

## Figure C15-Legacy.F2. Sample Memorandum of Agreement

### MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES DEPARTMENT OF STATE AND THE UNITED STATES DEPARTMENT OF DEFENSE

Pursuant to [Section 632\(b\) of the Foreign Assistance Act \(FAA\) of 1961, as amended](#), the United States Department of State (State) hereby agrees to provide funds to the Defense Security Cooperation Agency (DSCA) of the United States Department of Defense (DoD) in accordance with this Memorandum of Agreement (Agreement).

#### I. AUTHORITY AND PURPOSE

This Agreement is entered into as the means to provide funding to DSCA pursuant to [Section 632\(b\) of the FAA](#) in the amount of [spell out total dollar amount being transferred], (\$ numerical total dollars being transferred) in [name the fiscal year and source of funds)] funds appropriated in the [appropriation title (e.g. "Full-Year Continuing Appropriations Act, 2012 ([P.L. 112-36](#)))] for the Global Peace Operations Initiative (GPOI)].

The purpose of this Agreement is to acquire the services of DSCA to provide technical support for the implementation of peacekeeping capacity building activities as set forth in Section II, Scope of Work.

#### II. SCOPE OF WORK

Funds provided under this Agreement, in the total amount of \$ [total dollar amount being transferred], will be used by DSCA for the activities set out below as part of GPOI.

1. [Description of work to be performed and dollar amount allocated to the work. The description of work may appear in the Memorandum of Agreement (MOA), in an appendix to the MOA or in a separate document incorporated by reference into the MOA. The description of work must be definite enough to establish a bona fide need at the time the funds are obligated at MOA execution.]
2. [Multiple partners and projects may be described in a single MOA. Each partner or project must specify the dollar amount of funds being allocated to the project from the total amount being transferred and provide specificity necessary to establish a bona fide need in the fiscal year in which the MOA is executed.]

Appendices to this Agreement may be developed with additional specificity as to the quantities and estimated costs of the defense articles and services to be provided as this information becomes available, and such Appendices must be provided to and approved by State prior to the provision of such articles and services. Any changes to such Appendices must be approved by State.

#### III. FISCAL TERMS

Funds provided under this Agreement are available for obligation until [date when funds expire for new obligation], and the execution of this Agreement constitutes an obligation of funds in the

amount of [\$ insert dollar amount]. It is expected that funds will be placed on Building Partner Capacity (BPC) cases within twelve (12) months of the time State approves the quantities and estimated costs of the defense articles and services to be provided. In addition, State and DSCA agree to review the status of funds obligated under this agreement no later than [insert date three years after the end of the initial period of obligation], so that State and the DSCA can determine whether any funds need to be reprogrammed.

The months (MOS), as defined by actual delivery of training, equipment, advisory support, or other assistance described in Section II: Scope of Work is estimated to run through [insert required delivery date for articles and services]. The MOS may be adjusted and requirements for articles and services more defined by amendment to this Agreement or by appendices as described in Section II.

After the MOS are over, funds committed on contracts and requisitions can still be expended to pay for activities that occurred during the MOS on the BPC case. DSCA will administer the funds it receives under this Agreement in accordance with all applicable laws.

Consistent with U.S. appropriation law, the appropriation cited below is the source of the funding for costs arising out of this Agreement. DSCA does not have any other funds legally available to it for this work. DSCA will perform final accounting, case closure, and return of unneeded funds for this Agreement in accordance with its standard procedures. DSCA shall return to State any undisbursed funds in excess of the known actual costs as directed by State, or by contracting on behalf of State, in accordance with relevant United States foreign assistance laws and regulations. It is expected that DSCA will execute these activities without exceeding the amount obligated in this Agreement and will consult with State if it appears that the amount obligated will not be sufficient to cover actual costs. In the event that actual costs incurred by DSCA under this Agreement exceed the amount obligated by the Agreement, State agrees to pay the costs from legally and programmatically available funds. If State has no legally and programmatically available funds to pay such costs, State will request additional appropriations to pay for the costs from Congress. Any funds not expended by DSCA by August 31, [insert year that is nine years after the initial period of availability] will be returned to State so they can be returned to Treasury.

Billing and payment will be effectuated through the Global Financial Management System (GFMS) and the Intra-Governmental Payment and Collection (IPAC) System using the information contained in this Agreement. Notice of the billing and the accompanying documentation should be sent to the following office:

United States Department of State  
 [Applicable Regional Bureau]  
 2201 C Street, NW, Room 3519  
 Washington, DC 20520

Funds will be made available upon signature of the last signing party of this Agreement. Funds in the amount of \$[total dollar amount of funds being transferred] will be provided from the following account:

Appropriation:	
Budget Plan:	
Organization/Bureau Code:	

Function Code/Activity:	
Budget/Object Code:	
Project Code:	
Fund:	
Agreement #:	
Interagency agreement number:	
Allotment:	
Obligation number:	
Purchase order number:	
Acct. classification reference number:	
Agency locator code:	
Agency locator contact name:	
Agency locator commercial telephone number:	
Agency locator contact email address:	
Agency locator contact fax number:	

- I. When payment is processed, DSCA will include in the remarks section a reference to this Agreement, the appropriation, obligation number, and other information specifically required by State.

#### **IV. POINTS OF CONTACT**

The State Technical Point of Contact (TPOC) for this action will be [name and contact information]. In the event that the TPOC is replaced, State will inform all parties of the newly designated TPOC.

The DSCA TPOC for this action will be [name and contact information]. In the event that the TPOC is replaced, DSCA will inform all parties of the newly designated TPOC.

#### **V. PERIOD OF AGREEMENT**

This Agreement shall take effect as of the date of the last signature below and shall continue in effect until such time as the funds obligated hereby are fully disbursed or returned to the Department of State. Upon execution of the Agreement, State will return a signed copy to DSCA.

## VI. REPORTING

DSCA will keep full and complete records with respect to the use of funds provided under this Agreement in accordance with generally accepted accounting principles. DSCA shall maintain relevant documentation to reflect procurement and other related costs. DSCA shall also provide State with monthly reports of program activities, as well as any additional information or documentation that State may request regarding expenditures and activities, including any accounting or audit records concerning the funds provided under this Agreement. Each submission shall refer to this Agreement.

## VII. AMENDMENT AND TERMINATION

This Agreement may be modified or canceled upon written agreement of State and DSCA.

Either party may terminate this Agreement before completion of the project by providing thirty (30) days written notice to the other party. Upon termination or expiration of this Agreement, any funds not expended or sub-obligated by grant or contract for allowable expenses shall be refunded to the Department of State. Inactivity or lack of performance and progress under the Agreement may also be grounds for cancellation, except in cases where there is an adequate justification for such inactivity or lack of performance, and State has agreed with DSCA that the justification is adequate.

## VIII. RESOLVING DISAGREEMENT

If a dispute related to funding remains unresolved for more than 60 calendar days after the parties have engaged in an escalation of the dispute, the parties agree to refer the matter to their respective Agency Chief Financial Officers for resolution.

## IX. SPECIAL STATUTORY AUTHORITIES AND RESTRICTIONS

As directed by State, DSCA will assume responsibility for the security, accountability, and tracking of the defense articles and services provided until delivery, will make delivery of the defense articles and services and maintain a record of receipt.

If applicable, licenses or export authorization that may be required or warranted under the [Arms Export Control Act \(AECA\)](#) or the [Export Administration Regulations \(EAR\) \(15 CFR 730\)](#) for the export by commercial entities or persons of any of the items covered by this Agreement shall be the responsibility of such entities or persons to secure and must be approved by State and/or other relevant federal agencies. Further, this Agreement does not provide any export or other authorization to commercial entities or to persons for the export of the defense articles or defense services.

DSCA shall advise foreign government recipients of items under this Agreement (including contractors) that, consistent with Section [citation of current prohibition on foreign taxation of U.S. assistance, e.g. 7013 of the [FY 2012 State Foreign Operations and Related Programs Appropriations Act \(SFOAA\) \(P.L. 112-74\)](#)] no commodities purchased pursuant to this initiative may be subject to taxation, including Value-Added Taxes (VAT) and Customs duties, by that government; any VAT and Customs duties imposed must be reimbursed within four months of the date of assessment or the USG will impose a withholding penalty from the next year's assistance allocated to that government.

Unless otherwise authorized by State, funds provided under this Agreement shall not be used to finance the purchase, sale, long-term lease, exchange, or guaranty of a sale of motor vehicles

unless such motor vehicles are manufactured in the United States. This requirement does not apply to vehicle parts, which may be procured in the United States, the recipient partner, or developing partners. Unless otherwise authorized by the Department of State, funds provided under this Agreement shall not be used to procure any equipment unless procured in the United States, the recipient partner, or developing partners.

DSCA will coordinate with State, as necessary, to ensure compliance with all relevant U.S. laws and regulations, to include the Leahy Law (Section 620M of the FAA) and provisions banning materiel support to terrorists and drug traffickers ( [18 U.S.C. 2339\(a\)](#) and [2339\(b\)](#) and [Section 487 of the FAA \(22 U.S.C. 2291f\)](#)). DSCA is reminded that U.S. Executive Orders and laws prohibit transactions with and the provision of resources and support to individuals and organizations associated with terrorism. It is the legal responsibility of DSCA to ensure that all contracts issued under this Agreement comply with these Executive Orders and laws.

**X. SMALL BUSINESS CONSIDERATIONS**

Under this Memorandum of Agreement, the Department of State's Small Business goals of [current State prime and subcontracting goals for small business] should be taken into consideration by the performing agency. DSCA will provide the maximum practicable opportunity for small business participation.

**XI. SIGNATURES**

\_\_\_\_\_

[full name]  
Deputy Assistant Secretary  
Bureau of Political-Military Affairs  
U.S. Department of State

\_\_\_\_\_

Date

\_\_\_\_\_

[full name and rank]  
Director  
Defense Security Cooperation Agency  
U.S. Department of Defense

\_\_\_\_\_

Date