



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

JUN 8 2004
In reply refer to:
I-04/007394-P3

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Communication Security (COMSEC)/Transmission Security (TRANSEC) Devices Sold via Foreign Military Sales (FMS) For Integration Into Multifunctional Information Distribution System (MIDS) Terminals - Note Requirement for Letters of Offer and Acceptance (DSCA 04-23) [SAMM E-Change 13]

REFERENCE: DoD 5105.38-M, "Security Assistance Management Manual" dated October 3, 2003

The purpose of this memorandum is to provide LOA note wording to be used on FMS cases where COMSEC/TRANSEC devices are being provided to a U.S. contractor for integration work to be performed at a U.S. location. This note does not alleviate the requirement for a third party transfer approval from the Department of State should the items go beyond a single transfer to one U.S. contractor.

The attached table provides specific text for this new note and indicates when the note should be included on LOAs, Amendments, and Modifications. This new note is incorporated in Table C5.T5. of the SAMM (SAMM E-Change 13) and should be used on any future cases.

The note requires that certain conditions be met before the COMSEC/TRANSEC items in question can be transferred. The Military Departments and other Implementing Agencies who might provide these items should provide DSCA/P3-Weapons Division with information on how they will implement the requirements in this note.

This policy is not retroactive --- there is no need to do Modifications or Amendments to add this note to existing cases. If you have any questions regarding this note, please contact Mr. Steve Harris, DSCA/P3-Policy and Plans Division, (703) 604-6611. For questions regarding MIDS, please contact CAPT Chuck Martello, DSCA/P3-Weapons Division, (703) 604-6601.

A handwritten signature in cursive script that reads "Freda J. Lodge".

Freda J. Lodge
Director
Policy, Plans, and Programs

Attachment:
As Stated

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SAMM E-Change 13 – Communication Security (COMSEC)/Transmission Security (TRANSEC) Devices Sold via Foreign Military Sales (FMS) For Integration Into Multifunctional Information Distribution System (MIDS) Terminals Note for LOA Documents

Note Name	Note Usage*	Note Text
Communication Security (COMSEC)/Transmission Security (TRANSEC) Devices Sold FMS for Integration into MIDS Terminals	Mandatory for LOAs, Amendments, and Modifications for all sales of COMSEC/TRANSEC devices for the purpose of integration into MIDS terminals sold under a U.S. Direct Commercial Sale.	<p>“At line [insert line item number], this LOA provides for the sale of Communication Security (COMSEC)/Transmission Security (TRANSEC) devices which will be incorporated in Multifunctional Information Distribution System (MIDS) terminals which the Government of [insert name of Government] has contracted to acquire through U.S. commercial channels. The COMSEC/TRANSEC devices for integration into the MIDS terminals must, however, be provided exclusively under this LOA. The COMSEC/TRANSEC devices sold under this LOA may not be purchased through a Direct Commercial Sale.</p> <p>The Foreign Purchaser has identified [insert name of U.S. Contractor] as its integration contractor and has requested in writing that the U.S. Government deliver the COMSEC/TRANSEC devices directly to [insert name of U.S. Contractor] for integration work to be performed at a U.S. location.</p> <p>The United States Government will not deliver the COMSEC/TRANSEC devices to [insert name of U.S. Contractor] unless the following six (6) requirements are met:</p> <ol style="list-style-type: none"> 1. The contractor is a U.S. contractor. 2. Only U.S. contractor personnel who are U.S. citizens may perform the integration work. 3. The work must be performed in the United States. 4. The U.S. contractor provides a copy of the approved export license from the U.S. State Department/Directorate for Defense Trade Controls (DDTC) for export of the MIDS terminals to the Foreign Government Purchaser, to the LOA Implementing Agency. To facilitate export license processing, the application to Department of State/DDTC for an export license for the MIDS terminals should reference this FMS case for the sale of the COMSEC/TRANSEC devices. 5. The Foreign Government Purchaser should specify in the commercial contract with the U.S. Contractor that the contractor may not transfer the COMSEC/TRANSEC devices provided under this LOA to any other party except to the Foreign Government Purchaser, and that the contractor should reference this FMS case in the application to State DDTC for an export license for the MIDS terminals. 6. Any deviation from these procedures will require USG approvals, including from the Department of State.”

* The “Note Usage” column of this table is intended to show when the note should be included on an LOA, Amendment, and Modification. This table is NOT intended to show when an Amendment or a Modification should be used. See DoD 5105.38-M, “Security Assistance Management Manual,” Chapter 6, section C6.7. for information on determining which document is appropriate.