



DEFENSE SECURITY COOPERATION AGENCY

2800 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2800

11 OCT 2013

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 FOR SECURITY ASSISTANCE, DEFENSE FINANCE
AND ACCOUNTING SERVICE – INDIANAPOLIS OPERATIONS
DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE LOGISTICS INFORMATION SERVICE
DIRECTOR, DEFENSE REUTILIZATION AND MARKETING
SERVICE
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE
AGENCY
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE,
NATIONAL SECURITY AGENCY

SUBJECT: Removal of LOA Note from the Security Assistance Management Manual (SAMM),
Defense Security Cooperation Agency (DSCA) Policy 13-53 [SAMM E-Change
234]

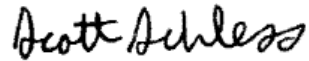
Reference: DSCA Policy 13-26, Changes to Waiver Requirements to Improve the Letter of
Offer and Acceptance (LOA) Development Processing Timelines, August 15, 2013

The purpose of this memorandum is to remove the LOA note “Nonrecurring Costs Not Included Pending Waiver Under Review” from the SAMM Appendix 6. The referenced DSCA Policy 13-26 issued this note so that Nonrecurring Costs (NC) charges could be omitted from the line item unit price(s) in the LOAs while the NC waiver requests are being coordinated for approval.

Upon further review, the DSCA Office of the General Counsel determined that NC charges must be included in the LOAs unless the NC waiver requests were approved. This determination is based on the Arms Export Control Act (AECA) Section 21(e)(1)(B) requirement that sales of defense articles and services “shall include appropriate charges for a proportionate amount of any nonrecurring costs of research, development, and production of major defense

equipment,” and Section 21(e)(2) waiver authorization. SAMM E-change 234 to delete the note is attached. This change is effectively immediately.

If you have questions, please contact Ms. Kathy Ton, DSCA-STR/POL, kathy.ton@dca.mil, (703) 604-6611.



Scott Schless
Principal Director
Strategy

Attachment:
As stated

cc:
STATE/PM-RSAT
AFRICOM
CENTCOM
EUCOM
JFCOM
NORTHCOM
PACOM
SOCOM
SOUTHCOM
TRANSCOM
USASAC
SATFA TRADOC
NAVICP
NETSAFA
AFSAC
AFSAT
MDA
DISAM

Security Assistance Management Manual (SAMM) E-Change 234

Remove from the SAMM Appendix 6 the following note in its entirety, and delete “Nonrecurring Costs Not Included Pending Waiver Under Review” from the LOA Notes Listing:

Note Usage
<p>Mandatory for FMS LOAs when a Nonrecurring Costs charge applies and:</p> <ol style="list-style-type: none">1. The NC charges would normally apply; and2. A waiver has been requested but has not yet been approved/disapproved. <p>Mandatory for Amendments and Modifications when line items are added and an NC charge applies to the new lines and a waiver has been requested but not approved/disapproved; or quantities are increased on line items where an NC charge applies and a waiver has been requested but not approved/disapproved.</p> <p>This note cannot be used if the justification for the waiver is "Loss of Sale", since "Loss of Sale" waivers requests must be approved prior to LOA (or Amendment when items are being added) signature/ acceptance.</p>
References
<p>See Section C9.6.3.</p>
Note Input Responsibility
<p>CWD</p>
Note Text
<p>"Nonrecurring Costs (NC) apply to line item(s) [insert numbers] of this FMS case but are not included within the cost of the line item. The purchaser's request for waiver of NC charges against line items [insert number] is under review and was forwarded to DSCA on [insert date]. If this waiver is not approved, an LOA Amendment or Modification will be prepared to add NC charges to this case."</p>