



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

MAY 27 2005

In reply refer to:
I-05/004237-P2

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Administrative Change to the DoD 5105.38-M, "Security Assistance Management Manual," dated October 3, 2003 (DSCA 05-11) [SAMM E-Change 29]

DSCA reissued the DoD 5105.38-M, "Security Assistance Management Manual (SAMM)," on October 3, 2003. Attached is a set of changes that provide administrative updates and corrections to the document.

Effective immediately, the official SAMM, located on the DSCA website, is updated to incorporate the changes listed in the attachment. If you have any questions regarding these changes (SAMM E-Change 29), please contact Mr. Steve Harris, DSCA/P3-Policy and Processes Division, (703) 604-6611.

A handwritten signature in black ink that reads "Freda J. Lodge".

Freda J. Lodge
Director
Policy, Plans, and Programs

Attachment:
As Stated

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Security Assistance Management Manual (SAMM) E-Change 29 – Administrative Changes

1. Chapter 4, paragraph C4.2.3.7. – delete in its entirety. Training Tuition Pricing will be addressed in a subsequent policy memo.

2. Chapter 4, Table C4.T2. – revise as follows:

- Delete the FY03 Training Tuition Pricing Categories Columns
- Update the EDA Grant Eligibility to FY05 information
- Update the Accelerated Case Closure Eligible information
- Update the name change for Macedonia (country code MK)
- Update the addition/revision of country/organization codes AA, NN, 22, 66, 33, 44, Y5, Y6, and Y7
- Update the Combatant Command for Lebanon and Syria (changed to Central Command)

3. Chapter 4, section C4.3. – revise the last sentence to read:

See Appendix 1 for the Nonrecurring Cost Recoupment Charges for MDE.

4. Chapter 5, paragraph C5.1.4.3.1. – revise as indicated with italics:

*C5.1.4.3.1. Pre-Operational Test and Evaluation (OT&E) Sales Policy (Yockey Waiver). Before responding to LORs for MDE items that have not completed OT&E, the Implementing Agency submits a request to DSCA (Policy, Plans, and Programs Directorate/Weapons Division) for the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) concurrence. *This request may be for multiple countries.* LOA or P&A data for such items is not released prior to DSCA and USD(AT&L) approval. If approved for release, a note (see Table C5.T5.) is included in the P&A data correspondence or on the LOA.*

5. Chapter 5, paragraph C5.1.4.5.1.4. - revise as follows:

C5.1.4.5.1.4. Items and/or services of a sensitive nature. For example, NVDs or items or services associated with missile defense are considered items and/or services of a sensitive nature.

6. Chapter 5, paragraph C5.1.4.5.2. - add the following sentence at the end of the paragraph:

The Missile Defense Agency (MDA) is added as an addressee for all missile defense related LOR Advisories.

7. Chapter 5, Figure C5.F1a. Letter of Request (LOR) Advisory Format - revise to add the Missile Defense Agency as an addressee on all missile defense-related LOR Advisories.

8. Chapter 5, Figure C5.F2., Note 11. Transportation and Services, paragraph H. – revise to reflect language used in Table C5.T5., Letter of Offer and Acceptance Notes, Transportation and Services Note, Note Text H.

9. Chapter 5, Table C5.F3. Section 2.2.3 – revise as shown by italics:

2.2.3 for internal security, individual self-defense, *preventing or hindering the proliferation of weapons of mass destruction and the means of delivering such weapons*, or civic action, if sections 2.2.1 and 2.2.2 are inapplicable.

10. Chapter 5, Table C5.T5., Advanced Medium-Range Air-to-Air Missiles (AMRAAM) Classified Defense Articles Note – revise paragraph f. of the note to read:

f. If the purchaser proposes to take delivery and custody of classified defense articles in the United States and use its own facilities and transportation for forwarding the shipment to the purchasing country, a Transportation Plan, as outlined in the Security Assistance Management Manual, Chapter 3, is required. Further, the purchaser agrees to notify the USG of any changes made to their portion of the Transportation Plan. If the plan is not received or is not approved, the provisions of paragraphs d and e above will apply.”

11. Chapter 5, Table C5.T5. – add an LOA note for FMS Credit (Non-Repayable) cases and/or LOAs that transfer Grant Excess Defense Articles (EDA) regarding the requirement to comply with the Cargo Preference Act:

Note Name	Note Usage*	Note Text
Cargo Preference Act	<p>Mandatory for LOAs when the term of sale is FMS Credit (Non-Repayable) and/or for LOAs that transfer Grant Excess Defense Articles (EDA).</p> <p>Mandatory for Amendments and Modifications when the term of sale is FMS Credit (Non-Repayable) and/or for Amendments or Modifications that transfer Grant EDA.</p> <p>See Chapter 7, paragraph C7.12.</p>	<p>“All items transferred under Section 516 of the FAA or purchased with Foreign Military Financing (FMF) Credit (Non-Repayable) that are transported by ocean carriers must comply with the U.S. Cargo Preference Act. Recipient countries must use U.S. flag vessels for the shipment of all FAA Section 516 materials or materials purchased with FMF Credit (Non-Repayable) unless the Maritime Administration (MARAD) grants a non-availability waiver or DSCA grants a general or security waiver. MARAD will assist in working with the recipient country to determine availability of U.S. vessels from the port of shipment to the delivery port in the recipient country. Shipment options, utilizing U.S. flag exclusively, or in conjunction with a foreign flag carrier for a portion of the route, may be proposed by MARAD. In addition, MARAD will assist in monitoring compliance with the U.S. Cargo Preference Act.”</p>

12. Chapter 5, Table C5.T5., – revise the first paragraph and paragraphs b. and h. as follows and add paragraph k. to the LOA note for Javelin Physical Security And Accountability Plan.

“Purchaser agrees to adhere to the following security requirements associated with the Javelin Missile System. The Office of the Provost Marshal General, Army Physical Security (DAPM-MPD-PS), U.S. Army may approve modification of specified requirements to meet indigenous conditions.

b. The Javelin Command Launch Unit (CLU) – The purchaser shall ensure that the Javelin CLU is accorded Category III protection as addressed in DoD 5100.76-M (current revision), “Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.” U.S. Army representatives shall be allowed to verify security measures and procedures established for these requirements.

h. Damaged/Expended Materiel: The U.S. Army shall be notified immediately to determine disposition of damaged Javelin missile rounds. When Javelin missile rounds are expended, the purchaser shall provide certification by serial number to the SAO with verification by a U.S. Army representative whenever possible.

k. Demilitarization/Disposal: At the end of their useful life, Javelin missile rounds and CLUs should be demilitarized or disposed of using an FMS LOA. If done in-country, the SAO must approve the purchaser’s plans and ensure compliance with U.S. standards. The purchaser shall use guidance provided in DoD 4160.21-M-1 (current version) or purchase technical assistance from the U.S. Army or the Defense Reutilization and Marketing Service. The transfer of demilitarized Javelin missile rounds or CLUs to a private entity, requires approval of the U.S. Government.”

13. Chapter 5, Table C5.T5., – revise both notes on Man-Portable Air Defense Systems to change the Office of the Deputy Chief of Staff for Operations and Plans (DAMO-ODL-S) to the Office of the Provost Marshal General, Army Physical Security (DAPM-MPD-PS).

14. Chapter 5, Table C5.T5., – revise the LOA note for Night Vision Devices

Note Name	Note Usage*	Note Text
Night Vision Devices (NVDs) Physical Security and Accountability	<p>Mandatory for LOAs for sales of NVDs, image intensifier tubes, or other NVD spare parts.</p> <p>Mandatory for Amendments and Modifications that add NVDs, image intensifier tubes, or other NVD spare parts to a case.</p> <p>Wording may vary – The Deputy Under Secretary of Defense for Technology Security Policy and/or the Defense Security Cooperation Agency will provide specific conditions, which may require changes to the standard note for each NVD transfer. These changes will be incorporated into the LOA note as written in the signed authorization granting the exception to policy.</p>	<p>“A. The purchaser agrees to secure the Night Vision Devices (NVDs) transferred by the U.S. Government (USG) against loss, theft, or unauthorized access, and to perform routine inventory checks. The purchaser agrees to provide the [insert SAO office] and/or other appropriate USG representatives a written physical security and accountability control plan within 30 days of acceptance of this offer. Inventory and accountability records maintained by the purchaser shall be retained for at least one year and made available for review upon USG request. Upon request, the USG shall be permitted to conduct an inspection and inventory of the devices listed in this offer by serial number. In case of the destruction, loss, theft, or unauthorized access of any NVDs listed in this offer, the purchaser agrees to report the incident immediately to the USG. The purchaser agrees to provide a written report with details of the incident within 30 calendar days to the USG. This report will include the steps being taken both to recover the equipment (if applicable) and to prevent recurrence.</p> <p>B. To assist in the development of purchaser's physical security and accountability control plan, the following minimum measures, are included as recommendations:</p> <ul style="list-style-type: none"> i. <u>Physical Security</u>: When not issued for use, the unit commander will provide NVD controlled-access, double barrier protection. Examples of double barrier protection include: a locked, built-in or free-standing steel container, which is secured to a locked or guarded building, enclosed van, trailer or armored vehicle; a locked steel cage or vault secured in a locked or guarded structure. When in use, individuals issued NVDs will secure the devices and be responsible for maintaining control of the devices at all times. NVDs may be secured inside a locked, enclosed van, trailer, or armored vehicle if these vehicles remain under constant surveillance. ii. <u>Accountability</u>: While not issued for use, the unit commander or designated representatives will conduct monthly 100% physical count inventories and quarterly 100% inventories by serial number of the NVD. Records of these inventories will be kept for one year. While issued for use, the unit commander or designated

Note Name	Note Usage*	Note Text
		representatives will perform a daily visual inventory of the NVD. C. The Deputy Under Secretary of Defense for Technology Security Policy and Counterproliferation authorized this transfer on [insert date].”

15. Chapter 5, paragraph C5.6.4.2. - revise as follows:

C5.6.4.2. Classified Data. If any data are classified, the documents are marked with the required level of classification. Each paragraph is marked with the required classification level and the “classified by” and “declassify on” data are shown. The Offset Certificate remains classified (see paragraph C5.6.5.5.).

16. Chapter 5, Figure C5.F11. Advance and/or Statutory Notification Data, paragraph d.
(1) – remove the phrase “(Refer to Appendix 1 for the approved MDE List)”

17. Chapter 5, paragraph C5.6.7.1.2. - revise as follows:

C5.6.7.1.2. DSCA Prepares Notification. Upon receipt of the data, DSCA prepares the required notification documents, coordinates with the DoS, and submits the notification to Congress. DSCA assigns a DSCA Transmittal Number on each statutory notification, which identifies the year and sequential number of the transmittal (e.g., 03-30). This number must be included on the LOA and all subsequent Amendments and Modifications. When the notification is submitted to Congress, DSCA provides the DSCA Transmittal number and a copy of the Congressional transmittal letter(s) to the Implementing Agency. After receipt of the transmittal number, the Implementing Agency can provide a draft LOA to the purchaser.

18. Chapter 5, paragraph C5.6.7.1.5. - revise as follows:

C5.6.7.1.5. After Expiration. Upon expiration of the statutory 15 or 30 day review period and provided that Congress has not enacted a joint resolution objecting to the proposed sale, the LOA document may be coordinated, countersigned, and offered to the purchaser. AECA, section 36(f) (reference (c)) requires the publication of the full-unclassified text of each numbered certification submitted pursuant to subsection (b) and each notification of a proposed commercial sale submitted under subsection (c). DSCA posts information regarding major arms sales notifications to Congress on its web page.

19. Chapter 6, paragraph C6.3.7.7. - revise as follows:

C6.3.7.7. Contingent Fees for Commercial Contracts. Contingent fees may not be funded with Foreign Military Financing (FMF) funds.

C6.3.7.7.1. FMF Credit Non-Repayable. In a certification to DSCA (Direct Commercial Contracts), the contractor must disclose contingent fees for

contracts financed with FMF Credit Non-Repayable funds. It is the responsibility of the contractor to prove that payments of any contingent fees are not financed with FMF Credit Non-Repayable funds.

C6.3.7.7.2. FMF Credit Repayable. In a certification to DSCA (Direct Commercial Contracts), the contractor must disclose contingent fees for contracts financed with FMF Credit Repayable funds. Contingent fees in direct commercial contracts financed with FMF Credit Repayable funds must be limited to \$50,000 per contract for countries other than those specifically listed in the DFARS (reference (al)). It is the responsibility of the contractor to prove that payments of any contingent fees are not financed with FMF Credit Repayable funds.

20. Chapter 6, paragraph C6.4.10.8. - add the following sentence to the end of the paragraph:

GFE/GFM items purchased under the auspices of an FMS case are processed under normal SDR guidelines.

21. Chapter 6, paragraph C6.7.2.1.2. - revise as follows:

C6.7.2.1.2. Price Increases During Case Closure. Price increases discovered during case closure (i.e., after the case becomes supply/services complete) shall be validated during final reconciliation. For FMS cases that are in the closure process, the following rules apply:

C6.7.2.1.2.1. If expenditures exceed FMS case ordered values, a Modification or Amendment is required. The majority of actions related to expenditures reconciled prior to closure are addressed on a Modification. Contact DSCA (Policy, Plans and Programs Directorate) for questions regarding Amendment or Modification usage.

C6.7.2.1.2.2. If the case is anticipated to close and expenditures do not exceed ordered value, the case may be closed without doing an Amendment or Modification.

C6.7.2.1.2.3. Refer to DoD 5105.65-M, FMS Case Reconciliation and closure Manual (RCM) (reference (dg)) for comprehensive FMS case reconciliation and closure policies.

22. Chapter 6, paragraph C6.7.2.3. – revise as follows:

C6.7.2.3. Concurrent Modifications. Case value may be transferred between two or more cases by concurrent Modifications. Concurrent Modifications are prepared in DSAMS and identified using the DSAMS Concurrent Funding Tab under Case Detail to record the transfer from or to cases and amounts. DSAMS automatically relates the documents and prints the correct statements in accordance with C6.7.2.3.6. This process ensures that all the documents are

implemented at the same time. The following conditions must be met for valid concurrent Modifications:

23. Chapter 7, Table C7.T3. – add the following bullet in the Military Department (MILDEP) responsibility block:

- Develops the Transportation Plan (for shipments of classified materiel) in coordination with the purchaser.

24. Chapter 8, Table C8.T2. – add the following responsibilities to the organizations:

MILDEPs and Implementing Agencies	<ul style="list-style-type: none"> - Provide delivery records with serial numbers of all Enhanced EUM items to applicable SAOs and host nations, and input into the Security Cooperation Information Portal (SCIP) SAO Toolbox/EUM. - Promulgate policy.
Combatant Commands	<ul style="list-style-type: none"> - Develop and promulgate EUM policy and Standard Operating Procedures (SOPs) and/or EUM Compliance plans and send via e-mail to EUMHELP@dsc.mil.
Security Assistance Organizations (SAOs) (including Defense Attaché Offices and U.S. Diplomatic Missions with Security Assistance responsibilities)	<ul style="list-style-type: none"> - Develop and promulgate country-specific EUM policy and Standard Operating Procedures (SOPs) and/or EUM Compliance plans and send via e-mail to EUMHELP@dsc.mil. - Immediately reports the destruction, loss, theft, or unauthorized access of any Enhanced EUM items listed in an offer to DSCA (Policy, Plans, and Programs Directorate), Department of State (PM/RSAT), Combatant Command, Joint Chiefs of Staff (J-5), and Defense Technology Security Administration (for NVDs only).

25. Chapter 8, Table C8.T4. – revise the Description block of Event 8 as shown in italics:

- SAO acknowledges receipt of the message *via e-mail or front channel cable* and identifies POCs for each area to be evaluated (to include names, phone numbers and email addresses).
- SAO conducts final coordination with host nation for site clearance for EUM Tiger Team members.
- SAO confirms host nation’s preparation for the EUM Tiger Team Visit.
- *SAO provides a draft itinerary and a country clearance approval.*

26. Chapter 8, paragraph C8.3.7. – revise as follows:

C8.3.7. Night Vision Devices (NVDs). For each FMS offer of NVDs, the Implementing Agency adds a note to the LOA that identifies physical security and accountability requirements. See Chapter 5, Table C5.T5. for exact note wording. The Implementing Agency will include the DSCA NVD Approval memorandum as supporting documentation to the LOA.

C8.3.7.1. NVD Requirements. The Implementing Agency provides a list of serial numbers for all NVD devices and image intensifier tubes to the SAO and DSCA; provides the anticipated and actual shipping date of the items to the SAO and DSCA; provides the NVD supplier with all technical provisos, and provides a copy of the signed LOA to the Defense Technology Security Administration (DTSA). Prior to conducting an inventory, the USG representative ensures that the requirements specific to NVDs are communicated to the host nation (normally through the SAO).

The host nation must be prepared to show the NVD storage facility to the EUM team and all NVDs must be removed from their containers and ready for inspection. The host nation must have a copy of its physical security and accountability control plan and inventory documents available for review. The SAO reviews and maintains a copy of the purchaser's physical security and accountability control plan, forwards a copy of this plan to DSCA, and maintains the serial number list of all NVD devices and image intensifier tubes transferred to the host country.

C8.3.7.2. NVD Inventories. Following delivery of the NVDs, the Combatant Command (or USG representative) conducts a 100% inventory by serial number. The results of this inventory are reported to DTSA and DSCA (Policy, Plans, and Programs Directorate). The SAO assists with or conducts USG inventories and inspections as required.

C8.3.7.3. NVD Destruction, Loss, Theft, or Unauthorized Access. In case of the destruction, loss, theft, or unauthorized access of any NVDs transferred by the USG, the purchaser agrees to report the incident immediately to the SAO. The SAO immediately reports the incident to DSCA (Policy, Plans, and Programs Directorate), DTSA, Combatant Command, Joint Chiefs of Staff (J-5), and the Department of State and provides a written report within 15 days.

27. Chapter 9, paragraph C9.4.3.4. – add the following sentence to the end of the paragraph:

After DSCA approval is obtained, the MILDEP forwards a request (with a copy of the DSCA approval) to DFAS Denver to process the payment from the attrition account to the appropriate recipient(s).

28. Chapter 9, paragraph C9.6.1.2.2. – revise the first sentence as shown in italics:

NAMSA provides an information copy *of the LOR* to the U.S. Mission to NATO when an administrative surcharge waiver is requested.

29. Chapter 9, Table C9.T5. – change the name of the first agreement in the table to read:

NATO (NATO Command or NATO Agency administered program funded by the NATO Security Investment Program (NSIP) (formerly infrastructure))

30. Chapter 9, Table C9.T10. footnote – revise as follows:

*If the case is partially funded by FMS Credit (Non-Repayable) and/or MAP Merger Funds, and not authorized for cash flow financing, the initial deposit must include all FMS Credit (Non-Repayable) and/or MAP Merger Funds up to \$5M regardless of the case value.

31. Chapter 9, paragraphs C9.9.3.1. and C9.9.3.2. – revise the paragraphs as shown in italics:

C9.9.3.1. Payment Schedule Revision Format for Amendments. Amendments use the payment schedule format in Table C9.T11. When either the Term of Sale is “Cash With Acceptance,” or the case is fully funded with FMS Credit (Non-Repayable) and/or MAP Merger, the total *case* value is less than \$5M, and cash flow financing is not authorized, the Amount Due with Amendment Acceptance *shall* equal the increase in case value.

C9.9.3.2. Payment Schedule Revision Format for Modifications. Modifications use the payment schedule format in Table C9.T12. When either the Term of Sale is “Cash With Acceptance,” or the case is fully funded with FMS Credit (Non-Repayable) and/or MAP Merger, the total *case* value is less than \$5M, and cash flow financing is not authorized, the next quarterly payment due *shall* equal the increase in case value.

32. Chapter 10, Table C10.T3. – in the Living Allowance Rate column move the phrase “(NTE maximum lodging authorized in JFTR)” immediately after “Actual cost of lodging”.
33. Chapter 11, paragraphs C11.5.11.and C11.5.12. – in both paragraphs delete “February 1998” and insert “March 10, 2004”.
34. Appendix 1 – updated to include latest additions and revisions to the Nonrecurring Cost Recoupment Charges for Major Defense Equipment.
35. Appendix 2, paragraph AP2.2.1. - replace as follows:

AP2.2.1. The Defense Security Cooperation Agency (DSCA) is responsible for approving items for inclusion in the transportation cost look-up table. Annually, DSCA disseminates the table to the DoD Components. The Defense Financial Accounting Service (DFAS) Denver is responsible for application of the look-up table rates, when applicable, to DD Form 1517 billings by the DoD Components for specific items on the look-up table. The DoD Components are responsible for:
36. All chapters - update references to other paragraphs as appropriate.