



DEFENSE SECURITY COOPERATION AGENCY
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30 JAN 2014

MEMORANDUM FOR 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 FOR SECURITY ASSISTANCE, DEFENSE FINANCE
AND ACCOUNTING SERVICE – INDIANAPOLIS OPERATIONS
DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE LOGISTICS INFORMATION SERVICE
DIRECTOR, DEFENSE LOGISTICS AGENCY DISPOSITION
SERVICES
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, NATIONAL GEOSPATIAL – INTELLIGENCE
AGENCY
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE,
NATIONAL SECURITY AGENCY

SUBJECT: Lead-Nation Procurement Letters of Offer and Acceptance (LOA), DSCA Policy
14-24

The provisions of the Arms Export Control Act, as amended (AECA), do not preclude purchase by a lead nation or international organization on behalf of others through a Foreign Military Sale (FMS). There has been no past practice to accommodate such transactions, however, and, until recent years, there have been few expressions of interest in such arrangements. Now, NATO Allies are seeking mutual cost sharing both within and outside NATO to maximize the purchasing power of their defense budgets. NATO Smart Defense initiatives, as well as pooling and sharing initiatives among European countries, envision interdependent defense capabilities where countries cooperatively develop, acquire, and maintain shared capabilities at the national level to undertake core tasks. Some of these initiatives will involve joint procurement of defense articles and services through a lead country with the potential for flexible retransfers among members of the group.

In furtherance of the U.S. commitment to support NATO and NATO members in the types of procurement envisioned by Smart Defense initiatives, the Departments of State and Defense have determined to consider proposals for such lead-nation procurements on a case-by-case basis during a two-year test period, initially involving only NATO organizations and NATO

member countries. Lead-nation procurements will be supported by retransfer arrangements designed to permit flexible sharing among an identified group of participants, while maintaining accountability and adhering to statutory reporting requirements.

The response to accepted proposals would include FMS Letters of Offer and Acceptance (LOAs) specifically structured to support sales to a NATO organization or NATO lead nation with subsequent retransfer to an identified group of NATO participant countries.

- The lead nation or NATO organization will be the sole purchaser with full financial responsibility.
- Prior to implementation, the lead nation's or NATO organization's LOA will also be signed by each of the transferees, who will affirm agreement in a note to that portion of the LOA Standard Terms and Conditions regarding the responsibility of each participating country for end-use, retransfer, and security. Their agreement, and the Department of State's approval of the LOA, will satisfy the legal requirement for the initial retransfer from the lead nation or international organization after delivery to the participating countries.
- The USG will provide defense articles in a configuration approved as appropriate for use in common by the lead nation and all identified and accepted transferees. Defense articles requiring Enhanced End-use Monitoring will not be eligible for transfer in a lead-nation procurement LOA. The LOA will also contain a provision stating that the national stocks previously procured by the lead nation and participating nations are subject to the individual terms of the LOAs under which they were sold, and may not be commingled with those in the common configuration purchased through the lead nation procurement LOA.
- For sales that meet the congressional notification requirements of AECA Section 36(b)(1), the congressional notification will identify the NATO organization and/or lead nation as well as the NATO member countries identified and approved for potential retransfer from the lead nation or organization.

The Department of State will offer the lead nation and the identified participating nations, concurrent with offer of the LOA for sales and retransfers that meet congressional notification requirements of AECA Section 36(b)(1) or Section 3(d) and subsequently for those that do not, a blanket retransfer authorization establishing the requirements for periodic, after-the-fact reporting of transfers of title or possession among the participating nations. Any retransfers outside the identified and approved group, or which trigger congressional reporting requirements, will require prior USG consent from the Department of State.

Expressions of interest in potential cases of this type should be referred to DSCA (Security Assistance and Strategy) prior to submittal of a Letter of Request. Proposals will be reviewed within State and DoD for acceptance on a case-by-case basis.

Lessons learned during the two-year test period will inform the potential development of more permanent policies in the Departments of State and Defense to govern such transactions and may be considered to support legislative initiatives where necessary to support the USG security assistance mission.

If you have questions regarding this policy or the SAMM, please contact Mr. Mike Slack, DSCA/STR/SPI, at (703) 601-3842 or e-mail: michael.slack@dscamil. Implementing Agencies should disseminate this policy to supporting activities.



J. W. Rixey
Vice Admiral USN
Director

Attachments:
None

cc:
STATE/PM-RSAT
AFRICOM
CENTCOM
EUCOM
STRATCOM
NORTHCOM
PACOM
SOCOM
SOUTHCOM
TRANSCOM
USASAC
SATFA TRADOC
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