



## DEFENSE SECURITY COOPERATION AGENCY

2800 DEFENSE PENTAGON

WASHINGTON, D.C. 20301-2800

25 JAN 2011

MEMORANDUM FOR THE DEPUTY UNDER SECRETARY OF THE AIR FORCE FOR  
INTERNATIONAL AFFAIRS  
DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR  
DEFENSE EXPORTS AND COOPERATION  
DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR  
INTERNATIONAL PROGRAMS  
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY  
DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY  
DIRECTOR, DEFENSE LOGISTICS AGENCY  
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY  
DIRECTOR, NATIONAL GEOSPATIAL – INTELLIGENCE  
AGENCY  
DIRECTOR, DEFENSE LOGISTICS INFORMATION SERVICE  
DIRECTOR, DEFENSE LOGISTICS AGENCY DISPOSITION  
SERVICES  
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE,  
NATIONAL SECURITY AGENCY  
DIRECTOR FOR SECURITY ASSISTANCE, DEFENSE  
FINANCE AND ACCOUNTING SERVICE – INDIANAPOLIS  
OPERATIONS

**SUBJECT:** Revised Procedures for Sales of Defense Articles and Services to U.S. Companies in Support of Licensed Direct Commercial Sales Pursuant to Section 30 of the Arms Export Control Act, as Amended (AECA), DSCA Policy 11-02 [SAMM E-Change 145]

Section 30 of the AECA authorizes the United States Government to sell defense articles to U.S. companies for incorporation into end items, when they are to be sold pursuant to an approved export license. It also authorizes sale of defense services to U.S. companies in support of such sales. While the Implementing Agency's contracting activity executes the sale contract, the authority to approve such sales has been delegated to the Director, DSCA, or to the Deputy Director in his absence.

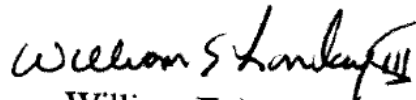
If an Implementing Agency receives such a request, it must determine whether it can support the proposed sale under the terms described in SAMM Chapter 11, Paragraph

C11.8.1. Following that determination, the Implementing Agency must provide the following information to DSCA(STR/POL):

- Purchasing Company
- Items/Quantity or Service
- End Item Application (if applicable)
- End Item Purchaser (country or international organization)
- Number and Date of the Munitions Export License or other Export Approval

DSCA STR/POL will staff the request with the Director, DSCA, and advise the Implementing Agency of the outcome. The Implementing Agency is not authorized to conclude the sales contract with the purchasing company until it has been notified in writing of the Director's approval.

This change will take effect immediately. Chapter 11 of the SAMM is updated as attached to reflect this process. This change will be included in the automated version of the SAMM found on the DSCA Web Page, [www.dscamilitary.com/samm/](http://www.dscamilitary.com/samm/), as SAMM E-Change 145. If you have questions regarding this policy or the SAMM, please contact Mr. Mike Slack, DSCA/STR/POL, at 703-601-3842 or e-mail: [michael.slack@dscamilitary.com](mailto:michael.slack@dscamilitary.com). Implementing Agencies should disseminate this policy to supporting activities.

  
William E. Landay III  
Vice Admiral, USN  
Director

Attachments:

As stated

cc:

STATE/PM-RSAT  
AFRICOM  
CENTCOM  
EUCOM  
JFCOM  
NORTHCOM  
PACOM  
SOCOM  
SOUTHCOM

TRANSCOM  
USASAC  
SATFA TRADOC  
NAVICP  
NETSAFA  
AFSAC  
AFSAT  
DISAM

**SECURITY ASSISTANCE MANAGEMENT MANUAL (SAMM), E-CHANGE 145**

**Revised Procedures for Sales of Defense Articles and Services to U.S. Companies in Support of Licensed Direct Commercial Sales Pursuant to Section 30 of the AECA**

Replace Chapter 11, Section C11.8., with the following revised text:

**C11.8. GOVERNMENT FURNISHED EQUIPMENT AND MATERIEL (GFE/GFM) SALES**

AECA, section 30 (reference (c)) authorizes the USG to sell defense articles and defense services to U.S. companies in support of direct commercial exports pursuant to an approved export license. Authority to approve such sales has been delegated to the Director, DSCA. When the sale has been approved, the Implementing Agency concludes and executes the sale contract with the purchasing company.

C11.8.1. AECA, Section 30 Sales Eligibility Requirements: If an Implementing Agency receives such a request, it must determine whether the proposed sale meets all of the criteria in Table C11.T9. below:

Table C11.T9. AECA Section 30 Sales Eligibility Requirements

| <b>Statutory Eligibility Requirements</b> |   |
|---|---|
| 1   | Sale is to a company incorporated in the United States that has an approved export license for final assembly, manufacture, or concurrent or follow-on support of an end item being procured for the armed forces of a friendly country or for an international organization. |
| 2   | The articles would be supplied to the prime contractor as GFE/GFM if the end item were being procured for the use of the U.S. Armed Forces;   |
| 3   | Any services being provided must be performed in the United States and may include transportation, installation, testing, or certification that are directly associated with the sale.  |
| 4   | And the articles and services are available only from USG sources or are not available to the prime contractor directly from the U.S. sources at such times as may be required to meet the prime contractor's delivery schedule.  |

C11.8.1.1. AECA, Section 30 Sales from Stock. Unless approved by USD(P) in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), sales are not authorized if they result in stocks dropping below the reorder point.

C11.8.1.2. AECA, Section 30 Sales from Procurement. When procurement or manufacture in Government-owned facilities is required, the Implementing Agency determines if a sale shall be concluded. In determining production priorities, the Implementing Agency considers existing requirements and schedules manufacture, allocation, and delivery on a first-in first-out basis guided by DoD 4140.1-R (reference (cq)) and related assignments of Force Activity Designators (FADs) by the Chairman of the Joint Chiefs of Staff. For questions of priority among competing U.S. or foreign requirements, refer to Chapter 6, Section C6.4.7.

C11.8.2. If the proposed sale is consistent with these requirements, the Implementing Agency provides the following information listed in Table C11.T10. to DSCA (STR/POL):

Table C11.T10. AECA Section 30 Sale Approval Request Details

| <b>Required Information</b>  |
|--|
| Purchasing Company   |
| Items/Quantity or Service  |
| End Item Application (if applicable)                                     |
| End Item Purchaser (country or international organization)               |
| Number and Date of the Munitions Export License or other Export Approval |

DSCA (STR/POL) will staff the request with the Director, DSCA, and inform the Implementing Agency of the decision. Once informed in writing that the Director, DSCA, has approved a proposed sale, the Implementing Agency’s contracting activity will execute the sale agreement.

C11.8.3. AECA, Section 30 Sales Format. A unique sales agreement is used by the USG for the sale of defense articles and/or services to U.S. companies under the authority of AECA, Section 30 (reference (c)). The sales agreement includes the information outlined in Table C11.T11.

Table C11.T11. AECA, Section 30 Sales Agreement Requirements

| <b>General Provisions and/or Notes Required</b>  |
|--|
| 1. The USG retains the right to cancel in whole or in part or to suspend performance at any time under unusual or compelling circumstances if the national interest so requires.   |
| 2. The USG provides no warranty or guarantee, either expressed or implied, regarding the item being sold.  |
| 3. The USG shall provide best efforts to comply with the delivery lead time cited, but incurs no liability for failure to meet an indicated delivery schedule.   |
| 4. The USG shall use its best efforts to deliver at the estimated price, but that the purchaser is obligated to reimburse the USG for the total cost if it is greater than that price.   |
| 5. The item sold may be used only for incorporation into end items (or as concurrent or follow-on support in conjunction with a sale of the end item) for export under an approved export license and may not be used for other purposes.  |
| 6. The purchaser renounces all claims against the USG, its officers, agents, and employees arising out of or incident to this agreement, whether concerning injury to or death of personnel, damage to or destruction of property, or other matters, and shall indemnify and hold harmless the USG, its officers, agents, and employees against any such claims of third parties and any loss or damage to USG property. |
| 7. The U.S. company agrees to provide protection of classified information and requires that the agreement with the foreign Government provides protection of U.S. classified information.   |
| 8. The purchaser is responsible for any insurance desired and, when applicable, export customs clearance.  |

### General Provisions and/or Notes Required

9. The purchaser is required to reimburse the USG for all costs incurred by the USG if the purchaser cancels the purchase agreement before item delivery.
10. Delivery is Free On Board (FOB) point of origin. The purchaser must arrange for continental U.S. (CONUS) transportation (except for sensitive or hazardous cargo that is normally shipped via the Defense Transportation System (DTS)).
11. Payment terms.
  - a. Sales of Articles from Stock. Total payment is required in advance for the full cost of any USG shipment.
  - b. Sales of Articles or Services from Procurement, or Sales of Services from Resources on Hand. Payment is normally cash payable in full at the time the agreement is signed. Based on purchaser request, a payment schedule may be considered when full funding is not immediately required. When requested by the purchaser, the Implementing Agency, in coordination with the contracting officer, may negotiate a payment schedule that complies with the Security Assistance Management Manual (SAMM). Funds must be available prior to USG entering into a contract, submitting a MIPR, or making other obligations. Payment is equal to the full cost of the obligations plus reasonable uncertainties, such as costs which could be incurred should it become necessary to prematurely terminate the Sales Agreement.

C11.8.3.1. Pricing of AECA, Section 30 Sales. Prices, accountability, and disposition of collections shall be in accordance with DoD 7000.14-R (reference (o)), Volume 11a, Chapter 1. The Implementing Agency executing the Section 30 sale shall ensure it recovers its full cost of executing the sale, to include pricing elements as outlined in Volume 11A, Chapter 1, Addendum 1, "To Private Parties." FMS Administrative surcharge and accessorial rates are not applicable to Section 30 sales. Sales shall be in cash, with payment upon signature of the sales agreement by the USG and U.S. company representatives. Payment in U.S. dollars shall precede procurement, production action, delivery (in cases of stock sales), and/or performance of service. Funds obligated for a reimbursable procurement, internal production of articles, or provision of services may not exceed the cash received from an authorized purchaser. If there is an increase in the cost, the purchaser is required to make additional cash payments to fund the costs.

C11.8.3.2. Planning Data. To allow planning and marketing, Implementing Agencies are authorized to provide cost and delivery data to authorized potential purchasers in advance of approval of a sales agreement. Such data must be identified as estimates that are not binding on the USG.

C11.8.4. Records and Reporting. The Implementing Agency maintains a central record showing the purchaser, item being sold, source (stock, DoD production, or procurement), cost estimate or (if delivered) billed price, end item (if applicable), ultimate recipient (country or international organization), and export license number and date or other DoS approval. Information from this record is provided to DSCA upon request.