



DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

MAY 10 2007

In reply refer to:
I-06/010797-POL

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Updated Guidance Pertaining to Letters of Request (LOR) Responses –
General Information (DSCA 07-01), SAMM [E- Change 61]

This memorandum updates DoD 5105.38-M, Security Assistance Management Manual (SAMM), to provide additional guidance to the security cooperation community on the types of LOR responses provided to Purchaser's requests for U.S. defense articles and/or services.

Effective immediately, Chapters 4 and 5 of the SAMM are updated as attached. This change will be included in the automated version of the SAMM found on the DSCA Web Page as SAMM E-Change 61. If you have any questions concerning this policy, please contact Ms. Anita Eggleston, DSCA/STR-POL, at 703-601-3843 or e-mail: anita.eggleston@dscamail.mil.

A handwritten signature in black ink that reads "Richard J. Millies".

Richard J. Millies
Deputy Director

Attachment:
As stated

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1. Revise C4.5.2.1. as shown in italics below:

C4.5.2.1. Foreign Solicitation. In an international competition, the foreign nation releases its solicitation in the international market. When submitted through appropriate channels (see Chapter 5, paragraph C5.1.3.) the solicitation is a Letter of Request (LOR) and initiates USG processes (e.g., NDP-1, technology transfer, and other reviews) to determine if it is in the U.S. best interest to participate in the competition. The U.S. response in an international competition may include FMS, Direct Commercial Sale (DCS), international cooperative agreement, or a combination of these programs (*see Chapter 5, paragraph C5.2.2. for more information on LOR responses*). Most foreign solicitations are released to international defense industries rather than to Governments; however, the FMS process should not be excluded from the response solely on the basis of how the foreign solicitation was released or conditioned.

2. Insert the following new sections in the SAMM, Chapter 5 and renumber all subsequent sections:

C5.2.2. Types of LOR Responses. USG responses to LORs include Price and Availability (P&A) data, Letters of Offer and Acceptance (LOAs), and other appropriate actions that respond to Purchasers' requests for defense articles and/or services through the FMS process. The USG can tailor responses to meet Purchasers' requests. These can be in the form of a hybrid, negotiated, or not-to-exceed (NTE) tailored response as noted below.

C5.2.2.1. Hybrid. Hybrid responses contain both FMS and Direct Commercial Sales (DCS) elements. Hybrid responses may be provided to Purchasers who submit LORs either for FMS support (e.g., Training, Support Equipment, Components, Munitions, etc.) of a defense article procured via DCS or for a defense article being procured via FMS that will include components or support purchased through DCS. The DCS procured defense article is not a line item on the LOA, but is identified on the LOA as the end item for which the FMS support is provided.

C5.2.2.2. Negotiated. Negotiated responses may be provided when the Purchaser negotiates the price of the items either before submitting the LOR or prior to the USG obtaining the pricing for the defense articles/services from the company identified by the Purchaser. Negotiated prices must be identified if a sole source to this company is approved and included in the LOA. However, the contract price is as agreed between the Implementing Agency's contracting officer and the company.

C5.2.2.3. Not-to-Exceed (NTE). Not-to-Exceed or Firm Fixed Price (FFP) responses will not normally be provided. Maximum use will be made of FFP sales from stock in accordance with Section 070303 of Chapter 7, Volume 15 of the DoDFMR (reference (o)). For items from procurement, NTE prices may be included in the LOA on a line-by-line basis. Purchasers that request NTE pricing will be charged the incremental costs that the Implementing Agency incurs or expects to incur to prepare the LOA using NTE pricing (see Chapter 5, Table C5.T6.).