA. Approval will be requested only for MDE items, and for which there has not been an approved NC pro rata charge established since 5 January 1977.

29

130402.F.3.

3. If the expiration date cannot be extended, or if the extended date expires without receipt of the initial deposit, SAAC will obtain DSAA-COMPT-FMD concurrence to cancel the case. A new LOA will be required if the customer's requirement is still valid.

4. These procedures do not apply to offers where SAAC has been notified that the initial deposit is in the hands of another USG agency, that a courtesy deposit has been made on SAAC's behalf, that funds have been wire transferred (with transaction number), or where the LOA is financed by MAP or FMS credit funds.

130403 DISBURSEMENT AUTHORITY FOR FMS AGREEMENTS.

A. **Case-Level Accounting.** FMS monies collected in advance of delivery, service performance, or contractual progress payments are available for reimbursement to U.S. appropriations or direct-cite payment to U.S. producers. Although these disbursements are controlled on an FMS country basis, accounting for FMS transactions is on an individual case basis. In other words, country cash deposits may be disbursed for the financial requirements associated with any of that country's cases with its consent, expressed or implied, but the integrity of deposit and disbursement accounting for individual cases will be maintained.

B. **Expenditure Authorities.** The total DOD expenditure authority for each FMS purchaser is equal to the amount of undisbursed monies on deposit for the purchaser in the FMS Trust Fund. Any subdivision of this authority must be requested by the DOD components. Based on the amount of a request and of available monies, the SAAC will formally release advice of expenditure authority in a specified amount at FMS country level to the DOD component. The DOD component must exercise prudent control to ensure the disbursement limitation is not exceeded when paying contractors or reimbursing U.S. appropriations.

130404 ACCOUNTING FOR CONTRACTUAL PROGRESS PAYMENTS.

A. **Incremental Payments.** Most of the materiel furnished on FMS orders is procured by the DOD on behalf of FMS purchasers. Associated with these procurement actions are incremental, contractual progress payments for work in process. Installment payments reduce the impact on customer budgets and reduce contractor investment in work in process. Similarly, it reduces the mutual risks inherent in case cancellation. It also provides continuing assessment of case requirements and pricing to update elements of inaccurate price estimation that may have occurred at the time of case offer.

B. **Segregating and Accounting for FMS Costs.** Sections 22 and 29 of the AECA necessitate accurate and prompt segregation and accounting for incremental costs to ensure that DOD appropriations are not adversely impacted by contractual payments on behalf of FMS orders. DOD policy is that contractors separately request progress payments when more than one country's requirements or U.S. requirements are included in the same contract. The DOD component that makes the progress payment must promptly report these costs to SAAC to insure that billings accurately reflect the rates at which disbursements are made. If the payment schedule appears to be inadequate, the DOD component should modify it (DD Form 1513-2 or 1513-1) with notification to both the FMS purchaser and SAAC.

c. An estimate of the full cost of the cooperative project, with an estimate of the part of the full cost to be incurred by the USG for its participation in such a cooperative project, including an estimate of the costs to be incurred as a result of waivers of charges which would otherwise be required under Sections 21(e)(1)(A) and 43(b) of the AECA, and an estimate of that part of the full costs to be incurred by the other participants;

d. An estimate of the dollar value of the funds to be contributed by the U.S. and each of the other participants on behalf of such a cooperative project;

e. A description of the defense articles and defense services expected to be contributed by the U.S. and each of the other participants on behalf of such a cooperative project;

f. A statement of the foreign policy and national security benefits anticipated to be derived from such a cooperative project; and,

g. To the extent known, whether it is likely that prime contracts will be awarded to particular prime contractors or that subcontracts will be awarded to particular subcontractors to comply with the proposed agreement.

5. Pursuant to the requirements of Executive Order 11958, the DSAA will consult with the Departments of State and Treasury regarding implementation of cooperative projects under Section 27, AECA, including waiver or reduction of charges, prior to Congressional certification.

140107 REQUESTS FOR OFFSET PROCUREMENT.

A. **DOD Policy.** It is DOD policy not to enter into government-to-government offset arrangements because of the inherent difficulties in negotiating and implementing such arrangements. Any foreign government requesting offset should be informed that the responsibility for negotiating any offset arrangements resides with the U.S. contractor involved. The USG will not commit a U.S. contractor to an offset commitment without having its prior concurrence.

~~ASD(ISA), ASD(ISA), ASD(P&L)~~
B. **Semiannual Report.** ~~The Under Secretary of Defense for Research and Engineering, in coordination with the Assistance Secretary of Defense for International Security Affairs, Assistant Secretary of Defense for International Security Policy; Assistance Secretary of Defense for Manpower, Reserve Affairs, and Logistics; the Department of Defense General Counsel; the DSAA, and the MILDEP;~~ will be responsible for publishing a semiannual report setting forth the status of ~~all~~ existing and proposed compensatory ~~coproduction and~~ offset agreements. Such reports will highlight the U.S. financial obligation and provide other detail as required.

* OUSD(A), in coordination with OUSD(P);

140108 RELEASE OF TECHNICAL DATA.

A. **General.** It is DOD policy to treat defense-related technology as a valuable and limited national security resource. Any export or re-export of defense related technical data of U.S. origin to a foreign recipient for its indigenous defense requirements must be approved under the provisions of the AECA. The principal controls are those provided under FMS procedures or export licensing for commercial transactions by the Department of State, Office of Munitions Control.

B. **Definition of Technical Data.** Technical data is defined in paragraph 140104.B. above. The most prominent category of technical data is described as a TDP. The TDP normally includes technical design and manufacturing information sufficient to enable the construction or manufacture of a defense item, component, modification, or to enable the performance of certain

Change 3
Replaces Present
Table F-3
(update)

DOD 5105.38-M

TABLE F-3

TRANSPORTATION COST LOOK-UP TABLE
(Effective 1 OCT 90)

ARMY ANNEX

<u>NSN</u>	<u>ITEM</u>	<u>CODE 6*</u>	<u>CODE 8*</u>	<u>CODE 9*</u>
<u>CHAPARRAL</u>				
1410-01-095-3248	MSL, GM, INTERCEPT AERIAL, MIM-72E	\$ 302	\$ 159	\$ 1,119
1410-01-150-2863	MISSILE, GM INTERCEPT AERIAL MIM-71F	302	159	1,119
1410-01-216-3775	MISSILE, GM, INTERCEPT AERIAL MIM-72N	302	159	1,119
1440-01-069-8877	MSL, GM, INTERCEPT AERIAL, CARRIER MTD, M48A1	12,485	5,149	61,829
1440-01-106-3089	MSL, GM, INTERCEPT AERIAL, CARRIER MTD, M48A2	12,485	5,149	61,829
1440-01-181-6002	FLIR	319	243	1,232
1440-01-198-5892	MSL, GM, INTERCEPT AERIAL, MTD, M48A2E1	12,485	5,149	60,602
1440-01-937-3859	SYS, MISSILE, GM INTERCEPT AERIAL CARRIER, MTD, M48	12,209	4,873	60,525
4935-01-104-9827	AN/TSM-96A	11,765	7,589	40,220
<u>DRAGON</u>				
1427-00-163-8959	MISSILE	\$ 136	96	444
1430-00-078-8340	TRACKER	268	258	517
1430-01-046-9594	NIGHT TRACKER	308	278	735
<u>HAWK</u>				
1337-00-484-8551	ROCKET MOTOR, M112	\$ 650	\$ 462	\$ 3,532
1410-00-234-3266	MISSILE	1,991	1,051	9,104
1410-01-173-9990	MISSILE, MEI	\$ 1,991	\$ 1,051	\$ 9,104
1430-00-103-5270	IPCP, AN/MSW-11	11,182	4,699	39,191
1430-00-135-0267	ICWAR	7,075	2,810	24,558
1430-00-169-1859	ICC	11,766	5,112	40,043

1430-00-178-8453	PAR	8,810	3,180	31,196
1430-00-178-8454	ROR	6,642	2,718	22,920
1430-00-782-9816	HPI	11,115	4,973	37,262
1430-00-880-3357	AN/TPQ-29	6,210	3,943	21,561
1430-01-042-4907	ICWAR/PIP, PHASE I	7,075	2,810	24,558
1430-01-042-4908	PAR/PIP, PHASE I	7,075	2,810	24,558
1430-01-042-4910	BCC/PIP, PHASE I	6,690	4,184	23,425
1430-01-042-4915	IPCP, PHASE I	11,182	4,699	39,191
1430-01-042-4918	ICC/PIP, PHASE I	11,549	5,066	39,624
1430-01-078-9643	HPI/PIP, PHASE II	11,115	4,973	37,262
1430-01-084-1130	IBCC, PHASE II	6,690	4,184	23,425
1430-01-084-1131	IPCP, PHASE II	11,182	4,699	39,191
1430-01-180-5318	PCP/PIP PHASE III	11,549	5,066	39,624
1430-01-184-6768	CWAR/PIP PHASE III	6,424	2,671	22,180
1430-01-191-8780	HPI/PIP PHASE III	11,115	4,973	37,262
1430-01-213-9397	BIG PHASE III	2,014	1,670	16,462
1440-00-602-5055	LSCB, PHASE I	104	92	416
1440-00-805-3012	LAUNCHER	6,791	4,166	23,975
1450-00-066-8873	LOADER, XM501E3	5,202	2,302	17,941
4935-00-133-9770	SHOP EQUIP, AN/TSM-112 W/SM 35 BEAM	2,093	1,616	7,014
4935-00-604-7460	IAFU OMC GRD	1,614	1,375	4,496
4935-00-782-1957	SHOP EQUIP AN/TSM-105	6,210	3,943	21,561
4935-00-880-4510	SHOP EQUIP AN/TSM-107	6,210	3,943	21,561
4935-01-042-4909	SHOP EQUIP AN/TSM-107 PIP	6,210	3,943	21,561
4935-01-043-2244	SHOP EQUIP. (NO. 1) PHASE I	7,888	4,786	28,307
4935-01-051-8691	SHOP EQUIP AN/TSM-104	6,210	3,943	21,200
4935-01-067-3362	SHOP EQUIP GM AN/TSM-120	2,093	1,616	7,486
4935-00-083-3128	SHOP EQUIP (NO. 8)	3,411	2,533	19,301
4935-01-083-3129	SHOP EQUIP. (NO. 1) PHASE II	7,888	4,786	28,307
4935-01-085-5618	SHOP EQUIP (NO. 9)	5,124	2,394	16,661
4935-01-085-5679	SHOP EQUIP (T.A.G.)	4,269	3,792	11,392
4935-01-091-4450	TAS MAINT. KIT PHASE II	1,690	1,093	6,252
4935-01-218-7088	SHOP EQUIP. (NO. 8) PHASE III	5,775	2,533	19,301
5821-00-192-8668	TRANSMITTING SET	104	92	331

HELICOPTER, UH-1

1615-01-056-4550	HUB ASSEMBLY, MAIN ROTOR	1,399	1,017	1,281
1615-00-183-0834	TRANSMISSION	1,904	1,522	1,981
1615-01-237-0512	HUB ASSEMBLY, MAIN ROTOR	1,399	1,017	1,281
2840-01-093-7451	ENGINE	1,208	826	1,261
2840-01-134-4803	ENGINE	1,208	826	1,261
2915-01-005-9197	FUEL CONTROL	1,025	886	1,162
2915-01-216-9779	FUEL CONTROL	1,025	886	1,162

MLRS

1055-01-192-0358	AVMRL (LESS CARRIER)	13,474	5,285	95,076
1055-01-251-9756	AVMRL	13,474	5,285	95,076

PATRIOT

1410-01-087-6343	GM INTERCEPT AERIAL	3,137	1,727	10,545
1410-01-205-7066	GM INTERCEPT AERIAL	3,137	1,727	10,545
1410-01-267-6685	GM INTERCEPT AERIAL MIM-104-B	3,137	1,727	10,545
1410-01-286-9689	GM INTERCEPT AERIAL MIM-104-C	3,137	1,727	10,545
1430-01-087-6330	RADAR SET	24,552	8,515	104,613
1430-01-087-6337	AN/MSQ-116	22,535	7,692	86,506
1430-01-087-6338	AN/MGQ-104	22,535	7,692	88,671
1430-01-131-5373	ANTENNA MAST GROUP TRK	21,291	6,960	91,201
1430-01-131-5427	AN/MRC-137	21,904	7,061	80,483
1440-01-087-9844	M901	21,904	7,061	80,668

REDEYE

1425-00-930-9923	M41 GUIDED MSL SYS	119	88	310
1425-01-078-9258	M41 MSL W/METL CONT.	136	94	398
1425-01-078-9259	M41 MSL ASSEMBLY	119	88	310
6920-00-809-0399	GUIDED MSL TRAINING SET	301	280	740

STINGER

1425-01-024-9982	WPN ROUND	159	105	472
1427-01-024-9967	MSL ROUND	119	84	433
1427-01-219-7116	WPN ROUND, LESS GRIPSTOCK	148	94	448
1427-01-325-3158	MISSILE ROUND	119	84	433
1427-01-325-3160	WEAPON ROUND, PARTIAL	148	94	448

1440-01-170-8618	GRIPSTOCK - CONTROL GROUP	15	13	56
1440-01-281-9458	GRIPSTOCK, CONTROL GROUP	15	13	53
6920-01-024-6948	THT	282	255	843
6920-01-283-7826	TRAINING SET	282	255	843

THERMAL IMAGERY

5855-01-037-7340	NIGHT SIGHT, AN/TAS-6	221	211	511
5855-01-037-7341	AN/TAM-3	229	172	852
5855-01-083-9051	AN/UAS-11	345	273	1,379
5855-01-154-3871	AN/TAM-3A	439	326	1,605
5855-01-173-0808	NIGHT SIGHT, AN/UAS-12B	256	229	922

TOW

1410-01-007-2507	MISSILE	96	65	388
1410-01-007-2508	MISSILE	90	59	375
1410-01-106-8514	I-TOW	96	65	388
1410-01-135-2092	TOW-2 MSL	96	65	388
1410-01-137-9976	MISSILE, PRACTICE	85	54	370
1410-01-229-9948	MISSILE	96	65	388
1410-01-257-7583	I-TOW MISSILE	96	65	388
1410-01-300-0254	TOW-2A MISSILE W/CLM, BGM-71E-1B	96	65	388
1410-01-301-0815	TOW-2 MISSILE W/CLM, BGM-71D-1B	96	65	388
1410-01-303-5172	TOW-2 MISSILE	90	59	375
1410-01-309-8302	TWO PRACTICE MISSILE W/CLM, BTM-71A-1B	90	59	375
1410-01-309-8303	I-TOW MISSILE W/CLM,	96	65	388
1440-00-169-1764	LCHR	1,390	1,151	3,435
1440-01-104-9834	LCHR, TUBULAR, GM, TOW-2	1,390	1,151	3,772
1440-01-271-3015	TOW-2 LAUNCHER	1,390	1,151	3,772
1440-01-298-9788	TOW-2 LAUNCHER	1,390	1,151	3,772
4935-00-150-5905	CSS	3,078	1,994	10,819
4935-01-070-3426	FIELD TEST SET	745	506	2,933
4935-01-082-7023	ICSS	3,068	1,994	10,819
4935-01-114-3919	CSS, TOW-2	3,068	1,994	10,819
4935-01-142-9561	FIELD TEST SET, TOW-2	745	506	2,933
4940-01-154-3957	IMP. CSS, TOW-2	5,225	3,077	18,590
5855-01-083-9053	NIGHT SIGHT, AN/TAS 4A	296	272	937
5855-01-152-8781	NIGHT SIGHT, AN/UAS 12A	303	276	975

5855-01-245-8689	AN/UAS-12A	303	276	975
5855-01-301-0158	NIGHT SIGHT, AN/UAS 12-C	303	276	975
6130-01-018-9786	BATTERY CHARGER	123	96	494
6920-00-179-7320	M70 TRAINER, TOW	803	564	2,878
6920-00-145-6098	M70 TRAINER, TOW-2	803	564	2,878

NAVY ANNEX

HARM MISSILE

1337-01-162-3421	ROCKET MOTOR SECTION	1,290	1,216	1,820
1337-01-162-3422	WARHEAD SECTION	1,290	1,216	1,820
1410-01-242-4880	TACTICAL MISSILE	4,715	4,115	9,683
1420-00-237-4082	GUIDANCE SECTION	1,290	1,216	1,820
1420-01-241-5790	CONTROL SECTION	1,290	1,216	1,820

HARPOON MISSILE

1410-01-139-1741	RGM-84D-3	1,350	972	6,641
1410-01-181-8546	AGM-84D-1	867	611	6,557
1410-01-181-8548	AGM-84D-1	1,309	932	4,846
1410-01-181-8549	UGM-84D-1	2,728	988	7,352
1410-01-198-7063	RGM-84D-4	1,356	979	6,940

MK 46 TORPEDO

1356-01-063-3274	TORPEDO	732	470	3,484
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SIDEWINDER MISSILE

1336-01-017-4030	SAFETY-ARMING DEVICE (S&A)	38	20	276
1336-01-044-7430	WARHEAD	67	34	280
1337-01-145-1963	ROCKET MOTOR (RM)	229	117	760
1420-01-101-8233	TARGET DETECTOR (AOTD)	312	306	904
1427-01-114-2054	GUIDANCE & CONTROL SECTION (GCS)	628	607	1,292

SPARROW MISSILE

1410-00-149-3507	AIM-7M	4,317	3,637	3,834
1410-00-149-3508	AIM-7M	2,274	1,988	3,896

AIR FORCE ANNEX

MAVERICK MISSILE

1336-00-138-2910JE	AGM-65B	4,519	4,309	6,876
1336-00-883-5361	WARHEAD	1,510	1,460	3,446
1336-00-883-2682	BOOSTER WARHEAD	1,453	2,901	1,466
1337-01-118-4657	ROCKET MOTOR	1,546	1,467	2,140
1410-00-125-6760JE	AGM-65B	4,519	4,309	6,876
1410-00-238-1486JE	AGM-65A	4,519	4,309	6,876
1410-01-089-2505JE	AGM-65B	4,519	4,309	6,876
1410-01-101-8490JE	AGM-65A	4,519	4,309	6,876

SIDEWINDER MISSILE

1410-01-135-2771AB	AIM-9L	255	177	1,502
1410-01-137-5971AB	AIM-9P-2	255	177	1,502
1410-01-137-5972AB	AIM-9P-3	255	177	1,502
1410-01-162-9395AB	AIM-9M	255	177	1,502

SPARROW MISSILE

1410-01-101-8237BL	AIM-7E-3	466	321	3,082
1410-01-135-6167BL	AIM-7E	466	321	3,082

*If the priority changes and the actual delivery of materiel does not correspond with the Delivery Term Code (DTC) designated in the LOA, a Transportation Bill Code (TBC) indicating the actual method of shipment is to be entered on the DD Form 1517 (Position 59).

Background

USD/P INTEROFFICE COORDINATION SHEET	DATE (YYMMDD)	1- 61624/90
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SUBJECT: Transportation Cost Look-up Table -- Annual Update	CURRENT SUSPENSE DATE (YYMMDD)
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NOTE: (Describe briefly the origin, purpose, action recommended and coordination - (Attach original tasking - SD Form 14, etc.))

ORIGIN: SAMP, Appendix F requirement for annual update of the transportation look-up table.

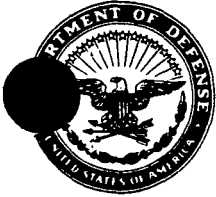
PURPOSE: To update the transportation cost look-up table. Inputs from mildepts have been incorporated in the attached memorandum.

RECOMMENDATION: Recommend your signature.

SEQ NO.	DIR / OFC	INITIAL	DATE (Mo, Day)	SEQ NO.	DIR / OFC	INITIAL	DATE (Mo, Day)	SEQ NO.	DIR / OFC	INITIAL	DATE (Mo, Day)
	OUUSD/P				ISP (Continued)				PDUSD / S&R (Cont'd)		
	USD / P				DIR EUR POL				ADUSD(SEE)		
	AT USDP								ADUSD(R&P)		
	MA				DASD / NF&ACP				D / CSO		
	SA				MA				NET ASSESSMENT		
	ADMIN				TNF				NA		
X	COMM MGT				STRAT FORCES				ODUSD / SP		
	ISA				SACP				DUSD / SP		
	ASD / ISA								MA		
	MA				DASD / SDS&VP				ADUSD / CI&S		
	SA				MA				DIS		
	PDASD / ISA				VERIF POL				POL SUPPORT		
	MA				SD & SPACE				EMERG PLAN		
	FMRA				SPACE POLICY				CCC		
									SPEC ADV STF		
	DASD / AFR				DASD / CF&ACP				PSYOP		
	AFR				MA				ODUSD / TSP		
					EUR SEC NEGOT				DUSD / TSP		
	DASD / EAP				MULTI-NEGOT				MA		
	EAP				SO-LIC				ADUSD / TSP		
	PW / MIA				ASD / SO-LIC				DTSA		
					MA				DIR		
	DASD / I-A				PDASD / SO-LIC				DEP DIR		
	I-A				MA				RESOURCE MGT		
									IGA		
	DASD / NESAs				DASD / F&R				MUNITIONS		
	NESA				DIR, PA				MUN TECH		
					DIR, B&E				WPNS SEC PLAN		
	DASD / GA				DIR, A				STRAT TRADE		
	HUMAN ASSIST								TECH COOP & SEC		
	NON-PROLIF				DASD / P&R				TECH SEC OPS		
	ISP				DIR, PP				DSAA		
	ASD / ISP				DIR, R			X	DIR		
	MA							X	DEP DIR		
	SEC DEF REPS				DASD / M&A				EXEC OFFICER		
	PDASD / ISP				DIR, MA				COUNSEL		
	MA				DIR, CT				PLANS		
					PDUSD / S&R				CONG REL		
	ASD / EUR-NATO				PDUSD / S&R				COMPT		
	EXEC OFFICER				AT PDUSD / S&R			X	OPS		
	PD EUR-NATO				MA			X	OPS-E		
	DIR NATO POL				ADUSD(PP)						

NAME OF ORIGINATOR BOUGH/GPD	DIRECTORATE / OFFICE DSAA / OP-E	EXTENSION X78108	SIGNATURE
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Background



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

01 OCT 1990

In reply refer to:
I-061624/90

MEMORANDUM FOR ASSISTANT DEPUTY CHIEF OF STAFF FOR LOGISTICS
(ADCSLOG) (SECURITY ASSISTANCE)
DEPARTMENT OF THE ARMY

DIRECTOR, NAVY INTERNATIONAL PROGRAMS OFFICE/NIPO
DEPARTMENT OF THE NAVY

DIRECTOR OF INTERNATIONAL PROGRAMS/PRI
DEPARTMENT OF THE AIR FORCE

DIRECTOR, SECURITY ASSISTANCE ACCOUNTING CENTER
LOWRY, AFB
DENVER, COLORADO

DEFENSE INSTITUTE FOR SECURITY ASSISTANCE
MANAGEMENT/DISAM

SUBJECT: Revision to the Security Assistance Management Manual
(SAMM)

The purpose of this revision to the SAMM is to update the
Transportation Cost Look-Up Table, Appendix F.

The attached revision to the SAMM is effective beginning on
October 1, 1990, and will be included in the next formal SAMM
change.

Teddy G. Allen
Lieutenant General, USA
Director

Attachment
as stated

Copy furnished:
ASD(C)/MS

Prep'd by: DR. BOUGH/gpd/x78108

DSAA/OPS-E

Distribution: Orig Addes & cc

CMD (1) CC:

OPS-E SUBJ

OPS-E CHRON

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(BO./)

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ASD/ISP



THE UNDER SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301-2000

JAN 11 1991

POLICY

In reply refer to:
I-58801/90

MEMORANDUM FOR COMPTROLLER

SUBJECT: DoD Policy on the Recoupment of Nonrecurring Costs

We do not concur in the proposed response to the November 13, 1990, letter to the Deputy Secretary of Defense from the Aerospace Industries Association, the American Electronics Association and the Electronic Industries Association, at Tab A. The associations expressed their concerns about DoD nonrecurring cost recoupment policies and requested that the Deputy Secretary of Defense reconsider the policy and revise it. The proposed response, at Tab B, simply explains the history of and rationale for the policies and makes no commitments about revision.

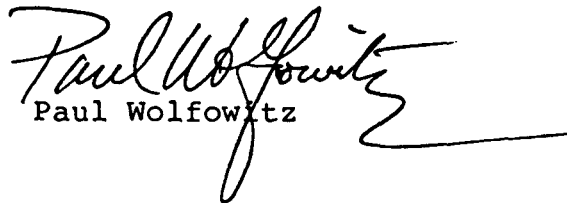
We support fully DoD policy on the recoupment of nonrecurring costs on sales of Major Defense Equipment (MDE), both on a Foreign Military Sales (FMS) basis, as mandated by the Arms Export Control Act, and on direct commercial sales, as established in DoD Directive 2140.2. We do not support the continued imposition of nonrecurring cost charges on sales of non-MDE. Since the imposition of this charge on sales of non-MDE is not statutorily mandated, DoD has the ability to abolish the charge by changing the regulation, DoDD 2140.2, which established it.

The Defense Policy Advisory Committee on Trade (DPACT) has frequently expressed its concerns about imposition of nonrecurring cost recoupment on sales of non-MDE. Most recently, DPACT addressed itself to Deputy Secretary of Defense Atwood on the issue. The Deputy Secretary of Defense committed to examine the issue. Tab C refers. We have consulted with the Under Secretary of Defense for Acquisition and have together concluded that now is the time for DoD to abolish nonrecurring cost recoupment charges on sales of non-MDE.

This conclusion is supported by recent Congressional attempts to prohibit imposition of such charges. We believe that DoD should take the initiative to abolish the charge, thus precluding further legislative efforts which could well spill over into recoupment on sales of MDE.

We estimate that recoupments on sales of non-MDE constitute only a small percentage of annual nonrecurring cost recoupments, probably not more than \$10 million of our annual \$150 million receipts from recoupments. We therefore agree with the industry associations and the DPACT that the negative effects of imposing nonrecurring cost recoupment charges outweigh the benefit to the government in imposing them and believe that the charges should be abolished to enhance sales of U.S. non-MDE.

We will support a recommendation to revise DoD Directive 2140.2 to abolish nonrecurring cost recoupments on non-MDE and a reply to the industry associations and the DPACT which describes the changes to be made. If you are unable to agree with this proposal, we recommend you refer the issue to the Deputy Secretary of Defense for his decision.


Paul Wolfowitz

Attachments
As stated

CC: ASD/ISP

AEROSPACE INDUSTRIES ASSOCIATION
1225 I Street, N.W., Washington, D.C. 20005

OFFICE OF THE
SECRETARY OF DEFENSE
AMERICAN ELECTRONICS ASSOCIATION
1225 I Street, N.W., Washington, D.C. 20005
NOV 15 1990

ELECTRONIC INDUSTRIES ASSOCIATION
2001 Pennsylvania Avenue, N.W., Washington, D.C. 20006

November 13, 1990

The Honorable Donald J. Atwood
Deputy Secretary of Defense
The Pentagon
Washington, D.c. 20301-1000

Dear Secretary Atwood:

The undersigned Associations are concerned about DoD's policy on Recoupment of Nonrecurring Costs. While this policy has been identified as a significant issue by DPACT, and is being addressed within that forum, we believe it is helpful and important for you to understand our concerns as well. As currently stated, DoD's Recoupment Policy is counter productive and detrimental to our national interests since it adversely affects U.S. industry's competitiveness at a time when we must be especially concerned about the country's economic health.

The policy has been greatly expanded over the past few years by administrative fiat, far beyond the concept articulated by the Congress when it amended the Arms Export Control Act to permit recoupment on Foreign Military Sales of Major Defense Equipment. The administrative expansion now imposes surcharges on domestic as well as foreign commercial sales by American firms and includes levying surcharges on licensing of "technology." It also applies to commercial "derivative" products. The impact of this expanded policy on our member firms cannot be exaggerated since the "policy" as currently stated would encompass surcharges on strictly commercial products which arguably have 10% or more in common with an item earlier manufactured for DoD.

There are many negative aspects of this policy. We briefly point out the following:

1. Price add-ons make U.S. products and technology licensing less competitive in the world marketplace. The policy has already resulted in loss of sales to overseas firms and has contributed to the loss of U.S. leadership in critical technologies.

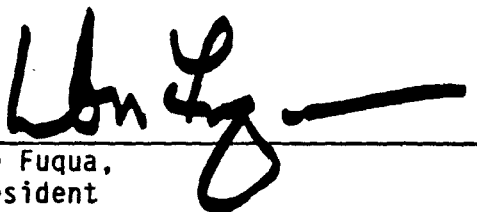
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2. Because of the application to commercial "derivative" products, the policy could lead to compliance audits of firms and portions of firms having little or nothing to do with DoD business. This fact alone will encourage contractors to segregate their commercial and defense technology centers and will thus significantly discourage commercialization of defense technology and the employment of "dual use" technology.
3. The policy will adversely impact our industrial mobilization base and will increase DoD's and the taxpayers' costs as a result of smaller production bases which will result from sales lost to foreign competitors and from discouraged "dual use" technology.
4. The policy is a direct contravention of various laws and presidential policies regarding rights in patents, copyrights and technical data.
5. The policy is costly and extremely difficult, if not impossible, to implement.

Most importantly, this expanded policy is inconsistent with and undermines our national objective to efficiently restructure the defense industry to be a broader domestic and international force.

We respectfully request you reconsider this expanded policy and revise it to that articulated by Congress, in the Arms Export Control Act i.e., Foreign Military sales of major defense equipment.


Sincerely,



Don Fuqua,
President
Aerospace Industries Association



Richard Iverson,
President and CEO
American Electronics Association



Dan C. Heinemeier,
Vice President
Electronic Industries Association

SECRETARY OF DEFENSE ROUTING SLIP		ACT COPY	INFO COPY		ACT COPY	INFO COPY
	OFFICE OF THE SECRETARY OF DEFENSE				MILITARY DEPARTMENTS	
	SECRETARY OF DEFENSE		✓		SECRETARY OF THE ARMY	
	DEPUTY SECRETARY OF DEFENSE		✓		SECRETARY OF THE NAVY	
	EXECUTIVE SECRETARY		✓		SECRETARY OF THE AIR FORCE	
	ESR INTERAGENCY				JOINT CHIEFS OF STAFF	
	UNDER SECRETARY FOR ACQUISITION	✓	✓		CHAIRMAN	
	ASD (C3I)		✓		DIRECTOR, JOINT STAFF	
	ASD (Production & Logistics)		✓		DEFENSE AGENCIES	
	ASD (Research & Technology)				DEF ADV RSCH PROJ AGENCY	
	Director, Defense Research & Engineering				DEFENSE COMMUNICATIONS AGENCY	
	UNDER SECRETARY FOR POLICY		✓		DEFENSE CONTRACT AUDIT AGENCY	
	DUSD (Policy)				DEFENSE INTELLIGENCE AGENCY	
	ASD (International Security Affairs)		✓		DEFENSE INVESTIGATIVE SERVICE	
	ASD (International Security Policy)				DEFENSE LEGAL SERVICES AGENCY	
	ASD (Special Operations / LIC)				DEFENSE LOGISTICS AGENCY	
✓	ASD (Comptroller)	✓	✓		DEFENSE MAPPING AGENCY	
	ASD (Force Management & Personnel)				DEFENSE NUCLEAR AGENCY	
	ASD (Health Affairs)				DEFENSE SECURITY ASSISTANCE AGENCY	
	ASD (Legislative Affairs)		✓		NSA/CENTRAL SECURITY SERVICE	
	ASD (Program Analysis & Evaluation)				STRATEGIC DEFENSE INITIATIVE ORG	
	ASD (Public Affairs)					
	ASD (Reserve Affairs)				INSPECTOR GENERAL	
	GENERAL COUNSEL					
	DIR, OPERATIONAL TEST & EVALUATION					
	DIR, ADMINISTRATION & MANAGEMENT					

TYPE OF ACTION REQUIRED		
	PREPARE REPLY FOR SEC OF DEF SIGNATURE	COMMENTS AND/OR RECOMMENDATIONS
✓	PREPARE REPLY FOR DEP SEC OF DEF SIGNATURE	INFORMATION AND RETENTION
	REPLY DIRECT (Forward copy of reply to CCD, Room 3A948)	COORDINATE REPLY WITH USP
	APPROPRIATE ACTION	

REMARKS

To be Sig by Compt.

ACTION DUE DATE (YYMMDD) DEC 8/2 1990	ROUTING DATE (YYMMDD) NOV 20 1990	OSD CONTROL NUMBER 20811
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SECRETARY OF DEFENSE CORRESPONDENCE ACTION REPORT

This form must be completed and delivered to the Correspondence Control Division (CCD), MHS,
Room 3A948, not later than (YYMMDD) 901205

1. DATE (YYMMDD)
901126

2. ACTION TAKEN (X one)

- a. ACTION HAS BEEN COMPLETED (Copy attached)
- b. ACTION CANCELLATION/EXTENSION OF SUSPENSE DATE TO 901212 (Justify below)
- c. INTERIM REPLY HAS BEEN SENT (Copy attached)

3. JUSTIFICATION

Request extension and transfer to Ms. Kay O'Brien, OASD (C), who has agreed to accept. (Compt)

USD (A) #: AQUO2081190

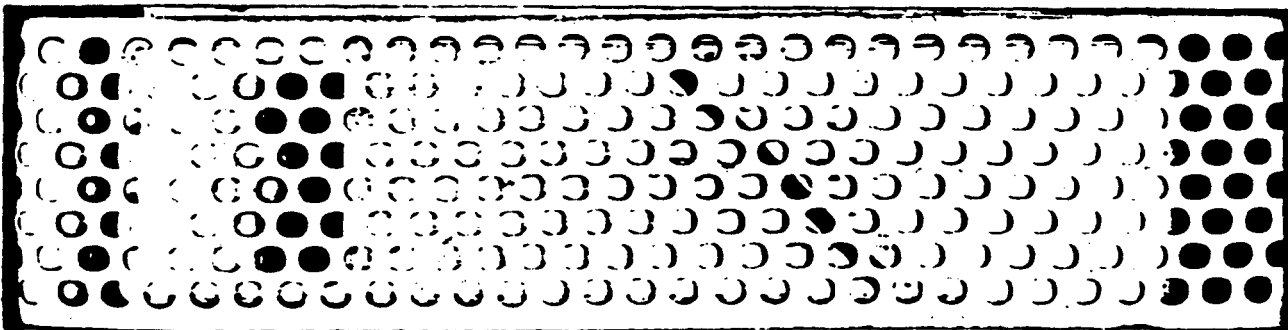
*OK
KOH
11/28/90*

4. REPORTING AGENCY

a. ACTION AGENCY OUSD (A) P&L/PR	c. TELEPHONE NO. X57458	e. APPROVING MILITARY/EXECUTIVE ASSISTANT <small>(Service Secretary Under Secretary/ASD Level)</small>	
b. NAME OF ACTION OFFICER DASD (PR)	d. DATE (YYMMDD) 901126	Signature <i>RWB</i>	Date Signed <i>27 Nov 90</i>
5. CCD CONTROL NUMBER 20811	6. ACTION TAKEN (For Correspondence Control Division Use Only)		
	a. EXTENSION/CANCELLATION	Approved	Disapproved
b. OTHER (Specify)			

SD Form 391, AUG 87

Previous editions are obsolete



REVISED COORDINATION PACKAGE.

PLEASE DISCARD PREVIOUS PACKAGE DATED 4 DEC 1990.

*Done
bal # 12/5/90*

DATE: 5 December 1990 TO: *Q45D(P)*

SUBJECT: DoD Policy on Recoupment of Nonrecurring Costs

FROM: Kay O'Brien

ACCOUNTING POLICY, OFFICE OF DOD COMPTROLLER (MS) ROOM 3A882

FOR QUESTIONS PLEASE CALL Kay O'Brien PHONE x73135

DUE DATE DECEMBER 7, 1990 PLEASE CALL KAY FOR PICKUP

DSAA

DEC 5 1990

*Please ask LTC
Allen to coordinate
for Policy.*

*Return direct to
Comptroller*

Joseph J. Collins
LTC, USA
Military Assistant to
the Under Secretary (Policy)

15

SUBJECT: DoD's Policy on Recoupment of Nonrecurring Costs

COORDINATION:

USD(A) _____

USD(P) _____

ASD(LA) _____

GENERAL COUNSEL _____

*Please coordinate
here* ←



OFFICE OF THE COMPTROLLER OF THE DEPARTMENT OF DEFENSE

WASHINGTON, DC 20301-1100

(Management Systems)

COVER BRIEF

TO: COMPROLLER

THRU: PRINCIPAL DEPUTY COMPTROLLER
DEPUTY COMPTROLLER (MANAGEMENT SYSTEMS) _____

FROM: DIRECTOR FOR ACCOUNTING POLICY _____

SUBJECT: DoD Policy on Recoupment of Nonrecurring Costs

PURPOSE: To respond to a joint letter from three Defense Associations.

DISCUSSION:

- In a joint letter, three Defense Associations wrote the DEPSECDEF about DoD's policy on recouping nonrecurring investment costs on commercial sales. They do not object to the DoD recouping the costs on Foreign Military Sales (FMS) transactions. They believe that the current policy goes beyond that required by the Arms Export Control Act.
- Our policies were established in 1967 and are a product of continuous reviews by DoD organizations, the audit community, and congressional committees. Rather than expanding the requirements of the Arms Export Control Act, our policies were the basis for the Act.
- The proposed response provides information on DoD's policies.

RECOMMENDATION: Sign the attached letters to the Associations.

COORDINATION: OUSD(A), OUSD(P), OASD(LA), and OAGC(F&IG) concur

Prepared by: K. O'Brien/ODC(MS)AP/3A882/73135/NOV044/5Dec90
File: 304.02.2.12

COMPTROLLER OF THE DEPARTMENT OF DEFENSE

WASHINGTON, DC 20301-1100



Mr. Don Fuqua
President
Aerospace Industries Association
1250 I Street, N.W.
Washington, D.C. 20005

Dear Mr. Fuqua:

This is in response to your letter of November 13, 1990, to Mr. Atwood, which requested a revision to the Department of Defense's policies regarding the recoupment of nonrecurring costs.

The applicable DoD policies were adopted over 20 years ago. Over time, these policies have been refined to reflect the concerns of the Congress and the public. The underlying policy, however, remained constant--to recoup from non-Federal beneficiaries a fair share of DoD's investment costs. These policies are applied uniformly to all defense articles where the DoD has a material investment. These policies ensure that the taxpayer does not pay the costs of special benefits that accrue only to certain recipients. In this way, the taxpayer does not indirectly underwrite the costs of developing defense articles purchased by foreign governments. These policies also ensure that the DoD does not give one U.S. contractor, whose products are government-financed, an unfair competitive advantage over another U.S. contractor, whose products are not government-financed. These policies also provide evidence to other foreign nations that the U.S. government is not directly or indirectly subsidizing its high-technology industry.

DoD's policies have been, and continue to be, reviewed by organizations internal and external to the Department of Defense, including applicable congressional committees and the General Accounting Office. As a matter of fact, in 1976 the Congress extended the DoD policies to the Arms Export Control Act.

Aside from the obvious benefit to the U.S. Treasury, I hope this explanation is helpful in understanding the positive aspects of DoD's long-standing policies on the recoupment of nonrecurring investment costs.

Cordially,

Sean O'Keefe
Comptroller

COMPTROLLER OF THE DEPARTMENT OF DEFENSE

WASHINGTON, DC 20301-1100



✓ Mr. Dan C. Heinemeir^e
Vice President¹
Electronic Industries Association
2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

✓ Dear Mr. ^{Heinemeier} Fuqua:

This is in response to your letter of November 13, 1990, to Mr. Atwood, which requested a revision to the Department of Defense's policies regarding the recoupment of nonrecurring costs.

The applicable DoD policies were adopted over 20 years ago. Over time, these policies have been refined to reflect the concerns of the Congress and the public. The underlying policy, however, remained constant--to recoup from non-Federal beneficiaries a fair share of DoD's investment costs. These policies are applied uniformly to all defense articles where the DoD has a material investment. These policies ensure that the taxpayer does not pay the costs of special benefits that accrue only to certain recipients. In this way, the taxpayer does not indirectly underwrite the costs of developing defense articles purchased by foreign governments. These policies also ensure that the DoD does not give one U.S. contractor, whose products are government-financed, an unfair competitive advantage over another U.S. contractor, whose products are not government-financed. These policies also provide evidence to other foreign nations that the U.S. government is not directly or indirectly subsidizing its high-technology industry.

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Cordially,

Sean O'Keefe
Comptroller

COMPTROLLER OF THE DEPARTMENT OF DEFENSE

WASHINGTON, DC 20301-1100



Mr. J. Richard Iverson
President and CEO
American Electronics Association
1225 I Street, N.W.
Washington, D.C. 20005

Dear Mr. Iverson:

This is in response to your letter of November 13, 1990, to Mr. Atwood, which requested a revision to the Department of Defense's policies regarding the recoupment of nonrecurring costs.

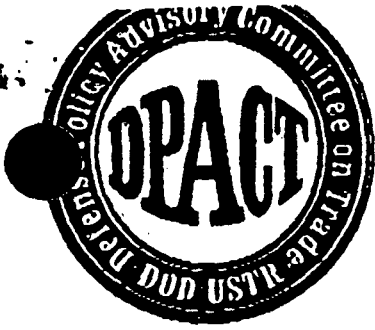
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Aside from the obvious benefit to the U.S. Treasury, I hope this explanation is helpful in understanding the positive aspects of DoD's long-standing policies on the recoupment of nonrecurring investment costs.

Cordially,

Sean O'Keefe
Comptroller



13 November 1990

TO: Secretary of Defense
United States Trade Representative

SUBJECT: Summary of September 25 DPACT Meeting

Attached is a summary of the Defense Policy Advisory Committee on Trade (DPACT) meeting held in the Pentagon on September 25, 1990. A wide range of defense trade and related industrial base issues were discussed. Four specific items receiving considerable attention were:

1. DPACT needs to articulate its recommendations with respect to the U.S. negotiating positions in the Uruguay Round of Trade Negotiations. DPACT subsequently delivered a letter outlining the issues it finds most urgent to the United States Trade Representative on 8 October 1990.
2. Due to a declining U.S. defense budget and the need to keep production lines open, DPACT members suggested that the Secretary of Defense consider issuing a statement emphasizing the importance of defense exports. Such a statement should call for a thorough review of bureaucratic impediments which unnecessarily inhibit defense trade, including an examination of cumbersome export control procedures.
3. DPACT members suggested that DoD policy concerning recoupment of non-recurring costs on foreign sales and commercial derivatives be reviewed with the objective of ensuring the policy: does not impede the exchange of technology between military and commercial products; and does not unreasonably impede industry's ability to compete for foreign sales.
4. The financial and cash flow problems in the defense industry are severe and have a negative impact on competitiveness. DPACT members suggested that DoD consider acting to improve timeliness of payments, increase progress payment rates and continue using flexible payment provisions to stabilize contractor investment.

Thank you for your continuing support of DPACT.

Sincerely,

Norman R. Augustine
Chairman

NRA:gbl
C90-078

Attachment

Summary of DPACT Meeting

25 September 1990

A meeting of the Defense Policy Advisory Committee on Trade (DPACT) was held on September 25, 1990 in the Pentagon. The agenda for the meeting consisted of four Working Group reports, a briefing by Undersecretary Wolfowitz on the future outlook for defense requirements, a discussion of trade negotiations with Ambassador Hills, and a briefing on DPACT activities with Deputy Secretary Atwood. At the outset of the meeting, Mr. Augustine reminded the members that DPACT acts only in an advisory role on defense trade and related U.S. industrial base issues. Members may meet with officials from the Government to discuss options and collect information in order to carry out their role as advisors, but in no way is DPACT or its members authorized to negotiate final DoD decisions. This point was also addressed by Mr. Yockey, Deputy Undersecretary of Defense for Acquisition.

It was noted that progress on a wide range of issues in all of the Working Groups had been substantial. After considerable discussion of the issues, four specific items were identified for further DPACT attention.

1. The Working Group on Strengthening the Defense Industrial Base will continue to focus on industry cash shortages as the most immediate problem impacting competitiveness. DPACT will continue to provide information on industry cash flow concerns including the relationship between overall contractor investment and payment delays, use of flexible progress payment rate and the marginal rate of progress payments.

By the next DPACT meeting the Working Group on Improving Government/Industry Relations, focusing on longer term issues affecting industry competitiveness, will make recommendations on tradeoffs during program developmental contracts, and reducing frictions brought about by the oversight process. Making R&D a viable business as defense production rates decline will be considered in the context of program development contracting.
3. The Working Group on Export Policy will continue to provide DPACT input to DSAA on the issue of non-recurring cost recoupment so that a better understanding of the differences between industry and the Government on this issue can be factored into the development of an equitable DoD policy.
4. The Working Group on Trade Negotiations Affecting Defense will provide the U.S. Trade Representative with a position paper on important issues affecting the defense industry that can be factored into the Uruguay Round negotiations. This paper will be delivered in early October.

Working Group on Improving Government/Industry Relations

Mr. Weisz, Chairman of the Working Group, emphasized that industry in itself has many internal problems which need to be resolved independent of government action. It is not just a DoD problem that the DPACT will be addressing. The Working Group identified five key issues that it will be examining and a sixth issue as a possible mechanism by which an ongoing dialogue between DoD and industry can be maintained over the long term. The five issues include up-front rulemaking, flexible tradeoffs in program development contracting, increasing value-based acquisition and use of commercial practices, reducing frictions created by oversight and audits and improving communication between DoD and industry on planning for future requirements.

Mr. Weisz outlined three possible mechanisms, already in use within various parts of DoD, which may be useful in creating an ongoing dialogue between DoD and industry. These include participative management, Total Quality Management (TQM) and use of supplier councils, a practice prevalent in many large companies. Other suggestions included more DoD and industry exchange programs and joint participation in training seminars and schools. Several DPACT members commented on their own success with the CRAG program, and endorsed the expansion of this concept. It was agreed that the issue of flexible tradeoffs in product development contracting and reducing friction to oversight and audit actions would be discussed in detail at the next DPACT meeting. Finally, the ability of industry to pursue R&D contracts with limited production was added to the issue of flexible tradeoffs in program development contracting.

Working Group on Strengthening the Defense Industrial Base

Mr. Schwartz, Chairman of the Working Group, identified three issues his Working Group had considered: effect of progress payment rates on industry competitiveness; communication of planning information; maintaining competitive overhead rates in a reduced budget environment. Of these, the Working Group focused primarily on the issue of progress payment rates. Mr. Schwartz indicated that this issue was by far the most urgent issue directly affecting the financial health and competitiveness of the defense industry with which something could be done in the short term. He praised DoD in their efforts to find a solution to this difficult issue through the use of a formula which is pegged to interest rates.

DPACT members generally agreed that the approach of using a formula was a good one. It was also agreed that the overall resolution had to be consistent with DoD budgetary and funding constraints. Many DPACT members pointed out that retaining the use of flexible payment rates was extremely important until the timeliness of payments to contractors is shortened to acceptable levels and consistently applied throughout DoD. There were some differences of opinion on how quickly contractors currently get paid so it was agreed that DPACT would provide data from member companies to help better understand this issue. It was pointed out that smaller companies are even more severely affected than larger ones by the whole issue of progress payment rate and cash flow. Often times small companies cannot borrow money from banks except at extremely high rates forcing them out of the defense business. Finally, it was agreed that there is a degree of urgency to this problem. It is important to send a positive signal to the financial markets. Bond ratings for defense companies are already being lowered, effectively increasing borrowing rates and putting even more pressure on cash flow problems. A positive signal by DoD that they understand the problems of industry and are willing to do something to help will send a strong effective signal to the financial community. DoD indicated that a proposal for public comment will be developed within the next sixty days.

Working Group on Export Policy

Mr. Fish, Chairman of the Working Group, identified six issues which his Working Group has been discussing with DoD and the USTR. These issues include: defense export policy statement; DoD policy on recoupment of nonrecurring costs on defense exports and commercial products incorporating defense technology; use of DoD equipment for demonstrations to potential foreign customers; offset administration costs recovery on FMS contracts; defense export license provisos; and embassy support for defense contractors. DoD and the USTR are in general agreement with the DPACT position on five of the six issues and are considering how these will be implemented. The Working Group will continue to discuss these with DoD/USTR and report progress at the next DPACT

meeting. The sixth issue, DoD policy on recoupment of nonrecurring costs, needs more analysis and discussion between DoD and industry to better understand the underlying problems with this issue.

Most of the discussion focused on the current DoD policy of recoupment of nonrecurring costs. The Working Group's position is that current DoD policy goes well beyond the requirements of law and acts to inhibit foreign sales when stiff foreign competition exists. Furthermore, the Working Group believes the policy is an impediment to technology exchange between commercial and defense products. Finally, the Working Group believes that the nonrecurring cost recoupment policy will require establishment of costly management tracking systems and unnecessary and difficult certification procedures. It was pointed out that Congress, representing the sentiments of the public, has been the primary force behind the current DoD policy. It was agreed that a complete history of how these costs came into being and the reason for their existence be developed. Further discussions between DPACT and DoD will try and sort out these differences.

Working Group on Trade Negotiations Affecting Defense

Ambassador Hills provided an overview of the current Uruguay Round of Trade Negotiations, which will conclude in the next forty-five days. The toughest issue, and the key to the success of all of the negotiations, is a resolution of the agriculture issues. The Europeans and the U.S. are still far apart on this issue. The Europeans have expressed some willingness to address internal supports for agriculture, but have not been willing to address export subsidies and barriers to imports. If the agriculture issues cannot be resolved, the entire Uruguay Round of Trade Negotiations may conclude unsuccessfully.

Mr. Brian Rowe, Chairman of the Working Group, highlighted intellectual property rights as the number one issue of interest to the DPACT. He expressed concern that negotiations have gotten caught up in trying to harmonize patent systems among the developed world when the real issue is obtaining some level of agreement between the developed world and the undeveloped world. Ambassador Hills indicated that this will need some type of high level political intervention to sort out these problems. The other major DPACT issue of interest is on the subsidies code, particularly if R&D subsidies relating to defense become a part of the negotiations.

Several DPACT members reiterated that intellectual property rights was the issue for high tech industries and the defense industry, and that the U.S. should not back down from its current position. Ambassador Hills reiterated the need for DPACT to provide its position now to her office so that the negotiators will have the sentiments of U.S. industry as they go into their final forty-five days. DPACT will circulate such a position paper and deliver it to the USTR office in early October.

UNCLASSIFIED

**DEFENSE SECURITY ASSISTANCE AGENCY
OPERATIONS DIRECTORATE
WASHINGTON, D.C. 20301-2800**

FACSIMILE TRANSMISSION

TO: CLIVE LUCKENBILL

PHONE NUMBER: DSN 785-2994

OFFICE: DISAM

TELECOPIER NUMBER: (513)255-4319

REMARKS, INSTRUCTIONS, COMMENTS:

FROM:

MR. WELLS, DSAA/OPS-E
AV 227-8108, CM (703) 697-8108

TELECOPIER NUMBER: (703) 697-1656

NUMBER OF PAGES INCLUDING HEADER: 2

UNCLASSIFIED

TABLE D-11
TYPE OF ASSISTANCE CODE - 1000 SYSTEM

Code Meaning

- A Grant transfers of Excess Defense Articles (EDA) provided under the authority of the Foreign Assistance Act of 1961, as amended, for which the United States receives no reimbursement for the value of the material.


DSAA COMPTROLLER

Bobby Edwards
Compt IRM
5 Feb

JAN 27 '92 14:18

Rec'd by DIA From DSAA/COMT-FNSCRD
4 Nov. 91

FAW, P. 2/3 NRC
30 OCT 1991



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

In reply refer to:
I-05493/91

MEMORANDUM FOR ASSISTANT DEPUTY CHIEF OF STAFF FOR LOGISTICS
DEPARTMENT OF THE ARMY
DIRECTOR, NAVY INTERNATIONAL PROGRAM OFFICE
DEPARTMENT OF THE NAVY
ASSISTANT DEPUTY UNDER SECRETARY OF THE AIR
FORCE FOR INTERNATIONAL AFFAIRS (SAF/IA)
DEPARTMENT OF THE AIR FORCE
DIRECTOR, DEFENSE LOGISTICS AGENCY (DLA)
DEPUTY FOR SECURITY ASSISTANCE, DEFENSE
FINANCE AND ACCOUNTING SERVICE (DFAS-DE/F)
COMMANDANT, DEFENSE INSTITUTE OF SECURITY
ASSISTANCE MANAGEMENT (DISAM) ←

SUBJECT: Documents to be Submitted with DD FORMS 1513,
1513-1, and 1513-2

REFERENCE: (a) Director, DSAA Memorandum I-002339/91,
21 May 1991, Subject: Security Assistance Process Action Teams.

(b) Security Assistance Management Manual (SAMM),
Chapter 7, Paragraph 7D103.H.3.

The LOA Process Action Team (PAT) established by reference a
provided, inter alia, specific recommendations regarding the
Financial Analysis Worksheet (FAW), the Termination Liability
Worksheet (TLW), and the Nonrecurring Cost Recoupment Charges
Summary (NRC). The recommendations are substantially approved as
outlined below:

(a) ~~FAW~~ The requirement for the submission of the FAW is
✓ hereby rescinded except for each Special Defense Acquisition Fund
(SDAF) item case line.

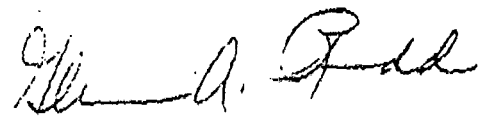
(b) ~~TLW~~ The threshold for submission is raised from
\$7 million to \$25 million. For cases below the \$25 million
threshold, it is requested that a formal certification that
termination liability has been included in the payment schedule be
✓ inserted into the case file by the case manager.

(c) ~~NRC~~ The requirement for the submission of the NRC
✓ summary is hereby rescinded.

See SAMM pg 701-11, 12, 13, 15, 22, 23, 25, and 1400-7

Furnished by DISAM 1/27/92
changes added 1/28/92 via prom
w/ mr. Luckenbill

While the foregoing requirements have been rescinded or significantly revised, it is important that the data be maintained by the implementing agencies (IAs) and be easily accessible to the appropriate DSAA action offices when required. The foregoing are effective immediately and will be included in a forthcoming change to the SAMM.



GLENN A. RUDD
ACTING DIRECTOR

Prepared by: RONALD J. MALACZOWSKI
X79303, FMSCRD, 4B659

- DISTR:
- DSAA
- COUNSEL
- PLANS
- ? — OPS
- CMD
- COMPT
- COMPT-FMD
- FMSCRD
- ✓ FMSCRD CHRON

70103.H.2.v.

circumstances are such expenses authorized for reimbursement under FMS LOAs. Instead, the funding of transportation and travel costs must be arranged directly between the foreign traveler and his government without U.S. Department of Defense involvement.

v. **Retransfer of Defense Articles.** All LOAs for the provision of defense articles on the USML will include the note identified below. This requirement also applies to any amendment adding USML defense articles to an existing LOA. LOAs limited to services should not include this note.

Note. Effective 22 December 1987 Sec. 562, P.L. 100-202 (FY 88 CR), amended Section 620C of the Foreign Assistance Act of 1961 with the following provision which applies to this Letter of Offer and Acceptance:

(E)(1) Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to Section 3B of the Arms Export Control Act) entered into by the United States after the enactment of this provision shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus.

(2) The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this subsection.

3. Documents to be Included with DD Form 1513.

a. **Financial Analysis.** *Applicable to SDAF LOA lines only, see 140010.*

~~(1) **Purpose.** The purpose of an analysis is to permit all approval echelons a review for completeness and accuracy of financial data. The Financial Analysis will accompany the LOA or amendment throughout the coordination cycle but will not be submitted to the prospective purchaser. The DSAA Comptroller will provide a copy of the Financial Analysis and LOA to SAAC after countersignature.~~

~~(2) **Requirement.** All LOAs and proposed amendments for the sale of end-items or services must be accompanied by a Financial Analysis for each line item which contains one or more of the following:~~

~~(a) Pricing based on supply from excess or non-excess stocks, when no replacement is required.~~

~~(b) Recoupments of nonrecurring RDT&E and/or production costs.~~

~~(c) A total line value of \$14.0 million or more. *~~

~~(3) **Exceptions.** A Financial Analysis is not required for the following:~~

~~(a) Individual line items of \$50,000 or less.~~

~~(b) The Financial Analysis is not required for training, services, or secondary/stock fund items. *~~

*chg 4
I-05493/91
10/22/91*

(4) **Data Required.** The following information will be included:

item or service.

(a) Case designator, line item and complete descriptive data relative to the

(b) Source of the article. Examples are:

1. Excess inventory.
2. Inventory (without replacement).
3. Inventory (replacement with same item).
4. Inventory (replacement with improved item).
5. Production.

(c) Source of price estimates. Examples are:

1. Prime contractor quote.
2. Prime and GFE contractor quotes.
3. Standard price.

4. DOD component estimate without contractor participation, based on recent sale or similar experience, or in accordance with DOD 7290.3-M. [In this connection, notice should be taken of Section 225.7303(b)(2) of the DFARS concerning the participation of the procuring contracting officer in the preparation of LOAs and that the provisions of this section are complied with.]

*
*

(d) The basis for making or adjusting estimates from any of the above sources. Examples are:

1. Agent's fees or commissions included in the FMS case and the amount thereof. The DOD component certification of reasonableness in accordance with Subpart 3.4, FAR and DFARS, Section 225.7305(c)(iii)(C) must be attached. If the fee cannot be or has not been certified as reasonable, the DOD component notification or proposed notification to the foreign country or international organization should also be attached for information or coordination. See Chapter 8, Section 801, paragraph 80103, this Manual, for further guidance.

*

2. Inclusion of nonrecurring RDT&E and production cost recoupment in accordance with DOD Directive 2140.2.

3. Inclusion of adjustments for estimated inflation or other risk factors.

4. Replacement cost in accordance with the provisions of DOD 7290.3-M.

- 5. First destination transportation costs.
- 6. Recurring support costs.
- 7. Unfunded costs.
- 8. Application of factors for estimating "dollar line items" such as concurrent spare parts.
- 9. Adjustments based on anticipation of the receipt of other orders or DOD procurement of the item involved which would likely result in shared overhead costs and a reduced price for the item.

(e) Sources of data used to make any of the above adjustments and their application to the case.

(f) A comparison of LOA prices with budgeted or ongoing DOD component procurement prices; e.g., the Selected Acquisition Report (SAR).

(g) Source for Schedule of Payments, including estimated date of contract award.

(h) A comparison of LOA prices with all other LOA prices for the same item within the previous twelve months. This comparison should not be limited to sales within the same region.

(5) **Format.** Table 701-4 is a suggested format for use in presenting required Financial Analysis data. The format may be modified to meet the needs of the individual DOD components. The financial analysis must, however, identify methods used in developing costs and provide the information outlined above for each line item in sufficient detail to enable the reviewer to judge the accuracy, completeness, and firmness of the estimated prices.

b. Termination Liability (T/L) Worksheets to be Included with Selected LOAs. The purpose of this worksheet is to provide the Director, DSAA with information concerning the implementing agency's determination of and plan for the collection of an appropriate amount of funds to cover the liability that would accrue to the USG should the sales agreement be terminated prior to normal completion. This worksheet is for internal management purposes and normally will not be furnished to the purchaser of the defense article or service.

Note: For amendments and modifications exempt from countersignature, implementing agencies should provide copies of Termination Liability Worksheets (TLW) directly to the DSAA Comptroller (FMD) and SAAC (FSRC).

25

\$ 25M

(1) **Offers of \$7 Million or More.** LOAs with a total case value of ~~seven~~ million dollars or more will be accompanied by a TLW as part of the required financial analysis when the LOA is submitted to the DSAA for countersignature. Any modifications or amendments to these cases that contain a revised payment schedule will also contain a revised termination liability worksheet. For LOAs below the \$25M threshold, a format certification that termination liability has been included in the payment schedule should be added to the LOA file.

CHY
E-0545
91
132101

(6) Quality Control. IAs must ensure that adequate quality controls exist to assure the mathematical integrity of TLW. Termination liability/contractor holdback collections must be projected to liquidate by the last scheduled payment.

c. NRC Recoupment Summary. A data sheet in the format of Table 701-6 will be included with all LOAs to identify whether NRC Recoupment Charges are included in the LOA. DSAA will review this information and forward a copy to SAAC for information.

*I-05493/19
10/20/91*

Note: For amendments and modifications exempt from countersignature, implementing agencies should provide copies of the NRC recoupment summary worksheet directly to DSAA Comptroller and SAAC.

I. Coordination of LOAs, Amendments, Notices, and LOIs.

1. DOD Component Coordination. All LOAs and LOIs should indicate a coordination by the comptroller and legal counsel of the appropriate DOD component.

2. DSAA Coordination. DSAA coordination will be accomplished by the Operations Directorate (DSAA-OPS) on LOAs, amendments, notices, and LOIs which require countersignature during the countersignature process. DSAA-OPS is responsible for obtaining all internal DSAA coordination and the coordination of appropriate OSD staff elements. While DSAA coordination occurs during the countersignature process, it is not synonymous therewith and constitutes a separate function. The DSAA point of entry for coordination of the aforementioned documents is the DSAA Comptroller (FMS Control Division).

J. Countersignature. All LOAs and LOIs require DSAA countersignature. All amendments and notices except as specifically exempted in Chapter 8 also require countersignature. Note that no exemptions will apply to amendments or notices which involve Congressional notification [Sec. 36(b)] or FMS credit, MAP, or third country financing.

1. Procedures. Upon DOD component finalization of the foregoing documents and in the case of Section 36(b) AECA Congressional notification actions, five days prior to the expiration of the Congressional review period, DOD components will forward to the DSAA-Comptroller (FMS Control Division) the signed original and two copies of all documents for DSAA coordination and countersignature. For documents involving FMS credit or MAP financing, the signed original and three copies will be forwarded. The DSAA (Comptroller) will routinely forward all submissions to DSAA-OPS for coordination prior to countersignature. The DSAA Comptroller will take action to process and enter appropriate data extracts into the DSAA FMS data base.

2. Return to Preparing DOD Component. Subsequent to DSAA coordination and processing, the DSAA Comptroller will: countersign the document and return the original copy to the originating DOD component for onward processing to the prospective purchaser; forward a copy to the SAAC with the TLW, NRC recoupment worksheet, and financial analysis, if applicable; and retain a copy in order to enter the appropriate information into the DSAA FMS data base.

K. Incomplete Documentation. FMS transactions submitted for DSAA countersignature which do not include the proper documentation will be returned to the preparing DOD component without countersignature. If the urgency of the situation requires processing without waiting for the required documents, the matter should be referred to the Director or Deputy, DSAA-OPS. DSAA-OPS, following its review, will coordinate with the Comptroller. If approved, the transaction will be processed and countersigned.

TABLE 701-4
Financial Analysis Worksheet

CC _____	Case Manager _____
Case _____	Organization _____
System _____	
Case Line _____	Date Prepared _____

PRICING TECHNIQUE

A. NSN _____

B. QTY _____

C. Source of Item (Check One):

- 1. _____ Excess Inventory
- 2. _____ Inventory (without replacement)
- 3. _____ Inventory (replacement with same item)
- 4. _____ Inventory (replacement with improved item)
- 5. _____ Production
- 6. _____ Other

D. Source of Price (Check One):

- 1. _____ Prime Contractor
- 2. _____ Price and GFE Contractor
- 3. _____ Standard Price
- 4. _____ Major Subordinate Command Estimate
- 5. _____ Other (explain)

E. Source Unit Price _____

F. Adjusted Price (explain source and computations in Remarks)

- 1. _____ Agent's Fees or Commissions
- 2. _____ Nonrecurring Costs (RDT&E) Recoupment Charges
- 3. _____ Nonrecurring Costs (production) Recoupment Charges
- 4. _____ Replacement Costs
- 5. _____ Adjusted for Inflation
- 6. _____ Contractor Rental Payments for USG-Owned Plant and Production Equipment *
- 7. _____ CAS/Audit *
- 8. _____ Recurring Support Costs _____ Contract _____ Government *
- 9. _____ First Destination Transportation *
- 10. _____ Other (explain) *
- 11. _____ Total Adjustment *

G. Adjusted Unit Price _____

chg 4
I-05493/91
10/30/91

H. Source for Schedule of Payments

- 1. _____ Prime Contractor
- 2. _____ Prime and GFE Contractor
- 3. _____ Major Subordinate Command Estimate
- 4. _____ Other (explain)
- 5. _____ Estimated date of contract award

I. Comparison with other cases (12 months)

<u>CC</u>	<u>CASE</u>	<u>UNIT PRICE</u>	<u>RATIONALE FOR EVALUATION*</u>
(1)	_____	_____	_____
(2)	_____	_____	_____

J. Remarks (use continuation sheets, as necessary):

* If different from above adjusted unit price.

**TABLE 701-6
Nonrecurring Cost Recoupment Charges Summary**

*I-05493/91
10/30/91*

FMS CASE _____

NRC CHARGES INCLUDED: YES _____ NO _____

IF NO,

REASON CHARGES NOT INCLUDED (CHECK APPLICABLE BLOCK):

- 1. NOT APPLICABLE TO ANY LINE ITEM _____
- 2. CHARGES WAIVER (OR REDUCED) BY DSAA
(IDENTIFY SOURCE OF WAIVER NOTIFICATION) _____

IF YES, NRC CHARGES BY LINE/SUB-LINE ITEM:

<u>Line/Sub-Line Nomenclature</u>	<u>Identify MDE/Non-MDE</u>	<u>Pro Rata Charge</u>	<u>Quantity</u>	<u>Total Included</u>
---------------------------------------	---------------------------------	----------------------------	-----------------	---------------------------

 Signature of MILDEP
 Case Manager
 (Office/Telephone/Date)

b. The current DOD contract price, identifying add on charges, will be estimated by the DOD component involved.

2. In accordance with DOD 7290.3-M, Section 71802, if DSAA determines an SDAF item to be of reduced utility, an appropriate reduction to the price may be made. Such a reduction could conceivably lower the selling price to below the SDAF cost.

140010 FMS SALES OF SDAF ITEMS.

A. **P&A Data.** Requests for P&A for items that are on contract for SDAF procurement are coordinated with DSAA prior to responding to the LOR. DSAA, in conjunction with the IAs, will decide whether to fill the request from SDAF contracts, DOD inventories, or new procurements. The IA responds with P&A data (Section 70002). Pricing information will be coordinated with DSAA prior to release.

B. **LOA Management.** LOAs for SDAF items prepared by IAs will be prepared in accordance with guidance provided in Chapter 7 except as follows:

1. Originally, all SDAF LOA designators were assigned by DSAA and used an IA code of "Q". Currently, the USA is utilizing a "B" IA Code, "J" designator with "F" Source of Supply Code to indicate SDAF. The USAF has also been authorized the use of a "D" IA Code, "JQ" designator for its SDAF LOAs.

2. SDAF and non-SDAF items are normally not included on the same LOA. Army "J" cases include both SDAF and non-SDAF lines. SDAF and non-SDAF items will not be commingled on the same LOA line.

3. The SDAF FAW (Table 1400-4) must be provided for each line and is to be used ~~in lieu of the regular FMS FAW~~ when source of supply is SDAF. The SDAF FAW must include the SDAF MIPR line and support line numbers. DSAA SDAF Division requires an extra DD Form 1513 accompanied by three sets of SDAF FAWs (one copy for DSAA/Plans/SDAF Division; one copy for SAAC/SDAF; and one for SAAC/Country Manager). When a variation in price occurs on the LOA, a new SDAF FAW must be submitted for each line affected on the basic LOA (a new LOA need not be prepared unless directed by DSAA).

4. For "J" cases, payment schedules must distinguish payments required for SDAF lines. Payment schedules must reflect disbursement profiles for applicable SDAF contracts. Payment schedule changes on SDAF LOAs must be approved by DSAA/SDAF Division.

5. Initial deposits as normally computed for FMS LOAs will be increased by the value of disbursements already made for SDAF items being sold. SAAC will provide disbursement information on SDAF items upon request to activities preparing SDAF LOAs.

6. Amendments or modifications to SDAF LOAs are generally not processed for normal changes to SDAF buy-in costs. However, country-specific changes which affect SDAF buy-in costs should be reflected by an amendment or modification. Other changes such as those relating to quantities, delivery schedules, and policy changes should also utilize an amendment or modification (Section 804).

7. Signed copies of DD Forms 1513, 1513-1, and 1513-2, involving SDAF items, should be forwarded to DSAA, Attention: DSAA/Plans/SDAF Division.

4
5-05493E
10/20/01