



DEFENSE SECURITY COOPERATION AGENCY

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WASHINGTON, D.C. 20301-2800

15 MAR 2012

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

SUBJECT: Revision of DSCA Policy Regarding Expenditure of Foreign Military Sales (FMS) Administrative Funds for Pre-Letter of Request (LOR) and Case Development Activities, DSCA Policy Memo 12-12, E-Change 199

This memorandum revises Defense Security Cooperation Agency (DSCA) policy regarding Implementing Agency (IA) expenditure of FMS administrative surcharge funds for pre-LOR and case development activities, as contained in the Security Assistance Management Manual (SAMM) Table C5.T6. In response to concerns regarding the increasing gap between the cost of pre-LOR activities and the level of expenditure permitted by the SAMM, DSCA worked with MILDEP representatives to develop a revised policy that would more effectively balance IA requirements to provide this critical support with the need to ensure efficient use of FMS administrative surcharge funds.

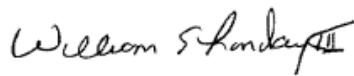
Pre-LOR activities include obtaining information required to assist our international partners in selecting those defense articles, training, and services that will build partner capacity while also supporting U.S. acquisition and international security objectives. These activities include meetings, briefings, equipment demonstrations, and when necessary, efforts required to respond to Requests for Proposal (RFP) and participate in international competitions.

Presently, the SAMM limits IA expenditure of FMS administrative surcharge funds for pre-LOR activities to \$25,000 or ¼ work-year (whichever is greater) for each program. However, IAs are increasingly faced with situations in which an FMS customer expresses interest in advanced U.S. military systems while lacking the ability to perform the necessary analysis to identify basic requirements. Without a rudimentary understanding of requirements, FMS customers are often reluctant to submit a formal LOR or invest in a technical assistance case and instead rely upon multiple informal requests for information. If the customer submits an LOR, the LOR may be un-informed and too vague to be useful in developing an LOA, requiring IAs to conduct follow-up consultations, requirements analysis, and site surveys as part of case development activities, which are also restricted to \$25,000 or ¼ work year.

The attached SAMM E-Change provides IAs with additional flexibility in executing pre-LOR activities to assist FMS customers in defining requirements in sufficient detail to produce complete LORs, thus reducing the need for extensive definitization work and expense during the case development phase of the FMS process. It also puts more definitive procedures in place to ensure DSCA can provide adequate oversight of pre-LOR expenditures. A summary of changes follows:

- Establishment of an overall 8% limit (as a percentage of total FMS administrative surcharge funds allocated to the IA in the same fiscal year) to IA FMS administrative surcharge funds that may be expended on pre-LOR activities. This limit is consistent with information currently provided in annual DSCA POM guidance. Requests for an exception to policy to exceed the 8% limit on IA expenditure of FMS administrative surcharge funds on pre-LOR activities will require the approval of the Director, DSCA.
- Replacement of the \$25,000 thresholds on pre-LOR and case development activities with a requirement that IAs notify DSCA of expected pre-LOR and case development efforts during the annual POM and budget process. IAs must then notify DSCA when there are any changes to information presented in the budget process that will result in a new or increased cost greater than 1% of the total DSCA-approved IA pre-LOR budget, or when case development costs associated with any effort are expected to exceed \$1,000,000.

The attached policy changes are effective immediately. These changes will be included in the on-line version of the SAMM found on the DSCA Web Page as SAMM E-Change 199. Questions regarding this policy should be directed to Mr. Clayton Holt, DSCA/STR/POL at (703) 601-3658 or e-mail: clayton.holt@dca.mil or Mr. Glenn Anderson, DSCA/DBO/FPIO at (703) 602-2006 or email: glenn.anderson@dca.mil.



William E. Landay III
Vice Admiral, USN
Director

Expenditure of FMS Administrative Surcharge Funds for Pre-LOR Activities
DSCA Policy Memo 12-12, SAMM E-Change 199

The following paragraphs are added to section C4.6. GENERAL FMS FINANCIAL POLICIES

C4.6.2. Pre-LOR and Case Development Activities. Pre-LOR activities are those necessary to assist the purchaser in defining requirements in sufficient detail to produce a complete LOR. A complete LOR is one that contains all of the information necessary for the Implementing Agency (IA) to develop an LOA response. Pre-LOR activities include research and analysis, meetings, briefings, responses to requests for proposals and participation in international competitions, equipment demonstrations, and travel directly related to those efforts. Case development activities are those required to prepare LOAD quality data after an LOR is complete. Case development activities are complete when the LOA has been signed by the purchaser.

C4.6.2.1. Priority to Case Execution. IAs must make prudent choices when expending FMS administrative surcharge funds. In budgeting FMS administrative surcharge funds, priority should be placed upon providing support to IA case execution activities.

C4.6.2.2. Limits on Pre-LOR Expenditures. No more than 8% of the total FMS administrative surcharge funds allocated to an IA in a fiscal year may be expended on pre-LOR activities. Requests for an exception to policy to exceed the 8% limit on IA expenditure of FMS administrative surcharge funds on pre-LOR activities require DSCA Director approval. Requests for an exception to policy must include an accounting of expended and remaining funds and priorities for the remainder of the year.

C4.6.2.3. Pre-LOR and Case Development Notifications to DSCA. IAs will notify DSCA Business Operations and Strategy Directorates of planned pre-LOR and case development activities in the annual FMS administrative funds POM and budget process. Thereafter, IAs must notify DSCA Business Operations and Strategy Directorates when:

C4.6.2.3.1. There are any changes to information presented in the budget process and the change will result in a new or increased cost greater than 1% of the total IA pre-LOR budget approved by DSCA.

C4.6.2.3.2. Expenditure of FMS administrative surcharge funds for case development activities associated with a potential FMS case (to include groups of closely related cases) are expected to exceed \$1,000,000.

C4.6.2.4. FMS administrative surcharge funding associated with these thresholds is all-inclusive (civilian pay, contracts, travel, etc.) and must be reported. Notifications should include an analysis of IA capability to fund other pre-LOR/case development efforts for the remainder of the current fiscal year. A notification memo template is provided at figure C4.F1.

C4.F1. Notification Memo Template

MEMORANDUM FOR: PRINCIPAL DIRECTOR FOR STRATEGY, DEFENSE
SECURITY COOPERATION AGENCY
PRINCIPAL DIRECTOR FOR BUSINESS OPERATIONS,
DEFENSE SECURITY COOPERATION AGENCY

In accordance with SAMM C4.6.2.2., [identify MILDEP/IA] is notifying DSCA that we expect pre-LOR [or case development] efforts in support of an anticipated sale of [specific equipment/weapon system] to [specify country] to exceed 1% of our approved pre-LOR budget [or \$1,000,000 for case development]. We estimated we will expend a total of \$_____ on the [specify country and equipment/weapon system] pre-LOR [or case development] effort. Our total FMS administrative surcharge budget for FY_____ is \$_____. This effort represents _____% of our total pre-LOR [or case development] budget.

[Provide a brief description of the effort and your rationale for spending ___% of your budget on this effort. Be sure to include an estimated completion date. Note whether more than one FY budget will be used to pay the associated costs.]

[Provide any additional information to support this request such as: what percentage of the IA total budget is in pre-LOR and case development? Will finds be transferred from another PE to cover these costs? Note whether there will be any additional/follow-on requests for pre-LOR or case development funds in support of this effort. Provide an assessment of the likelihood these efforts will result in an accepted case, etc.]

Signature block

C4.6.2.5. DSCA will reply to IA notifications within ten (10) working days if additional information or clarification is required.

C4.6.2.6. Use of Appropriated Funds. Should IAs have additional pre-LOR and case development efforts that are not funded in the FMS administrative funds budget, on an exceptional basis and at the discretion of the IA, in accordance with AECA Section 43(a), these efforts may be funded with funds available to the IA for operations. AECA Section 43(a) provides: "Funds made available under other law for the operations of United States Government agencies carrying out functions under this Act shall be available for the administrative expenses incurred by such agencies under this Act." IA funds for operations may not be used to confer a subsidy on the foreign customer in violation of AECA sections 21 and 22. FMS administrative funds or case funds that subsequently become available may be used, as appropriate, to reimburse the IA funds.

Pre-LOR and case development portions of SAMM Table C5.T6, “Case-Related Manpower Functions and Funding Source”, are revised as follows:

Table C5.T6. Case-Related Manpower Functions and Funding Source

Row #	Core Function(s)	Program Element(s)	Activities	Funding Source (Total value for services, including per diem, salary, travel)	
				FMS Admin Surcharge (Standard Level of Service)	FMS Case
1	Pre-Letter of Request (LOR)	1, 4	<p>Pre-LOR work to support a specific potential FMS program. This includes, but is not limited to, efforts to:</p> <ul style="list-style-type: none"> • Identify defense requirements • Provide system and platform information • Equipment demonstrations • Partner with industry on potential FMS programs • Respond to requests [e.g. Requests for Proposal (RFPs)] regarding international competitions 	<p>No more than 8% of the total FMS administrative surcharge funds allocated to an Implementing Agency (IA) in a fiscal year may be expended on pre-LOR activities. <i>(see SAMM C4.6.2.1 for additional detail).</i></p>	<p>If pre-LOR work for a case exceeds 1% of the IA annual pre-LOR budget approved by DSCA and an FMS case results from this activity, then the FMS case must refund the FMS administrative surcharge budget from a services line on that case.</p> <p>If no FMS case results from this activity, the FMS administrative surcharge budget will not receive a refund.</p> <p>IAs must notify DSCA Business Operations and Strategy Directorates when unforecasted pre-LOR efforts will – or are expected to – exceed 1% of the IA annual pre-LOR budget for any effort toward a potential case (see SAMM C.4.6.2.2. for additional information).</p>
2	Pre-Letter of Request (LOR)	1, 4	<p>Site surveys, logistics support conferences, case planning meetings, etc., necessary to delineate/definitize purchaser requirements prior to a request for a Letter of Offer and Acceptance (LOA).</p>	<p>No more than 8% of the total FMS administrative surcharge funds allocated to an Implementing Agency (IA) in a fiscal year may be expended on pre-LOR activities. <i>(see SAMM C4.6.2.1 for additional detail).</i></p>	<p>The cost of these activities may initially be funded with FMS administrative surcharge funds, however, whenever possible, an FMS case should be written or an existing case amended to cover the costs prior to performing the services (rather than funding from the FMS administrative surcharge).</p> <p>IAs must notify the DSCA Strategy and Business Operations Directorates when unforecasted pre-LOR costs will – or are expected to – exceed 1% of the IA annual Pre-LOR budget approved by DSCA for</p>

Row #	Core Function(s)	Program Element(s)	Activities	Funding Source	
				(Total value for services, including per diem, salary, travel)	
				FMS Admin Surcharge (Standard Level of Service)	FMS Case
					<p>any effort toward a potential case (see SAMM C.4.6.2.2 for additional information).</p> <p>If an FMS case results, then the FMS case must refund the FMS administrative surcharge budget from a services line on that case.</p> <p>If no FMS case results from this activity, the FMS administrative surcharge budget will not receive a refund.</p>
3	Case Development	10	Preparation of Price and Availability (P&A) Data.	Funded from the FMS administrative surcharge for a single preparation of the P&A document.	<p>P&A data are Rough Order of Magnitude (ROM). If the response requires preparation of reports or other documentation; travel to meetings; etc. then it does not qualify as ROM data. If more than ROM data is required, an LOA should be prepared--see Row #4.</p> <p>If the purchaser requests multiple iterations of a specific request for P&A (ROM) data that requires significant workload (25% or more resources to complete than it took for the original response) to complete, work to prepare this data should be charged to the customer as a services line on an FMS case. This includes requests for multiple iterations based on different quantities, condition, inclusion/exclusion of specified costs, etc.</p>
4	Case Development	10	Development and preparation of LOA documents to include LOAs, Amendments, Modifications. This includes, but is not limited to: (1) Development of LOA pricing data and	Funded from the FMS administrative surcharge for a single preparation of the LOA document.	If the purchaser requests multiple versions of an LOA, Amendment, or Modification, that requires significant workload (25% or more resources to complete than it took for the original response) to complete, this work should be charged to the customer as

Row #	Core Function(s)	Program Element(s)	Activities	Funding Source	
				(Total value for services, including per diem, salary, travel)	
				FMS Admin Surcharge (Standard Level of Service)	FMS Case
			<p>notes;</p> <p>(2) Entry of case information into the Defense Security Assistance Management System (DSAMS);</p> <p>(3) Coordination of documents;</p> <p>(4) Quality control to ensure legal, financial, and policy compliance;</p> <p>(5) Participation in case-writing related meetings;</p> <p>(6) Preparation of LOA document package information to include:</p> <ul style="list-style-type: none"> • Manpower and Travel Data Sheet • Financial Analysis Worksheet (SDAF only) • MTCR review results • Review of waiver information • Checklists <p>(7) Working with the purchaser to ensure document meets requirements – to include providing DSAMS reports, Manpower Travel and Data Sheet (MTDS) as needed.</p>		<p>a services line on an FMS case (either the proposed new FMS case if the LOA document is accepted; or an existing FMS case if the proposed new FMS case is not accepted. Request assistance from DSCA if unable to determine which FMS case should be charged). This includes requests for multiple iterations based on different quantities, condition, inclusion/exclusion of specified costs, etc.</p> <p>IAs must notify DSCA Business Operations and Strategy Directorates when case development costs will – or are expected to – exceed \$1M for any effort toward a potential case (see SAMM C.4.6.2.2 for additional information).</p>