



DEFENSE SECURITY COOPERATION AGENCY

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SEP 08 2015

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
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DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE LOGISTICS INFORMATION SERVICE
DIRECTOR, DEFENSE LOGISTICS AGENCY DISPOSITION
SERVICES
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, MISSILE DEFENSE AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE
AGENCY
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE,
NATIONAL SECURITY AGENCY

Subject: Update to the Building Partner Capacity Authorities in Chapter 15 of the Security Assistance Management Manual, DSCA Policy 15-20 [SAMM E-Change 276]

On December 19, 2014, the President signed the National Defense Authorization Act (NDAA) for Fiscal Year 2015. Section 1205 of the NDAA for Fiscal Year 2015 enacts Section 2282 of Title 10, United States Code and repeals the Section 1206 program authority. Included within the Section 2282 program authority is a provision that enables the use of funds across fiscal years to achieve full operational capability.

Effective immediately, Chapter 15 and Appendix 6 of the Security Assistance Management Manual (SAMM) are updated as attached. This change will be included in the automated version of the SAMM found on the Defense Security Cooperation Agency (DSCA) Web Page, www.dsca.mil, as SAMM E-Change 276. For questions regarding this policy, please contact Ms. Caroline Chin, DSCA/STR/SPI, at (703) 602-2012 or caroline.s.chin.civ@mail.mil. For financial issues please contact Ms. Jackie Leonard, DSCA DBO/FPA, at (703) 604-6570 or jacqueline.leonard.civ@mail.mil. Implementing agencies should ensure dissemination to supporting activities.

Jennifer N. Zakriski
Deputy Director



cc:

USAFRICOM

USCENTCOM

USEUCOM

USNORTHCOM

USSOUTHCOM

USPACOM

STATE/PM-RSAT

USASAC

SAF/IA

NAVY IPO

MARCORIP

USCG International Affairs (G-CI)

Security Assistance Management Manual (SAMM), E-Change 276

1. Change Section C15.1.4.4. to read as follows:

C15.1.4.4. Global Train and Equip (Section 1206). Between Fiscal Year (FY) 2006 and FY2015, under Section 1206 of the FY 2006 National Defense Authorization Act (NDAA) as amended, the Secretary of Defense, with the concurrence of the Secretary of State, had authority to provide equipment, supplies, and training to build the capacity of foreign military forces to conduct counterterrorism operations, assist in building a partner nations military, national security, and/or maritime security forces or to participate in or support military and stability operations in which U.S. forces participated. The Section 1206 Program was funded with Operations & Maintenance appropriations. Program funds could also be used to build the capacity of maritime security forces to conduct counterterrorism operations. The Combatant Command (CCMD), the Office of the Secretary of Defense Special Operations/Low Intensity Conflict (OSD (SO/LIC)), the Joint Staff (J5), and/or the Department of State (DoS) identified and prioritized Section 1206 requirements. The CCMD submitted requirements in the form of proposals to OSD(SO/LIC). The Defense Security Cooperation Agency (DSCA) oversaw an annual feasibility review of the proposals (which also serve as MORs) to validate equipment lists, training requirements, and costs. These documents were simultaneously reviewed and prioritized by the Office of the Under Secretary of Defense for Policy OUSD(P), the Joint Staff, and DoS, before approval by the Secretary of Defense and submission of a Congressional Notification. The Implementing Agency (IA) developed Section 1206 cases as rapidly as possible due to the short timelines of the 1206 process. Cases needed to be developed quickly so that they were ready to procure defense articles and/or services as soon as case funding became available so contracting actions could be completed before the end of the fiscal year. The CCMDs remained actively engaged and responsive in order to best support these efforts. The DSCA Building Partnership Capacity (BPC) Directorate centrally managed the Section 1206 programs and tracked program activities from inception to case closure, including the timely, assured delivery of defense articles and services. [See Section C15.3.4.3.](#) for Section 1206 Cross Fiscal Year Authority. [See DoD Instruction 5111.19, Section 1206 Global Train-and-Equip Authority](#), for general Section 1206 Program guidelines. Effective December 19, 2014, P.L. 113-235, Section 1205(c) repealed the Section 1206 authority and replaced it with Section 2282 of Title 10, United States Code. Section 1206 Programs in progress at the time of repeal may continue to execute under the authorities and policies of Section 1206.

2. Insert new Section immediately following C15.1.4.4. to read as follows:

C15.1.4.5. Section 2282 Global Train and Equip (GT&E). Effective December 19, 2014, the NDAA for Fiscal Year 2015, P.L. 113-235, Section 1205, enacted Section 2282 of Title 10, United States Code and repealed the Section 1206 authority originally enacted by P.L. 109-163. The Secretary of Defense, with the concurrence of the Secretary of State, has the authority under Section 2282 to provide equipment, supplies, defense services, training, and small-scale military construction to build the capacity of a foreign country's national military forces participating in or supporting on-going allied or coalition stability operations that benefit the national security interests of the United States or to conduct counterterrorism operations. Section 2282 authority may also be used to build the capacity of a foreign country's national-level security, maritime and border security forces that conduct counterterrorism operations. The Section 2282 Program is funded with Operations & Maintenance appropriations or other funds made available to carry out programs on an annual basis. Similar to the preceding Section 1206 authority, the CCMD submits Section 2282 proposals to

OSD (SO/LIC) to specify requirements. DSCA oversees a feasibility review of the proposals to identify procurement and other issues with CCMD's equipment lists and training requirements, which serve as the MOR. The proposals are simultaneously reviewed and prioritized by OUSD(P), the Joint Staff, and DoS, approved by the Secretary of Defense, and then submitted for Congressional Notification. The IA develops Section 2282 Program cases as rapidly as possible to meet the short timelines of the 2282 process and maximize the time remaining for contracting actions. The CCMDs and SCOs should remain actively engaged and responsive to support the case development efforts. DSCA BPC Directorate centrally manages the Section 2282 programs and tracks the cases from inception to case closure, including the timely, assured delivery of defense articles and services. [See Section C15.3.4.3.](#) for Cross Fiscal Year Authority and [Section C15.3.4.4.](#) on Full Operational Capability.

3. Change Section C15.3.4.3. to read as follows:

C15.3.4.3. "Cross Fiscal Year" Authority. Congress provided the Section 1206 Program with "cross-fiscal year" authority, applicable to both contracted and government-sourced services funded with Section 1206 program funds ([See FY 2009 NDAA, P.L. 110-417, Section 1206\(b\)](#)). The cross fiscal year provision was retained in the Section 2282 authority. This authority provides a time-limited exception to the bona fide needs rule, which requires that appropriated funds be used only for goods and services during the period of availability for new obligations. Pursuant to the cross fiscal year authority, amounts available for a fiscal year may be used for programs that begin in the fiscal year when funds are available for obligation and end in the subsequent fiscal year. Services and training are obligated during the period of availability, even though the actual commencement of services and training may occur in a later fiscal year. This authority does not extend the period of availability for new obligations; all Section 1206 or Section 2282 funds must be obligated prior to the end of the period of availability. Performance of program services may extend to the end of the subsequent fiscal year (to include services such as travel and government civilian services as they pertain to TDY that is appropriately charged to the program). Funded civilian personnel are not required to cease their Section 1206 or Section 2282 related activities at the end of the appropriation fiscal year. If military pay is part of the reimbursable expense (i.e., under contingency operations), it may be reimbursed from Section 1206 or Section 2282 funds.

4. Insert new Section immediately following Section C15.3.4.3 to read as follows:

C15.3.4.4. Full Operational Capability. Section 2282 retains "the cross fiscal year" authority language as described in [Section C15.3.4.3.](#) and adds the "full operational capability" provision in 10 U.S.C. Section 2282(c)(4)(B). The Full Operational Capability authority provides an additional time-limited exception to the bona fide needs rule to allow the use of funds from the original period of availability into the fiscal year after the partner nation takes receipt of the equipment and the next fiscal year. Full operational capability authority does not extend the period of availability for new obligations; all Section 2282 funds must be obligated prior to the end of the fiscal year of Congressional Notification.

C15.3.4.4.1. Full Operational Capability authority is available only if the equipment under the 2282 program is delivered to the USG before the end of second fiscal year (the fiscal year after Congressional Notification). If articles are not delivered to the USG by the fiscal year after the fiscal year of Congressional Notification, the time extension provided in full operational capability provision does not apply. Funds for services default to the limitations of the cross fiscal year

authority and if additional funds are required to provide the desired services, the CCMD must request current year funds from OSD (SO/LIC).

C15.3.4.4.2. To enable the partner nation to achieve full operational capability, funding for supplies, training, defense services, and small-scale military construction associated with the equipment necessary may be used in the fiscal year the partner nation takes receipt of such equipment and the next fiscal year.

C15.3.4.4.3. DSCA Memorandum 15-45 dated August 5, 2015 directs the use of the Months of Service (MOS) field in DSAMS to be the date(s) the items/services will be delivered to the purchaser; for BPC LOAs, this is the USG. Also, a case note must be added detailing the dates that the articles/services will be provided to the benefiting country. Cases must reflect this fact; however, cases currently in development as of August 5, 2015 that are not following this guidance will not be returned to have the correction made. In those instances, as a matter of case administration and management of significant equipment with associated out-year support requirements, the IA must indicate in a case note the quarter of delivery of all SME/MDE articles to the USG.

C15.3.4.4.4. The goal is to deliver the articles to the partner nation within 120 days of receipt by the USG or as soon as practical. For all deliveries to the partner nation that occur in the third fiscal year after the fiscal year of Congressional Notification and exceed the 120 day target delivery to the partner nation, the IA must prepare a memorandum explaining the extenuating circumstances and provide an updated execution plan with key performance milestones. The updated execution memorandum will be sent to DSCA BPC, and coordinated with DSCA Directorate of Business Operations (Country Financial Management (CFM) division and Financial Policy & Analysis (FPA) division) for approval before funds may be expended for follow-on services and training activities.

C15.3.4.4.5. If articles require redirection to a different partner nation than originally notified to Congress, OSD (SO/LIC) will notify Congress and provide additional guidance to DSCA and the IAs on a case by case basis.

5. Delete Section C15.3.7. Case Advisory.
6. The following notes are added to Appendix 6:

Full Operational Capability

Note Usage
Mandatory for LOAs that utilize Section 2282 funds or transfer authorities that utilize the Section 2282 execution process. Mandatory for any Modifications and Amendments if not included on the basic case.
References
See Chapter 15.
Note Input Responsibility
CWD
Note Text
This LOA is executed under authority of title 10 United States Code, section 2282. Every effort will be made to have the equipment within this LOA delivered to the U.S. Government no later than the end of the subsequent fiscal year after the fiscal year of Congressional Notification. The goal is to deliver articles to the partner nation within 120 days after delivery of the articles to the U.S.

Government or as soon as practical. The services associated with the articles should commence upon receipt of the articles by the partner nation and may continue into the next fiscal year but must conclude before the end of that fiscal year. The services and/or training associated with the articles should commence upon receipt of the articles by the partner nation.

Only if the US Government receives the articles before the end of the subsequent fiscal year after the fiscal year of Congressional Notification, services, supplies and/or training associated with the articles, may occur in the year the partner nation takes receipt or in the next fiscal year to reach Full Operational Capability pursuant to section 2282(c)(4). Funds for services associated with the defense articles which support the achievement of Full Operational Capability, may include, but are not limited to: Field Service Representatives, Contractor Logistics Support, Small-Scale Military Construction, and New Equipment/Initial Operator Training.

Section 2282 Deliveries to the USG

Note Usage		
All FY 15 Section 2282 cases and all transfer funding authorities utilizing the Section 2282 execution process that are in development as of August 5, 2015 that do not follow the guidance provided in DSCA Memorandum 15-45 to place the delivery date to the USG in the MOS field in DSAMS must use this case note to identify the quarter of delivery of all SME/MDE articles to the USG.		
References		
See Chapter 15.		
Note Input Responsibility		
IA		
Note Text		
Varies. All articles within this LOA will be delivered to the U.S. Government no later than the end of the subsequent fiscal year after the fiscal year of Congressional Notification. Below is the estimated delivery schedule to the USG for all SME and MDE lines:		
Line	Delivery to USG	QTY
###	FY ___ QTR ___	___
###	FY ___ QTR ___	___

7. References in the SAMM to Section 1206 will be updated to Section 2282.