



**DEFENSE SECURITY COOPERATION AGENCY
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WASHINGTON, D.C. 20301-2800**

17 SEP 2012

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

SUBJECT: Reduction to the Foreign Military Sales (FMS) Administrative Surcharge Rate,
Defense Security Cooperation Agency (DSCA) Policy Memo 12-47

References: (a) DSCA Policy Memo, "Foreign Military Sales (FMS) Administrative Surcharge
Structure and Rate," November 6, 2006
(b) Department of Defense (DoD) Financial Management Regulation (FMR)
7000.14-R, Volume 15, "Security Assistance Policy and Procedures", February
2012

The Arms Export Control Act requires that FMS activities be conducted at no cost to the U.S. Government and requires an FMS Administrative Surcharge assessment on FMS cases to recover all U.S. Government costs incurred to execute, manage, and oversee these programs. The FMS Administrative Surcharge rate is assessed as a percentage (Reference (a) established the 3.8% rate in 2006) of the value of articles and services on each FMS case. The revenues generated from this surcharge are deposited to the FMS Trust Fund Administrative Account and are used to pay for U.S. Government expenses related to the administration of FMS programs.

Chapter 3, Paragraph 030308.G of reference (b) requires that activity in the FMS Administrative Surcharge Account be reviewed annually and the results of the review serve as a basis for any recommendation on rate changes. Over the past year, my staff has completed an extensive study of the FMS Administrative Surcharge account and we have determined to

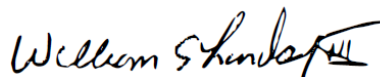
modestly reduce the FMS Administrative Surcharge rate from 3.8% to 3.5% effective November 1, 2012.

Given the dynamic business environment of FMS over the past five years, DSCA determined a more thorough review was needed to evaluate the assumptions and changes that have occurred since the last update to the FMS Administrative Surcharge rate. In 2011, the Agency partnered with the Naval Postgraduate School (NPS) to conduct an independent assessment of the FMS Trust Fund Administrative Surcharge Account. The NPS study found that our processes for setting the rate change in 2006 were sound, and validated the information we currently use to review the health of the account. The NPS also conducted a review of workload factors to help inform our budget allocation decisions. The information from the NPS studies, in conjunction with our comprehensive analysis of data, (i.e., Annual Assessment of the FMS Trust Fund Administrative Surcharge Account, budget trends, forecasted sales, and Monte Carlo simulation modeling) resulted in the determination to modestly reduce the FMS Administrative Surcharge rate.

The reduction is possible because the FMS Trust Fund Administrative Surcharge Account has reached a substantial balance that will allow the Agency to maintain a Safety Level amount that provides sufficient time to recognize and react to major changes in the FMS business model before those changes threaten the FMS Trust Fund Administrative Surcharge Account solvency. In the Security Assistance Management Manual, DSCA has also formalized an approach to conduct periodic reviews of the business. This will allow proactive and anticipatory management of the account. In addition, we have instituted other reviews to improve the quality and fidelity of our business assessment (i.e., business process reviews, case reviews, financial management reviews, and combining the Program Objective Memorandum and Budget processes).

The 3.5% rate will be charged to all new FMS and Building Partnership Capacity (BPC) cases “accepted” on or after November 1, 2012. Any cases accepted prior to November 1, 2012, will continue to be assessed the rate in effect at their implementation, with the exception that any new line items added to these cases via Amendments “accepted” on or after November 1, 2012, will be charged the new rate. The reduction to the rate was approved by the Under Secretary of Defense (Comptroller).

More detailed guidance necessary to implement this change will be provided via separate correspondence. If you have any questions or need additional information, please contact Rita Chico, DSCA/DBO/FPA, (703) 602-3632 or e-mail: rita.chico@dscamil, or Jim Worm, DSCA/DBO/CMP, (703) 604-6549, or e-mail james.worm@dscamil.



William E. Landay III
Vice Admiral, USN
Director

cc:

STATE/PM-RSAT

DISAM

USASAC

SATFA

TRADOC

USACE

NAVICP

NAVSUP WSS

NETSAFA

AFSAC

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AFCEE

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Implementation Instructions
FMS Administrative Surcharge Rate of 3.5%

FMS Administrative Surcharge Instructions

A. **Scope.**

1. The 3.5% FMS Administrative Surcharge rate applies to:
 - a. All case line items included on Letters of Offer and Acceptance (LOAs) "accepted" on or after 1 November 2012. The new rate applies regardless of the type of funding (national funds, grant funds, etc.) being used to finance the case. The new rate applies to both standard and non-standard articles and services as well as any U.S. Government management services included in line items on the case.
 - b. All new line items added via LOA Amendments that are "accepted" on or after 1 November 2012 or added via LOA Modification that are "implemented" on or after 1 November 2012.
 - c. All Building Partner Capacity (BPC) cases and case line items being processed through the FMS system that meet the effective date requirements in (a) and (b) above.
2. The 3.5% FMS Administrative Surcharge rate does not apply to:
 - a. Cases and/or case line items already "accepted" or "implemented" prior to 1 November 2012. These existing cases and line items will continue to be assessed at the rate that was in effect at the time they were implemented (likely 3.8% or 2.5% if they were for standard items and 5% if they were for non-standard items).
 - b. Foreign Military Sales Order (FMSO) I cases. The Supply Support Arrangement surcharge for these cases continues to be 5% in accordance with the Department of Defense Financial Management Regulation (DoD FMR).
 - c. Cases established for Presidential Drawdowns using the "S9" country code.

B. **FMS Cases in "Accepted" or "Implemented" Status Prior to 1 November 2012.**

1. Cases and case line items that are in "accepted" or "implemented" status prior to 1 November 2012, will not be adjusted to reflect the new rate. These cases and case line items will instead retain the FMS Administrative Surcharge rate in effect at the time they were implemented.
2. If adjustments are made to these cases via future LOA Modifications or LOA Amendments (e.g., to reflect pricing changes), any existing line item will continue to be priced using its original FMS Administrative Surcharge rate as long as the changes being made do not

reflect an increase in scope for that particular line item. If the case is being adjusted to reflect an increase in scope (e.g., to add quantities to a defined order line item; or to increase the value of a blanket order line item), these additional requirements must be included on new case line items which will be assessed the 3.5% FMS Administrative Surcharge rate.

C. **LOAs in "Development" Status with Proposed Offer Expiration Dates (OEDs) Prior to 1 November 2012.** All LOAs being developed by the Implementing Agency (not yet submitted to DSCA for countersignature or not yet "Offered," if countersignature is not required) must be priced using the 3.8% (standard or non-standard) FMS Administrative Surcharge rates if the OED falls before 1 November 2012.

D. **Amendments in "Development" Status with Proposed OEDs Prior to 1 November 2012.** All Amendments being developed by the Implementing Agency (not yet submitted to DSCA for countersignature or not yet "Offered," if countersignature is not required) must use the 3.8% (standard or non-standard) FMS Administrative Surcharge rate against any new line items being added via that document if the OED falls before 1 November 2012.

E. **LOAs and Amendments in "Development" Status with Proposed OEDs On/After 1 November 2012.** All LOAs and Amendments being developed by the Implementing Agency (not yet submitted to DSCA for countersignature or not yet "Offered," if countersignature is not required) must be priced using the 3.5% FMS Administrative Surcharge rate if the OED falls on or after 1 November 2012. A note must be included on these cases as follows:

ADMINISTRATIVE SURCHARGE RATE CHANGE.

Note Usage
Mandatory for FMS & BPC LOAs & Amendments that have an Offer Expiration Date (OED) on or after 1 November 2012. NOTE: On the first Modification or Amendment being accomplished post Implementation of the document that added this note, delete this note as it will no longer be applicable to the given case after the document is Implemented and/or subsequent documents processed to update the Administrative Surcharge rate as applicable.
References
See Chapter 9.
Note Input Responsibility
CWD
Note Text
"Effective 1 November 2012, the Foreign Military Sales (FMS) Administrative Surcharge rate assessed against FMS cases will be 3.5%. This document includes one or more of the following conditions: new case Line Item(s), increases in quantity or period of performance/leadtime on defined order line(s), &/or increases the dollar value of blanket order line(s) which are priced

using the 3.5% rate since the Offer Expiration Date (OED) of this document falls on or after 1 November 2012. If this document is "Accepted" (signed by the purchaser) prior to 1 November 2012, the 3.8% (standard/non-standard) rate will remain valid. If this document is "Accepted" prior to 1 November 2012, it will be implemented as-written and a Modification or Amendment, as appropriate, will be processed to change the FMS Administrative Surcharge to reflect the correct rate for any effected line items."

F. LOAs and Amendments in Write, Review or Proposed Status Upon Release of the New Admin Policy.

1. For any document under CWD control in "W", "R", or "P" on the date of release for this policy, the CWD will process the documents as if "Offered" in that the CWD will apply the additional information to the FMS Administrative Surcharge note as discussed in Section G below.

2. "Grace" Period - Two Weeks. The grace period for re-pricing documents in Development status before submission to the CWD will be two weeks from the date of release of this policy. For two weeks after the release date of this policy, the CWD will accept documents affected by this policy priced at the previous FMS Administrative Surcharge rate of 3.8%. During that period, the CWD will process such documents and apply the additional wording to the FMS Administrative Surcharge note discussed below. After that period, all documents submitted to the CWD which are affected by the new policy which are not correctly applying the new 3.5% rate will be returned to the MILDEP or IA for re-pricing.

G. LOAs and Amendments in "Offered" Status with OED on/after 1 November 2012.

Any LOAs or Amendments in "Offered" status prior to release of this policy with an OED on/after 1 November 2012 were priced using the 3.8% rate. For all LOAs or Amendments in "Offered" status on the date of release of this policy with an OED is 1 November 2012 or later, the IA must execute a pen and ink change adding a paragraph to the existing FMS Administrative Surcharge note advising that the 3.5% FMS Administrative Surcharge rate will apply to this document if it is "Accepted" on or after 1 November 2012. (See note under section "H" below for specific note verbiage.)

H. LOAs and Amendments in "Offered" Status with OED Prior to 1 November 2012.

Any LOAs or Amendments in "Offered" status with an OED prior to 1 November 2012 were priced using the 3.8% rate. If the OED is extended to reflect a date on/after 1 November 2012, the IA will execute a pen and ink change authorizing the OED and will also add a paragraph to the existing FMS Administrative Surcharge note advising that the 3.5% FMS Administrative Surcharge rate will apply to this document if it is "Accepted" on or after 1 November 2012. (See note section below for specific note verbiage.) If the OED extension is made on or after 1 November 2012, a pen and ink change will not be processed – instead, the case must be restated or a new case should be offered to reflect the lower rate.

ADMINISTRATIVE SURCHARGE RATE CHANGE – OFFERED DOCUMENTS.

Note Usage
<p>Mandatory for pen and ink changes to FMS & BPC LOAs & Amendments that have an Offer Expiration Date (OED) on or after 1 November, 2012. This note applies to LOAs & Amendments that includes one or more of the following conditions: new case line item(s), increases in quantity or period of performance/leadtime on defined order line(s), &/or increases the dollar value on blanket order line(s) which are priced using the previous 3.8% rate. Note verbiage to be added as a separate paragraph in the FMS Administrative Surcharges note as applicable.</p> <p>NOTE: On the first Modification or Amendment being accomplished post Implementation of the document that added this note, delete this note paragraph as it will no longer be applicable to the given case after the document is Implemented and/or subsequent documents processed to update the FMS Administrative Surcharge rate as applicable.</p>
References
See Chapter 9.
Note Input Responsibility
IA
Note Text
"Effective 1 November 2012, the Foreign Military Sales (FMS) Administrative Surcharge rate assessed against FMS cases will be 3.5%. This document includes one or more of the following conditions: new case line item(s), increases in quantity or period of performance/leadtime on defined order line(s), &/or increases the dollar value on blanket order line(s) which are priced using the previous rate of 3.8% (standard/non-standard). If this document is "Accepted" (signed by the purchaser) prior to 1 November 2012, the 3.8% (standard/non-standard) rate will remain valid. However, if this document is "Accepted" on or after 1 November 2012, it will be implemented as-written and a Modification or Amendment, as appropriate, will be processed to change the FMS Administrative Surcharge to reflect the correct rate for any effected line items."

I. **Amendments for Scope Increases to Existing Cases in “Offered” Status with an OED On/After 1 November 2012.** Any existing case line item on Amendments that increases the quantity or period of performance/leadtime on a defined order line or increases the dollar value on a blanket order line that have already been offered to the purchaser must charge the 3.5% rate for that portion of the line related to the scope increase if they are “Accepted” on/after 1 November 2012, regardless of what rate was used on the “Offer”. A pen and ink change must be processed on any Amendment in “Offered” status with an OED that falls on or after 1 November 2012 if it includes any of the above scope changes. The IA executing the pen and ink change will add a paragraph to the existing FMS Administrative Surcharge note as contained in paragraph G. above. In addition, a Modification or Amendment, as appropriate, must be processed to move the scope increase to a new line item on the case and charges to the 3.5% rate once the Amendment that increased the scope is implemented.

J. **Timeline to Process Modifications or Amendments to Correct the FMS**

Administrative Surcharge Rate. Any Modification or Amendment, as appropriate, required to change the FMS Administrative Surcharge rate back to 3.8% (standard / non-standard) based on early purchaser acceptance or to 3.5% for new lines added to address scope changes should be processed no later than 30 days after the implementation date of the impacted LOA or Amendment. No pen and ink changes will be accomplished to adjust the FMS Administrative Surcharge rate due to early purchaser acceptance or to add new lines to address scope changes.

K. **FMS Administrative Surcharge Pricing Override Until 1 November.** Effective 1 November, DSAMS parameters for FMS Administrative Surcharge IPC s will default to 3.5% and "AP" (Applied) should be indicated on such new cases lines and new lines on Amendments. However, for all new cases and Amendments created prior to 1 November with OEDs after 1 November, the FMS Administrative Surcharge IPCs will need to use the Override Percent (OP) pricing function on the Indirect Pricing Components Tab of the Line Price Estimation Screen. Once "OP" is selected in the "Status" block, the "Percent" block should be changed to 3.5%. Separately, consistent with current OC/OP procedures, a Case Remark must be added to the case indicating that Lines "X" to "Y" have OP pricing on the FMS Administrative Surcharge IPCs to apply the new 3.5% FMS Administrative Surcharge Rate to the appropriate lines based on the new FMS Administrative Surcharge policy, or words to this effect.

Recommended SAMM Change

Table C9.T4. Table of Charges

Charge	Description	How Priced	Applied by - for billing	References
FMS Administrative Surcharge	Cost of administering FMS and FMS- like programs	<p>Included as a percentage of applicable line items as a below-the-line charge on the LOA.</p> <ul style="list-style-type: none"> • 3.5% for both standard and nonstandard articles/services (for LOA lines accepted on or after 1 November 2012). • 3.8% for both standard and nonstandard articles/services (for LOA lines accepted on or after August 1, 2006 and before 1 November 2012). • 2.5% for standard articles/ services (for LOA lines implemented on or after June 1, 1999 and before August 1, 2006). • 3% for standard articles/ services (for LOA lines implemented on or after October 1, 1977 and before June 1, 1999.) • For cases signed prior to October 1, 1977, the FMS Administrative Surcharge was 2%. • 5% for non-standard articles/ services (for LOA lines for non-standard items implemented before August 1, 2006). • 5% for Foreign Military 	DFAS Indianapolis	<p>AECA, sections 21(e)(1)(A) (22 U.S.C. 2761(e)(1)(A)) and 43(b) (22 U.S.C. 2792(b))</p> <p>DoD FMR, Volume 15, Chapter 7, paragraph 0706</p> <p>BPC: The cost of administering these cases is no different than FMS cases.</p>

		<p>Sales Order (FMSO) I cases</p> <p>The FMS Administrative Surcharge does not apply to Program Management Lines (PMLs) nor to non-contractor provided training lines for NATO countries if the training is provided in the continental U.S. (CONUS).</p> <p>The FMS Administrative Surcharge does not apply to Small Case Management Lines (SCMLs).</p> <p>See Section C9.4.6.4. for information on minimum collection requirements for FMS Administrative Surcharge costs.</p>		
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Change paragraph C9.14.2.1. to read:

C9.14.2.1. Background. In 2006, financial reforms were implemented across the security assistance/cooperation (SA/SC) community. This was the result of an increase to the FMS Administrative Surcharge rate (from 2.5% to 3.8%) and renewed efforts to enforce existing Standard Level of Service (SLS) requirements by DSCA and the SA/SC community, to ensure funds were spent appropriately and in a consistent manner. DSCA’s responsibility to ensure funds are used correctly is defined in [DoD 7000.14-R, Volume 15](#), and [DoDD 5105.65](#). DSCA must “monitor usage of FMS Trust Funds to include periodic reviews of funding levels and unused balances.” Further, DSCA exercises “financial management responsibility for the Foreign Military Sales Trust Fund and reporting functions for SC programs.” DSCA began conducting these Business Process Reviews (BPRs) in FY 2011. Effective with the FY 2013 BPRs, the reviews will take into account the decrease in the FMS Administrative Surcharge rate (from 3.8% to 3.5%) effective November 1, 2012.

Appendix 6 – Letter of Offer and Acceptance (LOA) Notes Listing.

Change "Administrative Surcharge" note to read as follows:

Note Name	Note Usage	Note Text
Administrative Surcharge	Mandatory for LOAs (including Pseudo LOAs) that include administrative surcharges. Mandatory for Amendments and Modifications even if the administrative surcharges are not affected by the changes being made. See Chapter 9, section C9.5.	“An administrative surcharge of 3.5% has been applied to lines [insert applicable line numbers].” And/or "An administrative surcharge of 3.8% has been applied to lines [insert applicable line numbers]." And/or "An administrative surcharge of 2.5% has been applied to lines [insert applicable line numbers]." And/or "An administrative surcharge of 3% has been applied to lines [insert applicable line numbers]." And/or "An administrative surcharge of 5% has been applied to [insert applicable line numbers]." And/or "An administrative surcharge has not been applied to lines [include applicable line numbers]." Only include the percentages that are included on the case.

Figure C5.F3. Sample Letter of Offer and Acceptance
Change Note 13 from “3.8%” to “3.5%”

Figure C6.F2. Amendment Format
Change Note 17 from “3.8%” to “3.5%”

Figure C6.F3. Modification Format
Change Note 17 from “3.8%” to “3.5%”

Recommended Changes to the DoD Financial Management Regulation

Volume 15, Chapter 7

070602. Prescribed Standard FMS Administrative Surcharge

A. FMS Administrative Surcharge. The applicable administrative surcharge for FMS is dependent upon variables associated with the LOA. For cost increases within the scope of the LOA, modifications retain the administrative rates associated with the lines modified. When an amendment adds a new line to an existing FMS case, the administrative surcharge rate in effect at that time is applied. The following FMS administrative surcharge rates are applicable for LOA standard cases/lines and for the periods shown:

* 1. Effective November 1, 2012. A uniform 3.5 percent FMS administrative surcharge is used for all new LOA lines accepted by the purchaser on/after November 1, 2012.

2. August 1, 2006 – October 31, 2012. A uniform 3.8 percent FMS administrative surcharge is used for all new LOA lines accepted by the purchaser during this period. [Program Management Lines are no longer applicable to new cases accepted on or after August 1, 2006. USG services, over or above those covered by the FMS administrative surcharge, are provided on well-defined line items. All cases accepted on or after August 1, 2006, must collect a minimum charge to ensure sufficient funds to prepare and implement each case are collected by including SCMLs. The surcharge rate is not applied against the SCML. This application was suspended effective July 1, 2012. Refer to the SAMM, Chapter 9, for specific information concerning the application of the SCML.

3. June 1, 1999 - July 31, 2006. A uniform 2.5 percent for standard lines and 5 percent for nonstandard lines on LOAs implemented during this period.

4. October 1, 1977 - May 31, 1999. A uniform 3 percent for LOA standard articles/services lines implemented during this period.

5. March 10, 1977 - September 30, 1977. A uniform 2 percent FMS administrative surcharge was used for LOAs signed by the IA during this period.

6. January 29, 1970 - March 9, 1977. A 2 percent FMS administrative surcharge is applied, unless the supplying Military Department determined that the rate was either insufficient or in excess of actual administrative expenses, for any single FMS case. The use of actual FMS case administrative expenses was authorized.