



DEFENSE SECURITY COOPERATION AGENCY

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08 JAN 2010

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
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DIRECTOR, DEFENSE THREAT REDUCTION
AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-
INTELLIGENCE AGENCY
DEPUTY DIRECTOR FOR INFORMATION
ASSURANCE, NATIONAL SECURITY AGENCY

SUBJECT: Assignment of Code “G7” for Fiscal Year (FY) 2010 Section 1206 Global
Train and Equip Programs, DSCA Policy 10-04, [SAMM E-Change 157]

REFERENCE:

DSCA Memorandum, dated December 23, 2009, Subject: Guidance for
Development of FY10 Section 1206 Programs

The referenced memorandum contains procedural guidance for documents pertaining to the FY2010 section 1206 program. This policy memorandum augments the referenced guidance regarding preparation of FY2010 section 1206 Letters of Offer and Acceptance (LOAs). Effective immediately, SAMM Table C4.T2., Country and International Organization Codes and FMS Eligibility, is updated to add code “G7” to track funds provided for FY2010 section 1206 programs authorized under the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84) and appropriated under

the Department of Defense Appropriations Act, 2010 (P.L. 111-118). These funds will remain available for obligation until September 30, 2010.

As a matter of policy, all Pseudo LOA documents using the “G7” code should be expended, as well as fully reconciled and closed, on or before July 31, 2015.


The Defense Security Cooperation Agency must authorize and will assign use of this code for Pseudo LOA documents. The following information applies:

Organization	FMS Code	Combatant Command \\1	Regional Grouping \\2	FMS/ AECA Eligible \\3	Accel. Case Closure Eligible
National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84) and Department of Defense Appropriations Act, 2010 (Public Law 111-118), for section 1206 programs	G7	NR	NR	AECA Only	N/A

This change will be included in the automated version of the SAMM found on the DSCA Web Page as SAMM E-Change 157.

Attached are specific LOA notes and instructions for Section 1206 Programs funded with appropriations available to the Department of Defense for obligation in FY2010.

If you have any questions concerning this guidance, please contact Mr. Kidd Manville, DSCA-STR/POL, kidd.manville@dscamilitary.com, (703) 604-6594.

 1/8/2010
Scott Schless
Principal Director
Strategy

Attachment:
As stated

Instructions for Preparing Pseudo Letters of Offer and Acceptance (LOAs)
Section 1206 Programs (P.L. 111-84/111-118), FY2010

Contracts to carry out a Pseudo LOA may not rely on title 10 United States Code (U.S.C.) section 2304 (c) (4), implemented by the Federal Acquisition Regulation (FAR) 6.302-4, International Agreement (directed source), as authority to award using other than full and open competition. Any sole source purchases must be justified and approved in accordance with other statutory authority found in title 10 U.S.C. using procedures applicable to United States Government appropriated-funded purchases.

Instructions for Preparing P.L. 111-84/111-88 Pseudo LOAs	
1. Case Identifier. DSCA (Strategy Directorate) will assign a case identifier composed of country code (e.g., "G7" for Section 1206 Programs), Implementing Agency code of the DoD Component providing the support. Implementing Agencies may request unique designators to meet their requirements as identified in SAMM Figure C5.F5.	
2. Nickname Field. The country/organization receiving the support and the Pseudo case authority and the text "(Non-FMS)" (e.g., Bandaria, P.L. 111-84/111-118, Section 1206, (Non-FMS)) are identified in the "nickname" field on the Pseudo LOA.	
3. Purchaser's Reference Field. Include the following statement below in the Purchaser's Reference Field of the Customer Request: "Based on the written request pursuant to Section 1206 of P.L. 111-84/111-118 from [insert Program Originator's name (e.g., Department of State, Combatant Commands, etc.)] to the Defense Security Cooperation Agency, dated [insert date of the written request]. The legal authority is section 1206, P.L. 111-84/111-118. See Note [insert LOA note number for Authority for Sale note] for additional information.	
4. Terms of Sale Field. The Term of Sale for Section 1206 Program Pseudo LOAs is Cash with Acceptance, Public Law 111-84/111-118.	
5. Authority Field. Insert "1206 P.L.111-84/111-118," (in DSAMS only).	
6. Authority Fiscal Year. Insert "FY 2010" (in DSAMS only).	
7. Purchaser Signature Field (Customer Signatory Name on Distribution Tab of Case Detail). Insert the authority and the statement that no purchaser signature is required (e.g., P.L. 111-84/111-118 (Non-FMS - No Purchaser Signature Required)).	
8. Purchaser Mailing Address. Insert "Department of Defense".	
9. MASL. Use valid existing MASLs for items being transferred or contact DSCA to approve new MASLs, if required.	
10. Delivery Term Code. For National Defense Authorization Act, 2010 (P.L. 111-84) and Department of Defense Appropriations Act, 2010 (P.L. 111-118) Pseudo LOAs, use the Delivery Term Code (DTC) for Defense Transportation System that will provide shipment all the way into recipient country. This is generally accomplished through DTC 7, unless DTC 9 suffices.	
11. Offer Expiration Date. The Offer Expiration Date on the LOA should be no later than the last date the funds are required to ensure they are obligated prior to the funds expiring.	
12. Benefitting Country. Various	

LOA Notes for P.L. 111-68/111-88 Pseudo LOAs		
Note Name	Note Usage	Note Text
Authority for Sale – Section 1206 of P.L. 111-84/111-118 Programs	Mandatory for all programs under Section 1206 of P.L. 111-84/111-118 Pseudo LOAs for FY2010.	“This sale is made under the authority of section 1206 of P.L. 111-84/111-118 and the Arms Export Control Act (AECA). Any reference in this Letter of Offer and Acceptance to the United States Arms Export Control Act, to defense articles, and to defense services shall be construed instead to be a reference to P.L. 111-84/111-118 and the United States AECA. Any reference in this LOA to “purchaser” shall be construed as a reference to the Department of Defense.”
Case Closure – Section 1206 of P.L. 111-84/111-118 Programs	Mandatory for all programs under Section 1206 of P.L. 111-84/111-118 Pseudo LOAs for FY2010.	“This case must be fully reconciled and closed by July 31, 2015.”
Funds, Purpose, Availability and Amount – Section 1206 of P.L. 111-68/111-118 Programs	Mandatory for all programs under Section 1206 of P.L. 111-84/111-118 Pseudo LOAs for FY2010.	<p>“The funds financing this Pseudo Letter of Offer and Acceptance (LOA) are expiring funds and are subject to all the requirements and restrictions under the heading of section 1206 of P.L. 111-84/111-118. The funds provided are in support of authority to build the capacity of foreign military forces and carry the same time, purpose, and availability restrictions associated with fund source 9700100, DoD Operations and Maintenance (O&M) or other funds that may be available for use in FY2010.</p> <p>a. Failure to obligate FY2010 O&M funds during the period of availability ending on September 30, 2010 will render them unavailable for new obligations after that date.</p> <p>b. All funds must be expended on or before July 31, 2015.</p> <p>c. Total funds available for expenditure against this Pseudo LOA are limited to the value of [insert dollar value].</p> <p>d. Amendments or Modifications to this Pseudo LOA are only authorized with DSCA written approval.”</p>

Nonrecurring Costs – USG Appropriation	<p>Mandatory for LOAs when an NC charge has been established, but the case is financed by a USG appropriation.</p> <p>Mandatory for Amendments or Modifications when the case is financed by a USG appropriation and (1) lines items are added and the NC charge applies to the new lines; or (2) quantities are increased on line items for which NC charges have been established. See Chapter 9, C9.4.5.</p>	<p>“Nonrecurring Costs (NC) have been established for line item(s) [insert line item numbers] of this case. These charges are not included on this case because the case is financed with a USG appropriation.”</p>
Title and Custody Transfer - Section 1206 of P.L. 111-84/111-118 Programs	<p>Mandatory for all programs under Section 1206 of P.L. 111-84/111-118 Pseudo LOAs for FY2010.</p>	<p>“The U.S. Government will retain title to and custody of the defense articles to be transferred under the authority of section 1206 of P.L. 111-84 until delivery to the recipient country. A designated U.S. Government representative will confirm and document delivery of the P.L. 111-84/111-118 program materiel to an authorized recipient country representative or agent. This U.S. Government representative will keep documentation showing when, where, and to whom delivery was made and will provide a copy of this documentation to the [insert U.S Army Security Assistance Command, Navy International Programs Office, or Deputy Under Secretary of the Air Force/ International Affairs].”</p>