



**DEFENSE SECURITY COOPERATION AGENCY
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APR 27 2012

**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 FOR
INTERNATIONAL PROGRAMS
DIRECTOR, DEFENSE CONTRACT MANAGEMENT
AGENCY
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE
AGENCY
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE,
NATIONAL SECURITY AGENCY**

**SUBJECT: Defense Federal Acquisition Regulation (DFARS) Procedures, Guidance, and
Information (PGI) Revision for Acquisitions for Foreign Military Sales (FMS),
DSCA Policy 12-18**

REFERENCE: DFARS PGI 225.73

On March 12, 2012 a change to the referenced DFARS PGI for FMS acquisitions was issued (attached). The DFARS PGI revision implements changes to improve the contract documentation process with a goal to limit the number of delays, due to missing or incorrect documentation, in shipping FMS and Building Partner Capacity (BPC) materiel to the purchasing/recipient country.

The PGI change applies to both FMS and BPC programs. BPC programs are implemented using Pseudo Letter of Offer and Acceptance (LOA) documents and FMS cases are implemented using the traditional LOA document. Chapter 15 of the Security Assistance Management Manual (SAMM) dated April 09, 2012 provides BPC program execution guidance.

DSCA requests that the Military Departments and the Defense Logistics Agency use the PGI guidance for future FMS and BPC acquisitions.

If you have any questions concerning this guidance, please contact Mr. Brion Midland, DSCA-STR/POL, brion.midland@dscamail.mil, (703) 601-3672.

Scott Schless

Attachment:
As stated

**Scott R. Schless
Principal Director
For Strategy**

PGI 225.73--ACQUISITIONS FOR FOREIGN MILITARY SALES

(See DFARS [225.73](#), [DFARS/PGI view](#))

PGI 225.7300 Scope of subpart.

(a) The Foreign Military Sales (FMS) acquisition infrastructure is also used to execute cases funded with U.S. appropriated funds under special authority to build international partner capacity. These Building Partner Capacity (BPC) cases are implemented using Pseudo Letter of Offer and Acceptance (LOA) documents.

PGI 225.7301 General.

- (c)(i) Separately identify known FMS requirements and the FMS customer in solicitations.
- (ii) Clearly identify contracts for known FMS requirements by marking “FMS requirement” on the face of the contract along with the FMS customer and the case identifier code.
 - (iii) Ensure that the FMS LOA terms and conditions are incorporated into the signed contract.
 - (iv) Ensure that the shipping terms for any contract of FMS materiel is stated as free on board (FOB) origin.
 - (v) For Pseudo LOAs, ensure that the period of performance in the contract is consistent with the period of availability of appropriated funds, as provided by the financial resource manager.
 - (vi) Consistent with the Defense Transportation Regulations (DTR) 4500.9-R-Part II Cargo Movement <http://www.transcom.mil/dtr/part-ii/> Appendix E, contracting officers shall ensure that contracts involving the acquisition and delivery of FMS material comply with the policies, procedures, packaging, labeling, and documentation requirements specified by the DTR.
 - (vii) For FMS contracts that involve vendor sourced procurement, contracting officers shall require both electronic submission of payment requests in Wide Area WorkFlow (WAWF) or other authorized electronic form and the preparation of a DD 250 as the shipment release document to accompany the shipment.
NOTE: The DD 250 requirements will only continue until the WAWF is revised to include additional shipment, transportation, and customs clearance data provided by the DD 250.
 - (viii) Prior to contract award, contracting officers shall ensure that—
 - (A) A contracting officer’s representative is assigned with detailed point of contact information (email, phone number with international dialing protocols, and physical and mailing address) clearly visible;
 - (B) Unique country requirements are specified in the contract (i.e., additional documentation requirements for use in country customs clearance (Levy Exemption waiver));

- C) Commodity-unique requirements are specified in the contract (i.e., responsibility for obtaining/paying for/affixing active Radio Frequency Identification tags and Transportation Control Number construction/usage); and
- (D) The FMS Transportation Accounting Code is stated in the contract.

PGI 225.7302 Guidance.

For FMS programs that will require an acquisition, the contracting officer will assist the DoD implementing agency responsible for preparing the LOA by—

- (1) Working with prospective contractors to—
 - (i) Identify, in advance of the LOA, any unusual provisions or deviations (such as those requirements for Pseudo LOAs identified at [PGI 225.7301 DFARS/PGI view](#));
 - (ii) Advise the contractor if the DoD implementing agency expands, modifies, or does not accept any requirements proposed by the contractor;
 - (iii) Identify any logistics support necessary to perform the contract (such as those requirements identified at [PGI 225.7301 DFARS/PGI view](#)); and
 - (iv) For noncompetitive acquisitions over \$10,000, ask the prospective contractor for information on price, delivery, and other relevant factors. The request for information shall identify the fact that the information is for a potential foreign military sale and shall identify the foreign customer; and
- (2) Working with the DoD implementing agency responsible for preparing the LOA to—
 - (i) Assist, as necessary, in preparation of the LOA;
 - (ii) Identify and explain all unusual contractual requirements or requests for deviations; and
 - (iii) Assist in preparing the price and availability data.