



## DEFENSE SECURITY COOPERATION AGENCY

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

12 DEC 2022

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, MISSILE DEFENSE AGENCY  
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE  
AGENCY  
DIRECTOR FOR SECURITY ASSISTANCE, DEFENSE FINANCE  
AND ACCOUNTING SERVICE – INDIANAPOLIS  
OPERATIONS  
DIRECTOR OF CYBERSECURITY DIRECTORATE AND DEPUTY  
NATIONAL MANAGER FOR NATIONAL SECURITY  
SYSTEMS, NATIONAL SECURITY AGENCY

SUBJECT: Defense Security Cooperation Agency Policy Memorandum 22-95, Update to  
Appendix 6 note “Availability of Funds to Cross Fiscal Years” [SAMM E-Change  
616]

Reference: Defense Security Cooperation Agency Policy Memorandum 22-39, Amendment to  
10 United States Code § 2571 Authority for Section 333 Cross Fiscal Year Authority  
and Full Operational Capability.

The purpose of this policy memorandum is to amend the Appendix 6 LOA note entitled,  
“Availability of Funds to Cross Fiscal Years”, to provide guidance for utilizing 10 U.S.C. § 2571  
to obtain reimbursable support for building partnership capacity efforts under 10 U.S.C. § 333.  
DoD will transfer funds from the DoD Operations & Maintenance account to the Foreign  
Military Sales Trust Fund citing 10 USC § 2571 in order to facilitate the execution of all 10  
U.S.C. § 333 BPC LOAs. The policy within the attachment is incorporated into the DSCA  
Security Assistance Management Manual (SAMM) at <https://samm.dsca.mil>.

If you have any questions concerning this guidance, please contact Ms. Caroline Chin, DSCA (Office of Strategy, Plans, and Policy, Execution Policy and Analysis Directorate (SPP/EPA)), [caroline.s.chin.civ@mail.mil](mailto:caroline.s.chin.civ@mail.mil), (703) 697-9073.

A handwritten signature in black ink, appearing to read 'D. Ferrari', with a stylized flourish at the end.

David Ferrari  
Assistant Director  
Strategy, Plans, and Policy

Attachment:  
As Stated

## SAMM E-Change 616 - Updates to Appendix 6.

- 1) The SAMM Appendix 6 note text for **Availability of Funds to Cross Fiscal Years**, is updated as follows:

### Note Text

10 U.S.C. 333(g)(2)(A) provides Cross Fiscal Year (CFY) authority. CFY [will/will not] be utilized on this LOA.

1. CFY allows the period(s) of performance for Section 333 programs that begin in the fiscal year in which funds are available to continue until the end of the second fiscal year thereafter.
2. In order for a program\* to qualify for the use of CFY, the program's planned period(s) of performance may not exceed the time period authorized by CFY. The period of performance begins when the program incurs its first financial obligation.\*\* The first financial obligation for this program [began/or will occur] on [year]. If the period of performance of any line on any case (or any Direct Funds equivalent) associated with the program exceeds that which is authorized by CFY, then all case lines in all cases (and direct funds equivalent) associated with the program must revert back to standard fiscal laws and policies governing federal appropriations.
3. DSCA received funding for this activity under the authority of 10 U.S.C. 2571 (Section 2571). The use of CFY authority is legally available for programs executed via reimbursable funds transfers under this authority. Unlike funds transfers under the Economy Act (31 U.S.C. Section 1535), Section 2571 does not require that funds transferred under its authority be returned to the ordering organization if they are not obligated during the funds period of availability. Therefore, such funds are available to pay for DoD-provided services during the period of performance allowed under CFY authority even if the funds were not obligated via a project order, travel order, or by a working capital fund transaction.
4. The following lines on this LOA use CFY authority: (fill in).

10 U.S.C. 333(g)(2)(B) provides Full Operational Capability (FOC) authority.

1. For a program to qualify for FOC, the program must first meet the requirements of CFY authority. Then, the USG must receive all equipment requiring follow-on support and/or services to ensure the foreign partner achieves full operational capability for such equipment before the end of the fiscal year after the fiscal year in which the program incurs the first financial obligation. If all such equipment is delivered to the U.S. Government during this time, the U.S. Government may provide the foreign partner with defense articles, training, defense services (i.e. field service representatives contractor logistical support), supplies, and small-scale military construction (subject to \$1,500,000 limit) associated with the previously-delivered equipment. These FOC activities may begin in the fiscal year when the equipment is delivered to the partner nation, and

may continue until the end of the second fiscal year thereafter. The following lines on this LOA use this authority: (fill in).

2. If the U.S. Government does not receive all equipment requiring follow-on support and/or services before the end of the next fiscal year after the first obligation, the line on the case does not qualify for FOC and must revert to the period of performance otherwise available under the program. The U.S. Government will make every effort to deliver the equipment to the partner nation within 120 days after acceptance of the items by the U.S. Government.
3. Note that FOC authority is not available to extend the period of performance for training-only programs, Section 333 programs that include FOC assistance executed via Section 2571 funds transfers are not subject to obligation/de-obligation requirements under the Economy Act.
4. The following lines on this LOA use FOC authority: (fill in).

\*A Section 333 program is defined as the provision of a particular capability to a specific country (or countries) within a tranche of a Congressional Notification. Defense Security Cooperation Agency (DSCA), DSCA (Office of International Operations, Regional Execution Directorate, Global Capability Development Division (IOPS/REX/GCD)) oversees the development and execution of Section 333 programs. The notification to Congress defines a Section 333 program's scope. A Section 333 program may require execution by multiple Implementing Agencies and recipients of Direct Funds, with multiple BPC LOAs and direct funds transfers, all of which will share a common program start date based on when the program incurs its first financial obligation.

\*\*For more information on the program start date, please pull SCIP/SCMC Dashboard report or contact DSCA/IOPS/REX/GCD for assistance.