



DEFENSE SECURITY COOPERATION AGENCY

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

24 JULY 2025

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, SECURITY COOPERATION ACCOUNTING
DIRECTORATE, 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 25-33, Section 333
Cross Fiscal Year and Full Operational Capability Updates [SAMM E-Change 749]

This memorandum updates Appendix 8 (AP8) of the Security Assistance Management Manual (SAMM) – “Section 333 – Foreign Security Forces: Authority to Build Capacity” (“[AP8 Section 333](#)”) to reflect recent legal and policy changes to Title [10 U.S.C. 333](#) (Section 333) cross fiscal year (CFY) authority. This memorandum clarifies that CFY authority may be used to execute activities that are being conducted under a Section 333 program where the overall period of performance will exceed the time period authorized under CFY authority. [Chapter 15](#), [Chapter 15-Legacy](#), and [Appendix 6](#) are also updated to clarify CFY authority requirements and delivery guidelines. Due to the reissuance of [Chapter 15](#), DSCA PMs [22-20](#), [22-39](#), and [22-78](#) were superseded by DSCA [PM 24-04](#).

Beginning fiscal year (FY) 2025, CFY authority only applies for funds made available in the first FY of the appropriation (for example, funds made available in FY 2025 cannot use CFY authority if funded in FY 2026). For FY 2025 programs using CFY authority, it is important that Building Partner Capacity (BPC) Letters of Offer and Acceptance (LOA) that contain severable USG sourced training and services are prioritized so that funds are obligated before September 30, 2025. DSCA (Office of International Operations, Global Capability Development Directorate (IOPS/GCD)) will provide guidance as necessary. Updated guidance will be forthcoming in FY 2026. The policy in the attachment is incorporated into the DSCA SAMM at <https://samm.dsca.mil>.

If you have any questions concerning this guidance, please contact dsca.ncr.iops.list.gcd@mail.mil. For questions relating to the SAMM, please contact DSCA (Office of Strategy, Plans, and Policy, Execution Policy and Analysis Directorate (SPP/EPA)), dsca.ncr.spp.mbx.epa@mail.mil.

A handwritten signature in blue ink, appearing to read 'Hussam Bader', with a large, stylized flourish at the end.

Hussam Bader
Acting Assistant Director
Strategy, Plans, and Policy

Attachment:
SAMM E-Change 749

Attachment: Security Assistance Management Manual E-Change 749

1. Update AP8 Section 333 per below to delete outdated program specific guidance and restriction verbiage for long lead time impact and full operational capability design:

~~S333.2.6.1. Potential Production/Long Lead Time Exception Impact on Cross Fiscal Year and Full Operational Capability. An individual Section 333-funded program using the long-lead time exception to facilitate delivery of equipment outside the authorized POP permitted by the CFY or FOC authority would negate the ability to use the CFY or FOC authority for that Section 333 program. Since any use of the production/long-lead exception could impact other planned activities in the Section 333 program which expect to rely on CFY or FOC authority, IAs will coordinate the proposed use of the production/long lead time exception with DSCA (Office of International Operations, Global Capability Development Directorate (IOPS/GCD)) during the program design phase and prior to CN. DSCA (IOPS/GCD) must communicate to all supporting IAs and all alternate executing offices/non-traditional implementers if the production/long lead time exception will be used for a planned program to ensure that any planned POP conforms to the applicable fiscal rules.~~

~~S333.2.7. Availability of Funds for Programs Across Fiscal Years. The BFN (31 U.S.C. 1502) rule is a general fiscal principal that requires appropriations to be obligated only for payment of bona fide needs of the requiring agency during the period of availability of funds. 10 U.S.C 333 contains two time-limited exceptions to the BFN rule: CFY and FOC authorities. The CFY and FOC exceptions to the BFN allow for the execution of funds in future years as long as funds are obligated during the funds' original period of availability.~~

~~S333.2.7.3. Qualifying for Cross Fiscal Year. The program's planned period(s) of performance may not exceed the time period authorized by CFY. The 333 program starts as described in S33.2.7.1. If the delivery of articles or services of any line on any case (or any Direct Funds equivalent) associated with the program exceeds that which is authorized by CFY, then the Section 333 CFY BFN exception does not apply and all case lines in all cases (and direct funds equivalent) associated with the specific 333 program must revert to complying with other fiscal laws and policies governing federal appropriations.~~

~~S333.2.7.4.1. Qualifying for Full Operational Capability. In order for a Section 333 program to qualify for FOC, the USG must receive all equipment requiring FOS and/or services to ensure the Benefitting Partner achieves FOC for such equipment before the end of the fiscal year after the fiscal year in which the 333 program starts. If all such equipment is delivered to the USG before the end of the fiscal year following the fiscal year the program started, the USG may provide the Benefitting Partner with the FOS associated with the delivered equipment.~~

~~S333.2.7.8. Use of Multiple Bona Fide Need Exceptions. The CFY and FOC exceptions are legally available options for DoD to execute Section 333 programs through a multi-year deliberate planning process to deliver enduring capabilities to Benefitting Partners. IAs may use both CFY and FOC authorities while executing a single Section 333 program.~~

~~S333.2.8.4. These FOC activities may begin in the fiscal year when the equipment is delivered to the Benefitting Partner and may continue until the end of the second fiscal year thereafter.~~

~~S333.2.8.5. Case Closure for Full Operational Capability and Production/Long Lead Time Exceptions. FOC activities and long lead production equipment delivery (and associated non-severable services) be completed prior to funds cancellation per S333.2.8.6. This facilitates timely case closure of BPC LOAs and assists in the Assessment, Monitoring, and Evaluation (AM&E) of security cooperation (SC) initiatives.~~

2. Update AP8 Section 333 per below:

- Current:

S333.2.5. Exceptions to the Bona Fide Need Rule. The Bona Fide Need (BFN) ([31 U.S.C. 1502](#)) rule is a general fiscal principle that requires appropriations to be obligated only for payment of bona fide need of the requiring agency during the period of availability of funds. In addition to the use of the production/lead time BFN exception which applies to all U.S. Government acquisitions, there are two other BFN exceptions that only apply to [10 U.S.C. 333](#) programs: a Cross Fiscal Year (CFY) authority and a Full Operational Capability (FOC) authority. The CFY and FOC BFN exceptions allow for the execution of funds in future years as long as funds are obligated during the funds' original period of availability.

S333.2.6. Production/Long Lead Time Exception. Limited contractor-provided non-severable services (e.g., initial operator training or construction) are permissible to support the delivery of articles and equipment with a long-lead production time when the desired non-severable services or training would fall outside of the allowable Period of Performance (POP) under another authority. Non-severable service contracts may be awarded to support the fielding of a long-lead production article but must be funded entirely with appropriations available for new obligations at the time the contract is awarded, and the POP may extend across fiscal years (FYs) to support the equipment whenever it is delivered prior to the funds' cancellation date.

S333.2.7.1. 333 Program Start. The CFY and FOC exceptions are legally available options for DoD to execute [Section 333](#) programs through a multi-year deliberate planning process to deliver enduring capabilities to our Benefitting Partners. IAs may use CFY and FOC authorities simultaneously while executing a single [Section 333](#) program. The scope of a Section 333 program is defined by scope of the program established by the CN. A [Section 333](#) program begins at the earlier of the following (1) the program's first obligation of program funds for a commercial contract; or (2) the first date of delivery to the Benefitting Partner of a defense article or defense service provided by the program. The planned execution timeline provided to Congress will be based on when the first field activity officially starts the program. To achieve a unified start among all offices supporting a single 333 program there must be continual communication and coordination to ensure all supporting office know the fiscal year a program starts and conform their execution to the permissible periods of performance authorized by [Section 333](#).

S333.2.7.2. Cross Fiscal Year Authority. CFY authority per [10 U.S.C. 333\(g\)\(2\)\(A\)](#) allows amounts available in a fiscal year to carry out a [Section 333](#) program to be used for programs under that authority that begin in that fiscal year and end not later than the end of the second fiscal year thereafter.

S333.2.7.4. Full Operational Capability Authority. [10 U.S.C. 333\(g\)\(2\)\(B\)](#) authorizes an additional exception to the BFN rule, allowing follow-on support (FOS) (in the form of additional defense articles, training, defense services, supplies including consumables, and small-scale construction) for equipment requiring FOC authority, as denoted on the CN. These FOC activities may begin in the fiscal year when the Benefitting Partner accepts physical delivery or title transfer of the equipment and may continue until the end of the second fiscal year thereafter.

S333.2.7.5. If the USG does not receive all equipment requiring FOS and/or services before the end of the fiscal year after the first obligation, the Section 333 program does not qualify for the FOC BFN exception and program execution must revert to complying with other fiscal laws and policies governing federal appropriations.

S333.2.7.6. The IA should make every effort to deliver the equipment to the Benefitting Partner within 120 days after acceptance of all of the items requiring FOS by the USG.

S333.2.7.7. Training-only programs do not qualify for FOC authority because they do not involve the delivery of equipment.

S333.2.7.9. Program Completion. All FOC activities and long-lead production equipment delivery (and associated non-severable services) must be completed prior to funds cancellation.

- Revised:

S333.2.5. Exceptions to the Bona Fide Need Rule. The Bona Fide Need (BFN) ([31 U.S.C. 1502](#)) rule is a general fiscal **law principle** that requires appropriations to be obligated only for payment of bona fide need of the requiring agency during the period of availability of funds. In addition to the use of the production/lead time BFN exception **that** applies to all U.S. Government acquisitions, there **is one** other BFN **exception that** applies **only to 10 U.S.C. 333** programs: **Cross Fiscal Year (CFY) authority. The CFY BFN exception allows** for the execution of funds in future years as long as **the** funds are obligated during **their** original period of availability. **The National Defense Authorization Act for Fiscal Year 2025 (P.L. 118-159) currently limits CFY authority to funds obligated in the year they are made available and eliminated the Full Operational Capability authority from Section 333.**

S333.2.5.1. Production/Long Lead Time Exception. Limited contractor-provided non-severable services (e.g., initial operator training or construction) are permissible to support the delivery of articles and equipment with a long-lead production time when the desired non-severable services or training would fall outside of the allowable Period of Performance (POP) under another authority. Non-severable service contracts may be awarded to support the fielding of a long-lead production article but must be funded entirely with appropriations available for new obligations at the time the contract is awarded, and the POP may extend across fiscal years (FYs) to support the equipment whenever it is delivered prior to the funds' cancellation date.

S333.2.5.2. Cross Fiscal Year and Full Operational Capability.

S333.2.5.2.1. 333 Program Start. CFY authority is legally available for DoD to execute [Section 333](#) programs through a multi-year deliberate planning process to deliver enduring capabilities to Benefitting Partners. The Congressional Notification establishes the scope for each [Section 333](#) program. A [Section 333](#) program begins at the earlier of the following (1) the program's first obligation of program funds for a procurement contract; or (2) the first date of delivery to the Benefitting Partner of a USG-sourced defense article, USG-sourced defense service, or USG-sourced training provided by the program. The planned execution timeline provided to Congress will be based on when the first field activity officially starts the program. To achieve a unified start among all offices supporting a single [Section 333](#) program there must be continual communication and coordination to ensure all supporting offices know the fiscal year a program starts and conform their execution to the permissible periods of performance authorized by [Section 333](#).

S333.2.5.2.2. Cross Fiscal Year Authority. Beginning in fiscal year 2025, cross fiscal year (CFY) authority per [10 U.S.C. 333\(g\)\(2\)\(A\)](#) allows amounts made available in a fiscal year to be used to execute activities under that authority that begin in that fiscal year and end not later than the end of the third fiscal year thereafter (for programs beginning prior to October 1, 2024, Section 333 programs must end not later than the end of the second fiscal year thereafter). Per standard fiscal law guidelines, non-severable services may be performed, and long-lead procurement items may be delivered to the U.S. Government outside the CFY period until funds are canceled as long as funding is fully obligated before funds expire. The Implementing Agencies must provide sufficient time for case reconciliation to be completed after final delivery to the USG to facilitate case closure not later than July 31 of the cancellation year.

S333.2.5.2.2.1. Provision of Services Related to Equipment Delivery. Certain activities that are not non-severable services but are intrinsic to the provision of equipment being delivered under a Section 333 program may be executed upon delivery of long-lead equipment that is outside the period of performance authorized by CFY authority. Such activities may include engineering and technical services, quality assurance, installation, transportation, and initial operator training (not tactical or deployment training, see section C15.3.15.1.2.1.) when a BFN exists at the time the funds are initially obligated to procure the long-lead equipment. Such services and/or training must be included in the procurement contract awarded for equipment during the appropriations' original period of availability for obligation.

S333.2.5.2.3. Full Operational Capability Authority. Before FY 2025, Section 333 authorized an additional exception to the BFN rule, allowing follow-on support (FOS) (in the form of additional defense articles, training, defense services, supplies including consumables, and small-scale construction) for equipment requiring FOC authority, as denoted on the CN. For Section 333 funds authorized prior to FY 2025, these FOC activities may begin in the fiscal year when the Benefitting Partner accepts physical delivery or title transfer of the equipment and may continue until the end of the second fiscal year thereafter. In order for a Section 333 program to qualify for FOC, the USG must receive all equipment requiring FOS and/or services to ensure the Benefitting Partner achieves FOC for such equipment before the end of the fiscal year after the fiscal year in which the Section 333 program starts. If all such equipment is delivered to

the USG before the end of the fiscal year following the fiscal year the program started, the USG may provide the Benefitting Partner with the FOS associated with the delivered equipment. DoD must still follow the guidelines in the following subsections of this section for Modifications and Amendments of BPC LOAs that provide for the use of FOC. Starting in FY 2025, FOC is no longer available (see Section S333.2.5.).

S333.2.5.2.3.1. If the USG **did** not receive all equipment requiring FOS and/or services before the end of the fiscal year after the first obligation, the [Section 333](#) program **did** not qualify for the FOC BFN exception and program execution **reverted to being executed in accordance** with **standard** fiscal laws and policies governing federal appropriations.

S333.2.5.2.3.2. The IA should **have made** every effort to deliver the equipment to the Benefitting Partner within 120 days after acceptance of all of the items requiring FOS by the USG.

S333.2.5.2.3.3. Training-only programs do not qualify for FOC authority because they do not involve the delivery of equipment.

S333.2.5.2.3.4. Program Completion. All FOC activities and long-lead production equipment delivery **to the USG** (and associated non-severable services) must be completed prior to **case closure (no later than July 31 of the funds cancellation year)** **per Section C15.7.1.**

3. Renumber remaining sections in AP8 Section 333.2. as needed.

4. Update Chapter 15 per below:

- Current:

C15.3.15.2. Non-severable Services. Non-severable services are those performed via contractors that produce a single or unified outcome. Non-severable contractor services will be funded entirely at the time the contract is awarded, though the MOS may extend across FYs. Contractor-provided new equipment familiarization training and installation at a basic level are considered non-severable services when necessary for the installation or operation of the actual equipment. This includes basic quality assurance testing to ensure that the items are in operating order. All non-severable services must be completed prior to funds cancellation. An example of non-severable services follows: a Benefitting Partner under a FY 20XX appropriation is to receive radios and antennas with a lead-time allowing deliveries three years later, so FY 20XX funds can be used to place basic initial training and antenna installation on contract so that the basic training and installation can be conducted when the equipment is delivered (as long as the funds have not yet cancelled).

C15.7.1. General. The Implementing Agency (IA) will expend funds or reduce case value before the end of the cancelling year of the funds, generally the fifth year after the funds expire for new obligation, or other statutorily authorized period. DSCA requires that

Building Partner Capacity (BPC) Letters of Offer and Acceptance (LOAs) (also known as BPC cases) funded with expiring/cancelling funds be closed by the IA no later than July 31st of the cancelling year, which allows time for residual funds to be redirected or returned before the deadline. IAs must ensure that vendors have submitted all invoices and that all outstanding obligations have been paid in full prior to July 31st. The IA will update the Estimated Closure Date milestone in the Defense Security Assistance Management System BPC Module (DSAMS-BPC), if appropriate, and begin closure of a BPC case as soon as the case is supply/services complete. [Chapter 16](#) and [Appendix 7, Reconciliation and Closure Guide \(RCG\)](#) provide additional information on case reconciliation and closure.

- Revised:

C15.3.15.2. Non-severable Services. Non-severable services are those performed via contractors that produce a single or unified outcome. Non-Severable services, to include training, are a single undertaking that cannot be feasibly subdivided, and include actions such as software programming required, new equipment training required for basic operation and operator maintenance, initial fielding, and upgrade/refurbishment labor costs. Non-severable contractor services will be funded entirely at the time the contract is awarded, though the MOS may extend across FYs until July 31 of funds' cancellation year.

C15.3.15.2.1. New Equipment Training. Contractor-provided new equipment familiarization training (the level of learning required to adequately perform the responsibilities designated to the function and accomplish the mission assigned to the system, such as how to perform functions and how to conduct basic operator maintenance) and installation at a basic level may be provided outside the CFY authority period when necessary for the installation or operation of the equipment being delivered to the Benefitting Partner (as long as funds have not yet cancelled). This includes basic quality assurance testing to ensure the items are in operating order. Such training must be included on the procurement contract for the equipment being delivered outside the CFY period.

C15.3.15.2.2. Example of New Equipment Training and Other Services that May Be Performed Outside the Cross Fiscal Year Period. An example of a service of training that is associated with the delivery of long-lead equipment follows: a Benefitting Partner under a FY 20XX appropriation is to receive radios and antennas with a lead-time allowing deliveries after CFY timelines have ended. FY 20XX funds can be used to place basic initial training and antenna installation on contract (if awarded during the appropriation's original period of availability for obligation) so that the basic training and installation can be conducted when the equipment is delivered (as long as the funds have not yet cancelled).

C15.7.1. General. The Implementing Agency (IA) will expend funds or reduce case value before the end of the cancelling year of the funds, generally the fifth year after the funds expire for new obligation, or other statutorily authorized period. DSCA requires that Building Partner Capacity (BPC) Letters of Offer and Acceptance (LOAs) (also known as BPC cases) funded with expiring/cancelling funds be closed by the IA no later than July 31st of the cancelling year, which allows time for residual funds to be redirected or returned before the deadline. IAs must ensure that vendors have delivered all items to the

USG, submitted all invoices, and that all outstanding obligations have been paid in full prior to July 31st. The IA will update the Estimated Closure Date milestone in the Defense Security Assistance Management System BPC Module (DSAMS-BPC), if appropriate, and begin closure of a BPC case as soon as the case is supply/services complete. [Chapter 16](#) and [Appendix 7, Reconciliation and Closure Guide \(RCG\)](#) provide additional information on case reconciliation and closure.

5. Update Chapter 15-Legacy per below:

- Current:

C15-Legacy.3.15.1.2. Non-severable Services. Non-severable services are those performed via contractors that produce a single or unified outcome. Non-severable contractor services will be funded entirely at the time the contract is awarded, though the MOS may extend across FYs. Contractor-provided new equipment familiarization training and installation at a basic level are considered non-severable services when necessary for the installation or operation of the actual equipment. This includes basic quality assurance testing to ensure that the items are in operating order. All non-severable services must be completed prior to funds cancellation. An example of non-severable services follows: a Benefitting Partner under a FY 20XX appropriation is to receive radios and antennas with a lead-time allowing deliveries three years later, so FY 20XX funds can be used to place basic initial training and antenna installation on contract so that the basic training and installation can be conducted when the equipment is delivered (as long as the funds have not yet cancelled).

C15-Legacy.7.1. General. The Implementing Agency (IA) will expend funds or reduce case value before the end of the cancelling year of the funds, generally the fifth year after the funds expire for new obligation, or other statutorily authorized period. DSCA requires that Building Partner Capacity (BPC) Letters of Offer and Acceptance (LOAs) (also known as BPC cases) funded with expiring/cancelling funds be closed by the IA no later than July 31st of the cancelling year, which allows time for residual funds to be redirected or returned before the deadline. IAs must ensure that vendors have submitted all invoices and that all outstanding obligations have been paid in full prior to July 31st. The IA will update the Estimated Closure Date milestone in the Defense Security Assistance Management System (DSAMS), if appropriate, and begin closure of a BPC case as soon as the case is supply/service complete. [Chapter 16](#) and [Appendix 7, Reconciliation and Closure Guide \(RCG\)](#) provide additional information on case reconciliation and closure.

- Revised:

C15-Legacy.3.15.1.2. Non-severable Services. Non-severable services are those performed via contractors that produce a single or unified outcome. Non-Severable services, to include training, are a single undertaking that cannot be feasibly subdivided, and include actions such as software programming required, new equipment training required for basic operation and operator maintenance, initial fielding, and upgrade/refurbishment labor costs. Non-severable contractor services will be funded entirely at the time the contract is awarded, though the MOS may extend across FYs until July 31 of the funds' cancellation year.

C15-Legacy.3.15.1.2.1. New Equipment Training. Contractor-provided new equipment familiarization training (the level of learning required to adequately perform the responsibilities designated to the function and accomplish the mission assigned to the system, such as how to perform functions and how to conduct basic operator maintenance) and installation at a basic level may be provided outside the CFY authority period (though it is funded when a contract is awarded during the period of availability) when necessary for the installation or operation of the equipment being delivered to the Benefitting Partner (as long as the funds have not yet cancelled). This includes basic quality assurance testing to ensure the items are in operating order. Such training must be included on the procurement contract for the equipment being delivered outside the CFY period.

C15-Legacy.3.15.1.2.2. Example of New Equipment Training and Other Services that May Be Performed Outside the Cross Fiscal Year Period. An example of a service of training that is associated with the delivery of long-lead equipment follows: a Benefitting Partner under a FY 20XX appropriation is to receive radios and antennas with a lead-time allowing deliveries after CFY timelines have ended. FY 20XX funds can be used to place basic initial training and antenna installation on contract (if awarded during the appropriation's original period of availability for obligation) so that the basic training and installation can be conducted when the equipment is delivered (as long as the funds have not yet cancelled).

C15-Legacy.7.1. General. The Implementing Agency (IA) will expend funds or reduce case value before the end of the cancelling year of the funds, generally the fifth year after the funds expire for new obligation, or other statutorily authorized period. DSCA requires that Building Partner Capacity (BPC) Letters of Offer and Acceptance (LOAs) (also known as BPC cases) funded with expiring/cancelling funds be closed by the IA no later than July 31 of the cancelling **fiscal year (FY)**, which allows time for residual funds to be redirected or returned before the deadline. IAs must ensure that vendors have **delivered all items to the USG**, submitted all invoices, and that all outstanding obligations have been paid in full prior to July 31. The IA will update the Estimated Closure Date milestone in the Defense Security Assistance Management System (DSAMS), if appropriate, and begin closure of a BPC case as soon as the case is supply/**services** complete. [Chapter 16](#) and [Appendix 7, Reconciliation and Closure Guide \(RCG\)](#) provide additional information on case reconciliation and closure.

6. Add C15.7.6. and C15-Legacy.7.6. per below:

C15.7.6. Delivery to the Benefitting Partner After Case Closure. Items that have been delivered to the USG pursuant to a BPC case but have not yet been final delivered to the Benefitting Partner will be identified during case closure. A program-wide transportation BPC case will be utilized to effectuate final shipment and will include a unique case note identifying the Benefitting Partner that will be receiving the items, the BPC case identifier, the description and quantities to be provided, and the estimated receipt date of the items. The IA will provide the Security Cooperation Organization (SCO) a copy of the BPC case or amendment upon implementation.

C15-Legacy.7.6. Delivery to the Benefitting Partner After Case Closure. Items that have been delivered to the USG pursuant to a BPC case but have not yet been final delivered to the

Benefitting Partner will be identified during case closure. A program wide transportation BPC case will be utilized to effectuate final shipment and will include a unique case note identifying the Benefitting Partner that will be receiving the items, the BPC case identifier the description and quantities to be provided, and the estimated receipt date of the items. The IA will provide the Security Cooperation Organization (SCO) a copy of the BPC case or amendment upon implementation.

7. Update the following Appendix 6 notes:

Availability of Funds to Cross Fiscal Years – Building Partner Capacity (BPC)

FMS	No
BPC	Yes
Note Input Responsibility	IA
Date Range of Use	Limited
References	N/A
Note Usage Instructions for Documents	
Mandatory for Section 333 (10 U.S.C. 333) Building Partner Capacity (BPC) Letters of Offer and Acceptance (LOAs) and Amendments utilizing Semi-Permanent Security Cooperation Customer Codes (beginning with fiscal year 2025, see Chapter 15) unless the latest version of the note is on the Implemented Version.	
Note Text	
<p>10 U.S.C. 333(g)(2)(A) provides Cross Fiscal Year (CFY) authority. CFY [will/will not] be utilized on lines [xxx, xxx] of this Building Partner Capacity (BPC) Letter of Offer and Acceptance (LOA).</p> <ol style="list-style-type: none"> Beginning fiscal year 2025, CFY allows the period(s) of performance for (10 U.S.C. 333) (Section 333) programs that begin in the fiscal year in which funds are made available to continue until the end of the third fiscal year thereafter. In addition, as long as funds for non-severable services or for a procurement are obligated on contracts within the Period of Availability timeframe for an existing bona fide need, such long-lead procurement items may be delivered to the U.S. Government and non-severable services may be performed until funds cancel. Case reconciliation must occur after the final delivery to the U.S. Government to facilitate case closure not later than July 31 of the cancellation year. Provision of Services Related to Equipment Delivery. Certain activities that are intrinsic to the provision of equipment being delivered under a Section 333 program may occur outside the period of performance authorized by CFY authority. Such activities may include engineering and technical services, quality assurance, installation, transportation, and initial operator training (not tactical or deployment training) when performance is intrinsic to the provision of the equipment and a bona fide need exists for them at the outset of the Section 333 program. However, only services and training that meet these criteria and are included in the procurement contract for the equipment being delivered may be provided outside the CFY performance period (as long as funds have not yet cancelled). Defense Security Cooperation Agency (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 under 	

the Economy Act (31 U.S.C. 1535), funds transferred under Section 2571 constitute an obligation of funds and do not require that funds transferred under its authority be returned to the ordering organization if they are not further 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.

*A Section 333 program is defined as the provision of a particular capability to a specific Benefitting Partner (or partners) within a tranche of a Congressional Notification. DSCA (Office of International Operations, Global Capability Development Directorate (IOPS/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 the earlier of the following: (1) the program's first obligation of program funds for a procurement contract; or (2) the first date of delivery to the Benefitting Partner of a USG sourced defense article or USG sourced defense service provided by the program.

**For more information on the program start date, please pull Security Cooperation Information Portal (SCIP)/Security Cooperation Management Suite (SCMS) Dashboard report or contact DSCA (IOPS/GCD) for assistance.

Estimated Delivery to the Partner Nation – Building Partner Capacity (BPC)

Foreign Military Sales	No
Building Partner Capacity	Yes
Note Input Responsibility	IA
Date Range of Use	All
References	N/A

Note Usage Instructions for Documents

Mandatory for Building Partner Capacity (BPC) Letters of Offer and Acceptance (LOAs), Amendments (and Modifications for programs developed using the Defense Security Assistance Management System (DSAMS) case module), to include Section 333 (10 U.S.C. 333) BPC LOAs with no Full Operational Capability (FOC) requirements, to show estimated delivery to the Benefitting Partner (unless the latest version of the note is on the implemented version).

Note Text

Use the following verbiage for Building Partner Capacity (BPC) Letters of Offer and Acceptance (LOAs) if Full Operational Capability (FOC) requirements are not provided:

“Below is the estimated delivery schedule to the Benefitting Partner for the equipment being provided under this Building Partner Capacity (BPC) Letter of Offer and Acceptance (LOA):”

Line	Delivery to Partner	Qty
#####	CY____ QTR____	_____
#####	CY____ QTR____	_____

**Estimated Delivery to the Partner Nation for Full Operational Capability Determination –
Building Partner Capacity (BPC)**

Foreign Military Sales	No						
Building Partner Capacity	Yes						
Note Input Responsibility	IA						
Date Range of Use	Limited						
References	N/A						
Note Usage Instructions for Documents							
<p>Mandatory for Section 333 (<u>10 U.S.C. 333</u>) Building Partner Capacity (BPC) Letters of Offer and Acceptance (LOAs), Amendments (and Modifications for programs developed using the Defense Security Assistance Management System (DSAMS) case module) with Full Operational Capability (FOC) requirements, to show estimated delivery to the Partner Nation (unless the latest version of the note is on the implemented version).</p> <p>Mandatory for any Modifications and Amendments of Section 333 BPC LOAs with FOC requirements if a previous Estimated Delivery case note was used prior to December 15, 2020.</p>							
Note Text							
<p>“Equipment within this Building Partner Capacity (BPC) Letter of Offer and Acceptance (LOA) that is being delivered under a program authorized to utilize the Full Operational Capability (FOC) authority under <u>10 USC Section 333(g)(2)(B)</u> must be delivered to the U.S. Government no later than the end of the subsequent fiscal year after the program's first obligation of funds.</p> <p>Below is the estimated delivery schedule to the Benefitting Partner for the equipment being provided under a program utilizing FOC authority:”</p> <p>Add only for lines with the FOC items:</p> <table border="1"> <thead> <tr> <th>Line</th> <th>Delivery to Partner</th> <th>Qty</th> </tr> </thead> <tbody> <tr> <td>###</td> <td>CY____ QTR____</td> <td>____</td> </tr> </tbody> </table>		Line	Delivery to Partner	Qty	###	CY____ QTR____	____
Line	Delivery to Partner	Qty					
###	CY____ QTR____	____					

8. Add the following note:

Availability of Funds to Cross Fiscal Years – Legacy Building Partner Capacity (BPC)

FMS	No
BPC	Yes
Note Input Responsibility	IA
Date Range of Use	All
References	N/A
Note Usage Instructions for Documents	
<p>For cases prior to fiscal year 2025 (see Chapter 15-Legacy).</p> <p>Mandatory for Building Partner Capacity (BPC) Letters of Offer and Acceptance (LOAs), Amendments, and Modifications that utilize the Section 333 (<u>10 U.S.C. 333</u>) authority developed</p>	

in the Defense Security Assistance Management System (DSAMS) case module, unless the latest version of the note is on the Implemented Version.

Note Text

“10 U.S.C. 333(g)(2)(A) provides Cross Fiscal Year (CFY) authority. CFY [will/will not] be utilized on lines xxx of this Building Partner Capacity (BPC) Letter of Offer and Acceptance (LOA).

1. CFY allows the period(s) of performance for (10 U.S.C. 333) (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 addition, as long as funds on a procurement contract are obligated within the Period of Availability timeframe for an existing bona fide need, long-lead procurement items may be delivered to the U.S. Government until funds cancel. Case reconciliation must occur after the final delivery to the U.S. Government to facilitate case closure not later than July 31 of the cancellation year.
3. Provision of Services Related to Equipment Delivery. Certain activities that are intrinsic to the provision of equipment being delivered under a Section 333 program may occur outside the period of performance authorized by CFY authority. Such activities may include engineering and technical services, quality assurance, installation, transportation, and initial operator training (not tactical or deployment training) when performance is intrinsic to the provision of the equipment and a bona fide need exists for them at the outset of the Section 333 program. However, only services, including training, that meet these criteria and are included in the procurement contract for the equipment being delivered may be provided outside the CFY performance period (as long as funds have not yet cancelled).
4. Defense Security Cooperation Agency (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. 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.”

Add for Amendments and Modifications only if BPC LOAs are utilizing Full Operational Capability Authority:

“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 \$2,500,000 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).”

Add the below for all uses of this note:

“*A Section 333 program is defined as the provision of a particular capability to a specific benefitting partner (or partners) within a tranche of a Congressional Notification. DSCA (Office of International Operations, Global Capability Development Directorate (IOPS/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 the earlier of the following: (1) the program’s first obligation of program funds for a procurement contract; or (2) the first date of delivery to the Benefitting Partner of a USG sourced defense article or USG sourced defense service provided by the program.

**For more information on the program start date, please pull Security Cooperation Information Portal (SCIP)/Security Cooperation Management Suite (SCMS) Dashboard report or contact DSCA (IOPS/GCD) for assistance.”