

## C5 - Foreign Military Sales Case Development.

Chapter 5, Foreign Military Sales Case Development, describes requirements for submission of Letters of Request (LORs) and for responding to them with either Price and Availability (P&A) data or a formal Letter of Offer and Acceptance (LOA).

Section	Title
C5.1.	<a href="#">Letter of Request Submissions</a>
C5.2.	<a href="#">Letter of Request Responses - General Information</a>
C5.3.	<a href="#">Letter of Request Responses - Price and Availability Data</a>
C5.4.	<a href="#">Letter of Request Responses - Letter of Offer and Acceptance</a>
C5.5.	<a href="#">Congressional Notification - Arms Export Control Act 36(b) for Security Assistance Programs</a>
C5.6.	<a href="#">Multinational Foreign Military Sales</a>

### C5.1. - Letter of Request Submissions

**C5.1.1. General.** The Foreign Military Sales (FMS) process begins when an eligible foreign country or international organization requests information on defense articles or services, including training, being considered for purchase. All requests for information require the same channels of submission and must be answered consistent with the legal provisions under which the FMS program operates. The Security Cooperation Organization (SCO) can provide necessary assistance for many FMS partners.

**C5.1.2. Letter of Request Format and Information Requirements.** Requests are generally referred to as Letters of Request (LORs), whether provided through formal correspondence, requests for proposal (RFPs), discussions, electronic mail (e-mail), letters, or messages.

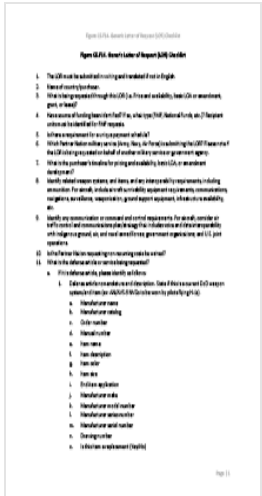
**C5.1.2.1.** Although no specific format is required for an LOR, it must be in writing and partner nations are strongly encouraged to work with SCOs to ensure LORs address the items identified using the LOR checklist in [Figure C5.F14](#), to avoid delays during the development of the Letter of Offer and Acceptance (LOA) document. Partner nations should ensure that the request is complete and:

#	Guideline
1	Is submitted in accordance with criteria provided in <a href="#">Table C5.T3A</a> , to ensure it is actionable;
2	Identifies the desired defense articles and/or services in sufficient detail for the USG to prepare an accurate cost estimate;
3	Indicates whether Price and Availability (P&A) data, an LOA, an LOA Amendment, or an LOA Modification is desired;
4	If for a blanket order LOA, includes the desired materiel and services value or the desired total case value;
5	Indicates the proposed method of financing;
6	Identifies any anticipated involvement in the requested case by anyone not a duly appointed officer or government civilian employee of the requesting government - i.e., a "third party" - so that the receiving military department (MILDEP)/Implementing Agency (IA) may initiate appropriate reviews and approval requests;
7	Contains the name and address of the originator and a traceable reference number, e.g., letter serial number; and
8	<p>If possible, identifies the intended/anticipated partner operational unit or units for any defense articles and/or services to be purchased:</p> <ul style="list-style-type: none"> <li>a. with Foreign Military Financing (FMF) funds, or</li> <li>b. for any request for grant transfer of Excess Defense Articles (EDA), recognizing such operational unit designations may change as the case is implemented and equipment is delivered to the host nation.</li> </ul> <p>To facilitate Leahy vetting, if possible, the SCO will update the recipient unit designation at the time of LOA signature, by alerting the IA, which will input updated information into the Defense Security Assistance Management System (DSAMS). The recipient unit(s) are the security force unit, or units intended to use or employ such assistance. Unit identification at the national- or service-level is not a permissible entry.</p> <p>***For new FMF or EDA cases implemented or amended after December 31, 2021, the USG must conclude a written agreement with the partner nation in which their government agrees that it will not provide such assistance to a partner security force unit identified by the Department of State (State) as prohibited from receiving assistance under the Leahy law if assistance is provided to the partner in a manner in which the recipient unit or units cannot be identified prior to transfer ***</p>

**C5.1.2.2.** To assist purchasers to develop readily actionable LORs in accordance to [Section C5.1.7.2.2](#), IAs are directed to develop, where appropriate, system-specific checklists designed to help ensure that requirements are fully defined, to account not only for weapon systems but also for the logistics, construction, training, and support services needed to deliver a complete and sustainable capability to the FMS purchaser. The generic checklist at [Figure C5.F14](#) serves as a basis for the IAs to develop system-specific checklists or as a checklist that may be used to develop LORs for defense articles that do

not have system-specific checklists. To the extent possible, IAs should make system-specific checklists easily accessible to customers on public websites. partner nations are encouraged to use the generic checklist and available system-specific checklists, as partner nations will receive timelier responses to LORs that address the items outlined in the generic and/or system specific checklists.

Figure C5.F14. Generic Letter of Request Checklist



- [PDF Version of Figure](#)
- [Web Version of Figure](#)

For Service/IA specific checklists:

- [U.S. Army - System Specific Checklists for FMS Customers](#)
- [U.S. Navy - Submitting a LOR for Products or Services](#)
- [U.S. Air Force - LOR Resources](#)
- [Defense Logistics Agency \(DLA\) \(EDA/Disposition Services\)](#)  
(NOTE: MS Word Doc)

**C5.1.3. Letter of Request Submission Procedures.** If the request is received verbally, a memorandum for record (MFR) must document the conversation and outline the required information. Written confirmation should be obtained from the purchaser. If the request is received during a meeting or conference, the minutes should document the request and be signed by an appropriate purchaser representative. LORs transmitted by U.S. Embassies or SCOs should refer to the country letter or message requesting the data.

**C5.1.3.1. Non-Significant Military Equipment Requests.** Non-Significant Military Equipment (Non-SME) requests that originate in-country must be transmitted either by the purchaser's authorized representative or the DoD element of the U.S. country team to DSCA (Office of International Operations (IOPS)) and the appropriate DoD Component with information copies to the geographic Combatant Command (CCMD). Requests originated by foreign representatives of the purchaser in the United States must be sent to DSCA (IOPS) and the appropriate DoD Component with information copies to the SCO. If it appears that the SCO is not on distribution for a purchaser's request, the DoD Component must furnish copies to the CCMD and SCO as quickly as possible.

**C5.1.3.2. Significant Military Equipment and Major Defense Equipment Requests.** Significant Military Equipment (SME) and Major Defense Equipment (MDE) requests that originate in-country must be addressed to DSCA (IOPS) and the cognizant DoD Component with information copies to the CCMD. Requests regarding SME that originate with purchaser representatives in the United States must be addressed to DSCA (IOPS) and the cognizant DoD Component with information copies to the CCMD and the SCO. If it appears that the SCO is not on distribution for a purchaser's request, the DoD Component must furnish a copy to the SCO as quickly as possible.

Arms Export Control Act (AECA), section 47, ([22 U.S.C. 2794](#)), defines the terms "defense article" and "defense service." Certain defense articles and services are enumerated on the United States Munitions List (USML). Those defense articles designated SME are marked with an asterisk on the USML. Any SME that has a nonrecurring research and development cost of more than \$50 million or a total production cost\* of more than \$200 million is considered MDE. See [Appendix 1](#) for Nonrecurring Cost (NC) Recoupment Charges for identified MDE.

\*Includes DoD expenditures for preproduction engineering; rate and special tooling; special test equipment; production engineering; product improvement; destructive testing; and pilot model production, testing and evaluation, and license costs. Includes costs of any engineering change proposals initiated before the date of calculations of the NC's recoupment charge. Detailed definitions of each of these categories can be found in the [Financial Management Regulation \(DoD FMR\) Volume 15, Chapter 7 Section 15.5.3](#). Note that production line shutdown costs are not included in the nonrecurring production cost pool as defined there. As such, production line shutdown costs or any allocation thereof are not to be included in the nonrecurring production cost pool for the calculation of the nonrecurring cost charge.

**C5.1.3.3. Letters of Request Funded with Foreign Military Financing.** All LORs that will use FMF should be addressed to DSCA (IOPS) and the appropriate DoD Components with information copies to the State Bureau of Political-Military Affairs, Office of Security Assistance (State (PM/SA)) and the CCMD.

**C5.1.3.4. Letters of Request that Include Defense Articles, Defense Services, and/or Training, Managed by United States Special Operations Command, i.e., (Special Operations-Peculiar Defense Items).** For the definition of Special Operations-Peculiar (SO-P), see [DoD Directive \(DoDD\) 5100.03, "Support of the Headquarters of Combatant and Subordinate Unified Commands."](#)

**C5.1.3.4.1.** When the purchaser identifies any SO-P defense articles, services and/or training in an LOR or, should the SCO recognize SO-P defense articles, training and/or services when they are not identified by the purchaser in an LOR, the purchaser or SCO must submit the LOR directly to the DSCA Country Portfolio Director (CPD) for review in coordination with DSCA (Office of International Operations, Weapons Directorate (IOPS/WPN)) which will assign the LOR to the appropriate IA and coordinate with U.S. Special Operations Command (USSOCOM), outlining USSOCOM's roles and responsibilities to the IA. DSCA will act as the arbiter, as necessary.

**C5.1.3.7. Letters of Request for Non-Program of Record.** The U.S. Government routinely receives requests to provide Non-Program of Record (NPOR) solutions to address unique purchaser requirements. NPOR solutions may support U.S. security cooperation objectives, improve U.S. competitiveness, strengthen the health of the U.S. defense industrial base, advance interoperability with U.S. forces, enable allies and partners to defend themselves, and reinforce relationships with partners and allies.

Non-Program of Record processing and case development is further detailed in the Common Access Card (CAC)-Enabled SAMM site, which is located at: <https://dod365.sharepoint-mil.us/sites/OSDDSCA-CUI-SAMM>. Contact DSCA (IOPS/WPNS) at [dscanrc.iops.list.wpns-all-members@mail.mil](mailto:dscanrc.iops.list.wpns-all-members@mail.mil) for more information.

DoD CAC holders: if you have questions regarding access to the site, please contact DSCA (Office of Strategy, Plans, and Policy, Execution Policy and Analysis Directorate (SPP/EPA)) at [dscanrc.spp.mbx.epa@mail.mil](mailto:dscanrc.spp.mbx.epa@mail.mil).

**C5.1.4. Country Team Assessment.** The Country Team Assessment (CTA) presents the coordinated position of senior U.S. Embassy leadership in support of a proposed sale and provides key information necessary to evaluate and explain it. See [Chapter 2](#) for a description of the Country Team. CTAs can be published as cables or memos on embassy letterhead and signed by a member of the country team. It should be viewed as an important opportunity to provide valuable information that will expedite the decision process and should be unclassified to the greatest extent possible. Any classified information should be confined to separate, individually marked paragraphs. The CTA must accompany any LOR that:

1. is likely to result in a Congressional Notification (CN) pursuant to AECA section 36(b) ([22 U.S.C. 2776](#)) ([See Section C5.5.](#)) based on its cost; or
2. regardless of cost, that would result in first introduction of a new capability for the country; or
3. that requests defense articles or services of a sensitive nature ([See Section C5.1.4.2.](#)); or
4. upon request by DSCA (Office of International Operations, Regional Execution Directorate (IOPS/REX)).

\*Please note that Combatant Commander's concurrence is required if this is the first introduction of this system/capability to the recipient/region. If provided separately, cite reference if available.

**C5.1.4.1.** All CTAs must address the following common elements:

**Table C5.T1. Country Team Assessment - Common Required Elements**

#	Required Element
1	Reason the purchaser desires the defense articles or services and description of how the country or organization intends to use them.
2	Appropriateness of the proposed sale in responding to legitimate recipient security needs.
3	Impact of the proposed sale on the military capabilities of the proposed recipient, including the ability of the proposed recipient effectively to field, support, and appropriately employ the requested defense articles in accordance with their intended use.
4	Source of financing and risk of adverse economic, political, or social impact within the recipient nation and the degree to which security needs might be addressed through other means.
5	The human rights, terrorism, and proliferation record of the proposed recipient and the potential for misuse of the defense articles in question.
6	How the articles or services would contribute to both the United States and the recipient's defense/security goals.
7	The proposed recipients will and ability to account for and safeguard sensitive technology from transfer to unauthorized third parties or in-country diversion to unauthorized uses.
8	The availability of comparable systems from foreign suppliers.
9	How the proposed sale would contribute to U.S. security and foreign policy goals.
10	How the proposed sale would affect the relative military strength of the countries in the region and its impact on U.S. relations with countries in the region. This is especially important when considering sales involving power projection capability or introduction of a system that could conceivably increase tension or contribute to an arms race.
11	Possible impact of or reaction to any in-country U.S. presence that might be required to carry out the sale or provide training.
12	Additional training or support, if any, necessary to reduce the risk that the recipient will inadvertently cause civilian harm during operations. <ol style="list-style-type: none"> <li>a. Provide an assessment of the country's ability to absorb and operate the requested capability in a manner that avoids civilian casualties. For example, does the country have doctrine or rules of engagement training and an established cadre of personnel trained in law of armed conflict and rules of engagement?</li> </ol>

	b. If training or support to mitigate the risk of civilian harm is warranted, should this request include supplemental training or supporting capabilities for civilian casualty avoidance? Or, are such training or supporting capabilities being provided in a parallel effort?
Note: CTAs can be published as cables or memos on embassy letterhead and signed by a member of the country team.	

**C5.1.4.2.** Additional elements are required for CTAs in support of defense articles or services identified below as being of a sensitive nature.

**Table C5.T1A. Defense Articles that Require Additional Country Team Assessment Elements**

#	Required Element
1	Missile Technology Control Regime (MTCR) Category I Intelligence, Surveillance and Reconnaissance (ISR) Unmanned Aerial Vehicle (UAV)/Unmanned Combat Aerial Vehicle (UCAV) (if information has not already been submitted before the LOR per <a href="#">Section C3.7.2</a> . If a CTA was submitted in the pre-LOR phase, it may be referenced without submission of a new CTA.) <a href="#">Table C5.T1B</a> .
2	Command, Control, Communications, Computer, Intelligence, Surveillance and Reconnaissance (C4ISR) <a href="#">Table C5.T1C</a> .
3	Defense Articles and Services Containing Geospatial Intelligence (GEOINT) <a href="#">Table C5.T1D</a> .
4	Night Vision Devices (NVDs) <a href="#">Table C5.T1E</a> .
5	STINGER or Similar Missiles in any Surface-to-Air (S/A) Configuration <a href="#">Table C5.T1F</a> .
6	White Phosphorous Munitions <a href="#">Table C5.T1G</a> .
7	Air-to-Ground (A/G) and Indirect fire surface-to-surface (S/S) munitions, their delivery systems. <a href="#">Table C5.T1H</a> .

**Table C5.T1B. Additional Country Team Assessment Elements for Missile Technology Control Regime Category 1 Intelligence, Surveillance, and Reconnaissance Unmanned Aerial Vehicles/Unmanned Combat Aerial Vehicles**

(If information has not already been submitted before the LOR per [Section C3.7.2](#).

If a CTA was submitted in the pre-LOR phase, it may be referenced without submission of a new CTA.)

#	Required Element
13	What are the military requirements and operational intentions or plans for the ISR UAV/UCAV that might be requested, to include: <ul style="list-style-type: none"> <li>a. Description of the primary mission and secondary missions for the ISR UAV/UCAV?</li> <li>b. Extent of anti-terrorist, border patrol/ coast guard, and/or humanitarian missions for the UAV/UCAV(s) endorsed.</li> </ul>
14	Specify performance characteristics of the desired air vehicle in terms of range (km), payload (kg), payload performance parameters or desired capabilities, altitude ceiling (ft), flight endurance (hrs). Are there any desired modifications or changes to the basic configuration for the desired air vehicle or payload?
15	How the ISR UAV or UCAV would affect the military capabilities of the proposed recipient, including the ability of the recipient effectively to field, support, and appropriately employ the system in accordance with its intended end use.
16	How the ISR UAV or UCAV would contribute to U.S. strategic and foreign policy goals.
17	Justification for number and type of ISR UAV/UCAV that might be requested with an explanation of how the quantity endorsed is the minimum required consistent with the legitimate military requirements of the recipient. <ul style="list-style-type: none"> <li>a. What is the estimated or approximate monthly number of sorties and flight hours?</li> <li>b. Where will the ISR UAV/UCAVs be based?</li> </ul>
18	What are the communications resources that the recipient nation would utilize to support its ISR UAV/UCAV flight operations? <ul style="list-style-type: none"> <li>a. Does the recipient nation require beyond line-of-sight flight operations?</li> <li>b. Will air-ground communications and/or data transfer require encryption?</li> </ul>
19	If applicable, would the ISR UAV/UCAV fulfill or contribute to North Atlantic Treaty Organization (NATO) force goals?
20	Explain why an MTCR Category I ISR UAV or UCAV would fulfill the requirements and a manned aircraft or non-MTCR Category I ISR UAV or UCAV cannot.
21	Is this the first introduction of this system/capability to the recipient/region?

22	Anticipated reactions of neighboring nations to the introduction of the ISR UAV/UCAV capability into the region.
23	Analysis of how the proposed sale would affect the relative military strengths of countries in the region and of the impact of the proposed sale on U.S. relations with the countries in the region.
24	Extent of military interoperability missions/training with U.S. Forces?
25	The availability of comparable systems from foreign suppliers.
26	Assessment of the nation's ability to account for, safeguard, operate, maintain, and support the ISR UAV or UCAV. a. What is the nation's maintenance concept? Two level? Three level? b. Does the nation expect it will provide depot level repair or will it elect contractor provided depot level maintenance? c. What level of repairable stocks does the nation anticipate it will require?
27	A plan for end use monitoring for sensitive and advanced war fighting technology and the SCO's plan for compliance verification.
28	Training required either in-country or in the United States and anticipated reactions resulting from the presence of U.S. trainers in-country. a. How many pilots, sensor operators, and maintainers will it need to be trained either in-country or in the United States? b. Approximately when the nation needs to commence/end any desired U.S.-based training? c. Will the nation need in-country flight simulators? If so, how many? d. Will the nation need to participate in related U.S. Air Force (USAF)/U.S. Navy (USN) UAV user-groups, forums, or other USAF/USN programs concurrent with adopting a U.S. UAV?
29	Possible impact of any in-country U.S. presence that might be required as a result of providing the ISR UAV or UCAV.
30	Is the potential recipient a: a. Member of NATO? b. MTCR Partner? c. Signatory to the Nuclear Non-Proliferation Treaty? d. Signatory to the Chemical Warfare Convention? e. Signatory to the Biological Weapons Convention?
31	Has the SCO consulted with the Foreign Disclosure Office of the FMS IA regarding the need for disclosure of information actions in regard to a potential transfer of a Category I ISR UAV/UCAV? Yes/No
32	Any additional information in support of, or that would recommend against, the transfer request.

**Table C5.T1C. Additional Country Team Assessment Elements for Command, Control, Communications, Computer, Intelligence, Surveillance and Reconnaissance**

#	Required Element
13	Combatant Commander's statement of interoperability requirement. Can be provided separately.

**Table C5.T1D. Additional Country Team Assessment Elements for Geospatial Intelligence**

#	Required Element
13	Describe plans for sharing, use, and protection of the required GEOINT data in the recipient country.

**Table C5.T1E. Additional Country Team Assessment Elements for Night Vision Devices**

#	Required Element
13	Full description of the type and quantity of NVDs requested (LOR development may require coordination with MILDEP for recommended model/quantity).
14	Justification for the type and quantity of NVDs requested and the operational plan for use and specific end users to include: a. Description of the primary mission for the units to receive the NVDs? b. Extent of military interoperability missions/training with U.S. Forces? c. Extent of anti-terrorist missions for the units to receive the NVDs?
15	Whether this capability (Figure of Merit (FoM), Auto-gating power features) been transferred previously to the country. If so, when, how many devices, device types and FoM? Method of procurement? FMS? Direct Commercial Sales (DCS)? Case

	Designator or License Number?
16	Assessment of the purchaser's capacity to provide substantially the same degree of support, security and accountability protection as given by the United States and willingness to accept the NVD physical security and accountability note.
17	The SCO plan for Post Shipment EUM and compliance verification.
18	Additional information in support of the transfer request (e.g., status of previous NVD transfers and results of past U.S. security inspections/inventories/CAVs).
19	Recommendation whether the USG should approve transfer of the article and justification.
20	Combatant Commander's concurrence. If provided separately, cite reference if available.

**Table C5.T1F. Additional Country Team Assessment Elements for STINGER or Similar Missile in any Surface-to-Air Configuration**

#	Required Element
13	Indicate the system, quantity, and intended use.
14	U.S. Mission's opinion as to whether the amount requested is reasonable in relation to the intended use, current on-hand inventories, and predictable usage rates of such items.
15	As U.S. weapons replace the country's current inventory, how many weapons, of U.S. or foreign origin, will become excess to military requirements?
16	If excess weapons are to be stored, how will they be stored and controlled and by whom?
17	If surface-to-air systems from active duty forces will be transferred to reserve forces as a result of this transfer, what will be done with any surface-to-air systems currently in the reserves?
18	Do reserve Air Defense (AD) units exist? What is the reserve force AD structure? What are the numbers and types of units?
19	How well trained are the relevant reserve forces generally and specifically in terms of Man-Portable Air Defense System (MANPADS) usage and proper storage of MANPADS and similar surface to air systems?
20	What is the track record of the armed forces or police in maintaining security of national stockpiles of small arms? Have there been thefts or other illicit transfers?
21	If excess weapons are to be destroyed, what is the plan for their destruction? May U.S. representatives, normally the SCO, observe the destruction of those weapons even if they are not of U.S. origin?

**Table C5.T1G. Additional Country Team Assessment Elements for White Phosphorous Munitions**

#	Required Element
13	Indicate type of ammunition, quantity, and intended use.
14	U.S. Mission's opinion as to whether the amount requested is reasonable in relation to the intended use, current on-hand inventories, and predictable usage rates of such items.
15	Requests must also contain assurance from the host Government that white phosphorus munitions are used only for purposes such as signaling and smoke screening.

**Table C5.T1H. Additional Country Team Assessment Elements for Air-to-Surface and Indirect Fire Surface-to-Surface Munitions and their Delivery Systems**

#	Required Element
13	Has the partner previously demonstrated an ability and willingness to employ weapons in a manner that minimizes collateral damage?
14	Does the partner conduct weaponeering? If so, what tools and methods/methodology does the country use? Identify whether the existing capabilities could support the munition/delivery system requested, and whether such support would require upgrade/modification.



15	Does the partner conduct Target Coordinate Mensuration (TCM)? If so, what tools and methods/methodology does the country use? What geographic data? Can the partner reliably generate Target Location Error Category I coordinates under Joint Publication 3-09.3 (not for public release)? Identify whether the existing capabilities could support the munition/delivery system requested, and whether such support would require upgrade/modification.
16	Does the partner conduct Collateral Damage Estimation (CDE)? If so, what tools and methods/methodology does the country use? Identify whether the existing capabilities could support the munition/delivery system requested, and whether such support would require upgrade/modification.
17	The SCO must secure CCMD endorsement of the CTA prior to LOA submission. The CTA and the CCMD endorsement should include the following endorsement:  "In order to promote CDE practices and help partners mitigate the risk of civilian harm arising from the use of U.S.-origin munitions, the geographic combatant command approves the release of the munition's associated CDE table and population density tables (PDTs) for approved areas. Further, the CCMD approves the release of the unclassified portions of the U.S. CDE methodology within the Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 3160.01 (Not For Public Release).

**C5.1.5. The Department of Defense Components Authorized to Receive Letters of Request.** Certain DoD Components are IAs authorized to receive and respond to LORs. [Table C5.T2A](#), identifies MILDEP organizations authorized to receive LORs and their addresses. [Table C5.T2B](#), identifies other DoD IAs authorized to receive LORs and their addresses.

**Table C5.T2A. Military Department Organizations Authorized to Receive Letters of Request**

Click to view :

[Table C5.T2A. Military Department Organizations Authorized to Receive Letters of Request](#)

**Table C5.T2B. Other Department of Defense Implementing Agencies Authorized to Receive Letters of Request**

Click to view :

[Table C5.T2B. Other Department of Defense Implementing Agencies Authorized to Receive Letters of Request](#)

**C5.1.5.1. Exceptions.** LORs may be submitted directly to State (PM) and DSCA if the U.S. Embassy in-country or the purchaser's representative in the United States believes the request is sensitive and requires a higher-level policy determination, or if the purchaser or the SCO and/or U.S. Embassy cannot determine the appropriate DoD Component.

**C5.1.5.2. Letters of Request for Foreign Military Sales to non-Ministry of Defense Units.** Under limited circumstances, State can legally approve the sale of defense articles and services via FMS (including cases funded with FMF) for non-Ministry of Defense (MOD) units on a case-by-case basis. Approval of such transactions requires a fact intensive legal analysis of whether the assistance would be consistent with section 4 of the AECA, which requires that defense articles and services be sold by the USG under the Act only for certain purposes, including legitimate self-defense and internal security. In this context "internal security" does not include law enforcement functions, but rather refers to threats against the state, such as armed insurrection or criminal activity of such an unusual nature that it requires a response by security forces with a military mission. When considering FMS transactions with non-MOD units, State (PM), in consultation with the State Office of the Legal Advisor, will examine the mission of the entity for which the articles are requested and the relationship between that entity and other security forces with police functions to ensure that the provision of assistance would be consistent with the AECA and U.S. foreign policy. To request an FMS transaction for a non-MOD unit, SCOs should provide the information below to State (PM) through DSCA (IOPS). Failure to engage on this issue early in the process may result in transactions being delayed or denied in the final stages of the approval process.

- The unit's name, command, and organizational structure.
- The unit's full range of functions.
- The nature of the sale or assistance sought.
- To the extent that the sale or assistance is provided to support internal security, an explanation of the threat to the country's internal security and reason why it cannot be addressed by regular law enforcement forces using other assistance.
- An assessment of the risk that the defense articles or services will be transferred outside the recipient unit or security force.

**C5.1.6. Defense Security Cooperation Agency and Department of State Letter of Request Review.** The IA will provide a copy of the LOR to DSCA (IOPS) and the applicable SCO if one or both were not on distribution and, if the LOR is SME/MDE, to the CCMD. IAs should begin performing the activities identified in [Section C5.1.7.1](#), unless they believe the LOR raises concerns that should be addressed to DSCA and/or State for guidance. At any time during the LOR to LOA process, DSCA and/or State may initiate coordination to approve or disapprove the request or advise the IA to suspend further correspondence until coordination is complete. If the request is disapproved, DSCA formally advises the IA to stop processing the purchaser's request, provides the rationale for the decision, and issues guidance concerning further actions. The IA will cancel the Case Identifier (ID) in DSAMS if it has already been established.

**C5.1.7. Implementing Agency Letter of Request Review.**



**C5.1.7.1. Letter of Request Receipt and Acknowledgement.** After receiving the LOR, the IA enters the LOR data in the DSAMS as a Customer Request and acknowledges receipt of the LOR to the FMS purchaser. Both the "LOR Date" (the date included on the actual request from the purchaser) and the "LOR Receipt" date (the date the IA received the LOR, independent of any validation or assessment of whether it is actionable) must be entered into DSAMS. A Customer Request will be created in DSAMS for each LOR received. This includes creating separate Customer Requests for multiple LOA documents that are developed based upon one LOR. Creating a separate Customer Request for each LOA document will enable DSAMS to accurately measure the LOA development processing time of each document. IAs will forward LORs to other applicable IAs when the recipient IA is not authorized to offer some or all items on the LOR. Example: Air Force receives an LOR which contains a request for some communications security (COMSEC) products which must be offered on a National Security Agency (NSA) LOA, such as "S" type devices. In this instance, the Air Force will forward the LOR to NSA requesting case development for specific LOR item(s). NSA will provide their case identifier to the Air Force who will notify the FMS purchaser of both case identifiers and LOR details split between the IAs.

**C5.1.7.2. Letter of Request Assessment.** Upon receipt of an LOR, the IA will assess the LOR to determine if the request/requirement submitted by the purchaser meets the actionable criteria as defined in [Table C5.T3A](#). The "LOR Date" and the "LOR Receipt" dates must be entered in the DSAMS customer request window prior to assessment of the LOR. A milestone entry for "LOR Assessment" date, including multiple iterations, is planned for a future DSAMS release. When this "LOR Assessment" milestone is available in DSAMS, the SAMM will be updated to reflect its availability and any requirements for mandatory use of the milestone in DSAMS. In the interim, the IAs are encouraged to track the LOR Assessment period to capture and analyze the time it takes for this activity. The "LOR Assessment" date is defined as the date the LOR Assessment period begins. While it is expected that this date will be close to the "LOR Receipt" date, there may be legitimate reasons (e.g., holidays and weekends) why the dates do not match exactly. The LOR Assessment period ends at either "LOR Insufficient" or "LOR Actionable," whichever occurs first. Category C cases will be required to use the "LOR Assessment" milestone in DSAMS, and therefore, will always have an LOR assessment period that ends with either "LOR Actionable" or "LOR insufficient." The use of the "LOR Assessment" milestone in DSAMS will be optional for all other case categories (A, B, or D cases).

**C5.1.7.2.1. Letter of Request Insufficient.** If an LOR does not meet the mandatory requirements found on [Table C5.T3A](#), it is considered insufficient, and case development activities (to include case initialization) cannot be started until more information is obtained or clarified with the purchaser. The "LOR Insufficient" date is defined as the date that the LOR Assessment process has determined that the LOR does not meet the mandatory actionable criteria as defined in [Table C5.T3A](#). Requests for Information will be sent to the purchaser to address information needed prior to the start of case development. A milestone entry for "LOR Insufficient" date, including capability for multiple iterations, is planned for a future DSAMS release. In the interim, the IAs are encouraged to track this date to capture and analyze the time it takes for an LOR to reach actionable status. When the new milestone is available in DSAMS, the SAMM will be updated to reflect its availability and any requirements for mandatory use.

**C5.1.7.2.2. Letter of Request Actionable.** Once an LOR, to include any additional information provided by the purchaser, meets the mandatory requirements found on [Table C5.T3A](#), it is considered actionable and the IA may proceed with case development actions. An "LOR Actionable" milestone must be entered into DSAMS before case development activities may begin for Category C documents. The "LOR Actionable" milestone is defined as the date that the LOR Assessment process has determined that the LOR meets, at a minimum, the mandatory actionable criteria as defined in [Table C5.T3A](#). To enter the "LOR Actionable" milestone in the Case Milestone Window, the case must first be initialized. The "LOR Actionable" milestone should then be entered upon case initialization. This milestone is mandatory for Category C documents (since it is the starting point for the case development clock) and optional for all other categories. The time period between "LOR Receipt" and "LOR Actionable" should be minimized to the extent possible. While no performance standard is set for this time period, IAs are encouraged to conduct additional research or follow-up with purchasers if an LOR does not reach actionable status within 30 days of receipt. Even though the LOR is considered actionable, further information may be needed to complete LOA document processing. "LOR Complete" criteria can be found in [Table C5.T3B](#), and these criteria must be fully met, in addition to the criteria located in [Table C5.T3A](#), for an LOR to be considered complete. Requests for Information will be sent to the purchaser to address remaining issues prior to entry of the "LOR Complete" date in DSAMS. The "LOR Actionable" milestone may be entered more than once on a case document if there is a significant change to previously provided requirements, in accordance with [Section C5.1.7.3](#).

**C5.1.7.2.3. Letter of Request Complete.** Once an LOR, to include any additional information provided by the purchaser, contains all information needed to complete case development, an "LOR Complete" milestone must be entered into DSAMS. This indicates the date when all applicable criteria in [Table C5.T3B](#) and [Table C5.T3A](#) have been met and all Requests for Information have been addressed. The "LOR Complete" date must be entered into DSAMS prior to the Military Department approval (MILAP) milestone, which results in a case moving to "Write" status. sending the LOA document to the DSCA (Office of International Operations, Global Execution Directorate, Case Writing and Development Division (IOPS/GEX/CWD)).

**Table C5.T3A. Mandatory Criteria Before LOR Actionable (Before Case Development Activities)**

#	Criteria
1	Potential purchaser is an eligible FMS recipient. See <a href="#">Section C4.1</a> .
2	The defense article or defense service sought may be sold. See <a href="#">Section C4.4</a> , and <a href="#">Section C4.5</a> .
3	The request was submitted and received through proper channels. See <a href="#">Section C5.1.3</a> .
4	No sanctions exist that would prevent an LOA from being prepared and/or offered to the purchaser. See <a href="#">Section C6.6</a> .
5	The request is a valid military requirement of the purchaser.
6	The LOR is from a source with the authority to submit requests on behalf of the requesting country or international organization.
7	Determine whether the request is for an LOA, lease, or for P&A data.
8	An appropriate source of funding is identified (e.g., national funds, FMF non-repayable, etc.). Request for Bank Letter of Credit is approved.

9	Request contains sufficient level of detail in its requirements for the responsible organization (e.g., a program office) to begin case development (LOAD phase) to include the defense articles, commodities, quantities, services, support, integration, etc.
10	Determine if a CTA and CCMD endorsement are required, in accordance with <a href="#">Section C5.1.4.</a> and <a href="#">Section C5.5.5.4.</a> If so, begin coordination to obtain them.
11	Determine if the request includes a TIP in-scope item. If so, ensure a CTA and CCMD endorsement have been provided.
12	Determine if additional technical releases or policy reviews are required, in accordance <a href="#">Section C5.1.4.2.</a> If so, begin coordination to obtain them.
13	Ensure the country is not in negotiation directly with a company to obtain the item via DCS. See <a href="#">Section C4.3.10.</a>

**Table C5.T3B. Mandatory Criteria Before LOR Complete**

#	Criteria
1	Determine the purchaser's authorized term(s) of sale. See <a href="#">Section C9.8.</a>
2	If a CTA and CCMD endorsement are required, ensure they have been provided, and that all necessary elements have been satisfied. See <a href="#">Section C5.1.4.</a> and <a href="#">Section C5.5.5.4.</a>
3	The request is specific enough to enable a responsible organization (e.g., a program office) to obtain all pricing data. Requirements must be finalized, including (but not limited to): the defense article, commodity, quantity, configuration/customization, required delivery date, and required years of support.
4	Determine if the purchaser is requesting sole source procurement. See <a href="#">Section C6.3.4.</a>
5	Determine whether the partner nation has submitted a request to waive non-recurring costs. See <a href="#">Section C9.6.3.</a>
6	Determine whether overseas Contract Administration Services (CAS) surcharge applies. See <a href="#">Table C9.T4.</a>
7	<p>Ensure the LOR contains the following (as appropriate):</p> <ul style="list-style-type: none"> <li>• All hardware requirements are specified, including identifying designation</li> <li>• Determine whether non-standard or non-program of record (NPOR) equipment is required</li> <li>• Determine whether requested capability/equipment has not yet undergone Initial Operational Testing and Evaluation (IOT&amp;E) and requires a Yockey Waiver</li> <li>• Determine whether a site survey is required</li> <li>• Support and training requirements are identified</li> <li>• Transportation requirements are identified</li> <li>• Determine whether COMSEC release is needed, to include a Release in Principle.</li> <li>• Identify if there are diminishing resources and supply issues with the weapon system identified</li> <li>• Technical assistance requirements are identified (see below examples) <ul style="list-style-type: none"> <li>◦ Initial/long term follow-on maintenance requirements for support (e.g., organizational, intermediate, depot level)</li> <li>◦ Contractor logistics support requirements</li> <li>◦ Contractor post-production support</li> <li>◦ Contractor in-country support requirements</li> </ul> </li> <li>• Other Total Package Approach (TPA) requirements are identified (e.g., Targeting Infrastructure Requirements, etc.)</li> <li>• Identify whether storage is required for a defense article/service that is classified, controlled, cryptographic intelligence, or explosive</li> <li>• Determine whether any Electronic Warfare (EW) systems require a Release in Principle</li> <li>• Determine if a site certification for the protection of either Enhanced End Use Monitoring (EEUM) or SME containing classified information/systems and related components is required</li> </ul>

**C5.1.7.3. Letter of Request Changes During Case Development.** During the time period between when an LOR is deemed actionable and the presentation of an offer, a purchaser may significantly change previously-provided requirements. This may result in rework by the IA for any case development work already completed based on the original information. In these instances, the IA may enter new dates in DSAMS (e.g., new "LOR Actionable" date) to allow more accurate tracking of case development activities against standard timeframes. Criteria for what would qualify as significant for purposes of measuring from the new "LOR Actionable" date include:

#	Letter of Request Changes Considered "Significant" for New Letter of Request Actionable Date
1	If requirement changes result in failure to meet mandatory actionable criteria in <a href="#">Table C5.T3A.</a>
2	Increase or addition of case value that causes an LOA document that was previously below CN thresholds to now meet CN thresholds.
3	Increase or addition of case value that causes an LOA document that was previously notified, to exceed the program value submitted on the CN.

4	Addition or change of MDE or SME that would require revision to CN packages or submittal of new waivers, release, or disclosure packages.
5	Addition of country-specific software, not previously included as a requirement, that requires weapon system integration.
6	Addition of sole source pricing, not previously included as a requirement, that causes pricing efforts to restart.
7	Addition of Not to Exceed (NTE), not previously included as a requirement, that causes pricing efforts to restart.

**C5.1.7.4. Internal Controls and Oversight for Performance Milestones.** DSCA requires that all IAs establish, publish, and enforce internal control and oversight mechanisms within their organizations to ensure all DSAMS case-related data entries are timely and accurate. The controls must include sample review of date entries for accuracy (e.g., "LOR Date," "LOR Receipt" date, "LOR Actionable" date, etc.) as well as adherence to published standards. IA-specific guidance must identify offices responsible for compliance and potential improvement actions (e.g., provision of training related to persistent concerns). IAs must develop and publish their internal control and oversight guidance and provide copies (both initial guidance and future updates) to DSCA (Office of Administration, Performance, Improvement, and Effectiveness Directorate (ADM/PIE)).

#### **C5.1.8. Letters of Request Requiring Letter of Request Advisory Memoranda and/or Unique Review.**

**C5.1.8.1. Letter of Request Advisory Memoranda.** An LOR Advisory notifies Under Secretary of Defense for Acquisition & Sustainment (USD (A&S)) and the Joint Chiefs of Staff that DSCA has received an LOR for defense articles or items or services that require LOR Advisories or LOR review specific to the proposed sale or specific end item. [Table C5.T4](#), identifies defense articles requiring item-specific review and provides links either to forms for LOR Advisories or to explanations of unique review requirements.

**C5.1.8.2. Preparing Letter of Request Advisories.** DSCA (IOPS/WPN) prepares and sends an LOR Advisory to the Joint Chiefs of Staff and USD (A&S) using the format in [Figure C5.F1](#). The LOR Advisory should include a copy of the purchaser's request as well as the CTA (when required). To ensure consistency with existing Theater Security Cooperation objectives and technology security policy, DSCA sends the LOR Advisory as soon as possible after receiving the LOR with all required attachments. The LOR recipients at the IA have 10 working days from the date of the LOR Advisory to provide comments to DSCA for consideration. In the event of non-concurrence, DSCA will refer disagreements to an appropriate level in OUSD(P) for resolution. The LOR Advisory does not take the place of any Exception to National Disclosure Policy (ENDP) processes or releasability requirements that are worked by the MILDEPs.

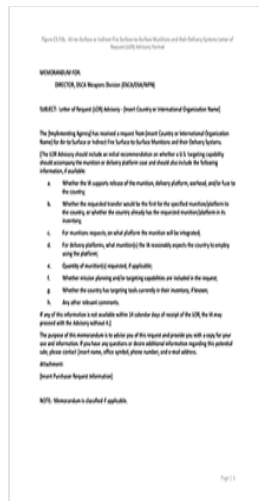
**Table C5.T4. Defense Articles or Services that Require Item-specific Letter of Request Advisories or Review**

Item	Requirement	Notes
Ballistic Missile Defense Capability	Standard Advisory Letter with Missile Defense Agency (MDA) as an Addressee. (See <a href="#">Figure C5.F1A</a> .)	
Coproduction or licensing agreements for MDE	Standard Advisory Letter (See <a href="#">Figure C5.F1</a> .)	
EW Systems and EW Integrated Reprogramming Database (EWIRDB)		Unique review (See <a href="#">Section C3.7.4</a> .)
First Introduction of MDE to the Purchaser	Standard Advisory Letter (See <a href="#">Figure C5.F1</a> .)	
MDE Expected to Result in a CN pursuant to AECA section 36(b)	Standard Advisory Letter (See <a href="#">Figure C5.F1</a> .)	
MTCR Category 1 ISR UAV/UCAV	Standard Advisory Letter (See <a href="#">Figure C5.F1</a> .)	Unique review (See <a href="#">Section C3.7.2</a> .)
NVDs	<a href="#">NVD Handbook</a>	Unique review (See <a href="#">Section C4.4.14</a> .)
Other defense articles or services of a sensitive nature; Any sale of defense articles or services may rise to the level at which it might be considered politically sensitive in the context of bilateral or regional relationships at the time it is requested.	Standard Advisory Letter (See <a href="#">Figure C5.F1</a> .)	
MDE that has not yet completed Operational Testing & Evaluation (OT&E)	Standard Advisory Letter (See <a href="#">Figure C5.F1</a> .)	Unique review (See <a href="#">Section C5.1.8.3</a> .)
STINGER/MANPADS	Standard Advisory Letter (See <a href="#">Figure C5.F1</a> .)	Unique review (See <a href="#">Section C4.4.12</a> .)
Integration of Non-U.S. Subsystems	Standard Advisory Letter (See <a href="#">Figure C5.F1</a> .)	Unique review (See <a href="#">Section C5.1.8.4</a> .)





Figure C5.F1B. Air-to-Surface or Indirect Fire Surface-to-Surface Munitions and their Delivery Systems Letter of Request Advisory Format



- [PDF Version of Figure](#)
- [Web Version of Figure](#)

Figure C5.F2. Sample Request for Exception to Department of Defense Night Vision Device Policy



SAMM Figure C5.F2. "Sample Request for Exception to DoD NVD Policy" has been replaced by the 2014 DoD Transfer of Night Vision Devices (NVDs) Handbook available at: <https://www.dsca.mil/2014-nvd-guide>

**C5.1.8.3. Pre-Operational Test and Evaluation Sales Policy (Yockey Waiver).** Before responding to LORs for Major Defense Equipment (MDE) that has not completed Operational Testing and Evaluation (OT&E) in accordance with [Department of Defense Instruction \(DoDI\) 5000.85](#), the IA shall submit a Yockey Waiver approval request through DSCA (IOPS/WPNS) for endorsement. DSCA (IOPS/WPNS) is responsible for endorsing and submitting the coordinated Yockey Waiver approval request to USD (A&S) for final determination. Yockey Waiver approval determinations are made on a case-by-case basis. A Yockey Waiver for multiple countries or multiple MDE items is prohibited. For multinational FMS cases, each end-user country requires a separate Yockey Waiver. LOA or P&A data for such items cannot be released prior to USD (A&S) approval. If approved, a note must be included in the P&A data correspondence, or on the LOA. See [Appendix 6, Operational Test and Evaluation \(OT&E\) Incomplete \(Yockey Waiver\)](#).

**C5.1.8.3.1. Applicability of Yockey Waivers for Non-Programs of Record.** Yockey Waivers only pertain to items designated as MDE where OT&E is not yet completed, in accordance with DoDI 5000.85. Therefore, NPOR solutions or components that are not designated as MDE do not require a Yockey Waiver. When a MDE article which would otherwise require a Yockey Waiver is incorporated as a component into an NPOR solution, then a Yockey Waiver request must be approved for the component. IAs may contact DSCA (IOPS/WPNS) at [dscanor.iops.list.wpns-all-members@mail.mil](mailto:dscanor.iops.list.wpns-all-members@mail.mil) for clarification prior to the submission of a Yockey Waiver request.

**C5.1.8.4. Integration of Non-United States Subsystems.** The IA reviews requests for integration or certification services for installation of non-U.S. subsystems and coordinates with DSCA (IOPS/WPN) prior to development of P&A data or an LOA.

**C5.1.8.5. Nonstandard (Significant Military Equipment).** The IA reviews requests for SME not standard in DoD inventory and coordinates with DSCA (IOPS) prior to development of P&A data or an LOA.

## C5.2. - Letter of Request Responses - General Information

**C5.2.1. Types of Letter of Request Responses.** USG responses to Letters of Request (LORs) include Price and Availability (P&A) data, Letters of Offer and Acceptance (LOAs), and other appropriate actions that respond to purchasers' requests for defense articles and/or services through the Foreign Military Sales (FMS) process. The USG can tailor responses to meet purchasers' requests. These can be in the form of a hybrid, negotiated, or Not-To-Exceed (NTE) tailored response as noted below. Advance planning and coordination are essential in situations involving responses that combine both FMS and Direct Commercial Sales (DCS) elements, particularly when those situations originate through DCS channels. The USG is not bound to honor commitments made by industry, nor can it be held liable for inability to provide FMS support in conjunction with a DCS even if requested by the FMS purchaser. Examples of such support include, but are not limited to, airworthiness certification, training in U.S. military schools, aircraft ferrying, refueling services, and the provision of equipment, components, or services available only through FMS channels. To ensure that such situations do not occur, it is in industry's interest to advise the purchaser that FMS articles or services will be required for the purchaser to effectively use, maintain, and sustain equipment being purchased through DCS and that the purchaser must submit an LOR to obtain this support. Industry should inform DSCA and the relevant Implementing Agency (IA) of the possibility of a requirement for FMS articles or services. Security Cooperation Organizations (SCOs) providing support to U.S. companies in-country should be alert to the need for the partner nation to submit an LOR and remind the purchaser counterparts and company representatives of this requirement.

**C5.2.1.1. Hybrid.** Hybrid responses contain both FMS and DCS elements. Hybrid responses may be provided to purchasers who submit LORs either for FMS support (e.g., Training, Support Equipment, Components, Munitions, etc.) of a defense article procured via DCS or for a defense article being procured via FMS that will include components or support purchased through DCS. The DCS procured defense article is not a line item on the LOA but is identified on the LOA as the end item for which the FMS support is provided.

**C5.2.1.2. Negotiated.** Negotiated responses may be provided when the purchaser negotiates the price of the items either before submitting the LOR or prior to the USG's obtaining the pricing for the defense articles/services from the company identified by the purchaser. Negotiated prices must be identified if a sole source of the company is approved and included in the LOA. However, the contract price is as agreed between the IA's contracting officer and the company.

**C5.2.1.3. Not-to-Exceed.** NTE or Firm Fixed Price (FFP) responses will not normally be provided. Maximum use will be made of FFP sales from stock in accordance with [DoD Financial Management Regulations \(DoD FMR\), Volume 15, Chapter 7, Section 070303](#) and consistent with the obligations of the purchaser to pay all costs even if in excess of LOA estimates. For items from procurement, NTE prices may be included in the LOA line by line. Purchasers that request NTE pricing will be charged the incremental costs that the IA incurs or expects to incur to prepare the LOA using NTE pricing. See [Table C9.T2A](#).

### C5.2.2. Negative Responses to Letters of Request.

**C5.2.2.1. Implementing Agency Disapproval Recommendation.** If the IA recommends that Major Defense Equipment (MDE), Significant Military Equipment (SME), requested support of these articles, or the entirety of the purchaser's request be disapproved, the IA will coordinate with the purchaser, the applicable geographic Combatant Command (CCMD), and the SCO to remove the requirement or replace the requirement with a comparable substitution.

**C5.2.2.1.1.** If the purchaser accepts that a requirement be replaced with a comparable substitution or removed altogether, the case may continue with development. The updated requirement date may be noted with a new LOR Actionable milestone posted (see [Table C5.T20](#), for information on LOR Actionable), with purchaser acknowledgment/acceptance as supporting documentation, which must be submitted to DSCA in the Case Tracking System (CTS)) (see [Section C5.4.18.5](#)).

**C5.2.2.1.2.** The IA will notify the DSCA (Office of International Operations (IOPS)) Country Portfolio Director (CPD) if the purchaser does not agree to remove the requirement or replace the requirement with a comparable substitution per IA recommendation. DSCA (IOPS) will coordinate the disapproval recommendation with the Department of State, Bureau of Political-Military Affairs, Office of Regional Security and Arms Transfers (State (PM/RSAT)) FMS Team, DSCA Offices, Office of the Under Secretary of Defense for Policy (OUSD (P)), Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD (A&S)), and the Defense Technology Security Administration (DTSA) if equities are identified and will request Department of State, Bureau of Political and Military Affairs (State (PM)), through its designated Embassy representative or other appropriate channel, formally notify the purchaser formally notify the purchaser of the disapproval. The formal notification will provide the purchaser's options, which include canceling the LOR, revising the LOR to include a comparable substitution or differing capability, or agreeing to continue LOA development without the disapproved requirements if feasible, and will request a response from the purchaser within ten business days. The respective IA shall include a copy of the notification for disapproved items in the supporting documentation submitted to DSCA in the CTS (see [Section C5.4.18.5](#)).

**C5.2.2.1.3.** This procedure applies to FMS purchaser requests for defense articles, defense services, training, and co-production.

**C5.2.2.2. Negative Responses to Training Requests.** The following routine training disapproval actions are exempt from this prior coordination requirement:



- Denial of requests within established policy (e.g., training courses closed to all foreign nationals, information not cleared for release, training for support equipment not in the purchaser's inventory).
- Notification of class cancellations for previously approved quotas.
- Quota requests that cannot be accommodated within the desired timeframe.
- Courses where annual foreign participation is restricted to those invited by Chiefs of Services.

DSCA (IOPS) and DSCA (Office of Strategy, Plans, and Policy (SPP)) are information addressees on all such responses.

**C5.2.2.2.1. Responses to Requests for Less Than Economic Order Quantity.** Responses to P&A data or LOA requests for items that cannot be supplied from stock and cannot be procured immediately because they represent less than an Economic Order Quantity (EOQ) must be coordinated with DSCA (IOPS) CPD, and indicate whether a contractor is willing to provide the quantity requested under separate procurement, and if so provide P&A data to include the delayed delivery timeline; or, if a USG procurement is planned, the anticipated P&A data to include the delayed delivery timeline if the requirement is held pending this procurement.

### C5.3. - Letter of Request Responses - Price and Availability Data

Price and Availability (P&A) data are requested when preliminary data are required by a partner nation or international organization for planning or in anticipation of a purchase under Foreign Military Sales (FMS).

**C5.3.1. Definition.** P&A data are rough order of magnitude estimates of cost and availability of defense articles or services. These estimates are sufficiently accurate for rough-order planning purposes but should not be used for budget purposes and are not commitments. P&A data are not valid for use in preparing a Letter of Offer and Acceptance (LOA). The term P&A data is not used to reference data being developed for an LOA. Instead, data compiled for an LOA are referred to as LOA data (LOAD). When responding to requests for P&A data, the Implementing Agency (IA) ensures that:

1. The DoD Component can recommend release of the articles and/or services.
2. If the purchaser were to request an LOA, it could be provided (i.e., further clearances such as Congressional Notification (CN) or disclosure approval are obtainable).
3. The purchaser knows to submit a Letter of Request (LOR) to request an LOA if it wants to pursue the purchase.

**C5.3.2. Price and Availability Preparation Timeframe.** P&A data estimates should be provided to the prospective purchaser within 45 days of the request.

**C5.3.2.1. Classified Price and Availability Data.** P&A data are classified only in rare circumstances. Classified P&A data cannot be entered into Defense Security Assistance Management System (DSAMS). P&A data, regardless of estimated dollar value or proposed program content, are classified only when directed by the Department of State (State), the Secretary of Defense (SECDEF) or his or her designees, to include the Director, DSCA; or the purchaser requests classification and the request is approved by an authority listed above.

**C5.3.3. Price and Availability for Non-Program of Record Systems and Subsystems.** Purchasers may submit a LOR for Price and Availability (P&A) data for NPOR systems and subsystems. P&A responses for NPOR systems or subsystems must be coordinated with the respective IA stakeholders in line with IA internal guidance. IA stakeholders for NPOR activities are identified in the CAC-enabled SAMM. IAs may request additional information from the purchaser to support LOR Actionable determinations. When the IA lacks sufficient historical procurement data, the IA should coordinate with the contractor that is providing the NPOR system or subsystem prior to providing a P&A response. P&A responses to purchaser's requests for NPOR systems or subsystems must include the [NPOR Disclaimer for FMS line note](#).

**C5.3.4. Price and Availability for Nonstandard Subsystems.** P&A data normally includes standard U.S. subsystems. In exceptional cases, purchasers may request P&A data for nonstandard subsystems. The purchaser's P&A request should include a description of the performance characteristics of any nonstandard subsystem(s) and supporting justification, including why U.S. systems do not meet the purchaser's requirements. DSCA must approve any proposed responses to requests for nonstandard subsystems. If an IA believes it should modify contractor-furnished data for nonstandard subsystem(s), the IA notifies the contractor and contractor comments are considered prior to P&A issuance. Significant differences must be reconciled.

**C5.3.5. Price and Availability Preparation.** IAs authorized to prepare LOAs are also authorized to prepare P&A data for presentation to purchasers. DSAMS should be used to prepare P&A data response documents whenever possible. DSAMS cannot be used to prepare classified P&A data.

**C5.3.6. Price and Availability Data Format.** [Table C5.T5](#), presents the information included in P&A data.

**Table C5.T5. Price and Availability Data**

#	Price and Availability Data
1	<p>Major item or service, quantity, and estimated cost.</p> <ol style="list-style-type: none"> <li>a. Cost includes adjustments for inflation. If inflation trends on a given system are not known, Under Secretary of Defense (Comptroller) (USD (C)) standard inflation factors are used.</li> <li>b. Include estimated offset costs as provided by the contractor.</li> </ol>

2	Ancillary support equipment necessary for the operation and maintenance of the requested system and its estimated cost.
3	Integrated Logistics Support (ILS) elements (e.g., training and publications) and estimated cost.
4	Estimated assessorial charges.
5	Source of the data (e.g., last contract award, stock price).
6	Estimated availability of the articles or services.
7	Assumptions used in developing the data. For example: <ul style="list-style-type: none"> <li>a. The standard DoD Component factors were used in developing the ancillary equipment or ILS elements necessary to support the quantity of items requested.</li> <li>b. Training and publication cost estimates are based on criteria used by the DoD Component.</li> </ul>
8	Key factors affecting the data. For example: <ul style="list-style-type: none"> <li>a. The current contract for this item expires on [insert date] and an LOA must be implemented by [insert date] so that options can be added to the current contract.</li> <li>b. The production line is due to phase out by [insert date]. Start-up costs apply if an LOA is not implemented by [insert date].</li> <li>c. The materiel has a shelf life of [insert date].</li> </ul>
9	The following is included in all responses for P&A data: <p>"The Price and Availability (P&amp;A) data provided are not valid for purposes of preparing a Letter of Offer and Acceptance (LOA) and may not be adequate for budgetary purposes. These data are for planning/review purposes only, to assist in your Government's determination whether or not to request an LOA. If [insert the appropriate partner nation] is interested in pursuing this potential purchase, it must request an LOA."</p>
10	The P&A must include the <a href="#">NPOR Disclaimer for FMS line note</a> found in Appendix 6.

**C5.3.7. Agents Fees or Sales Commissions.** P&A data quotations that contain agents' fees or sales commissions are coordinated with DSCA (Office of Strategy, Plans, and Policy (SPP)) prior to presentation to the purchaser. See [Section C6.3.7](#).

**C5.3.8. Discussions with Foreign Governments and International Organizations.** Economic, production, and budget uncertainties make it difficult to develop accurate cost and delivery estimates. Discretion must be exercised by members of the country team or other U.S. officials in discussing P&A data with foreign government or international organization officials. Only specific data approved and provided by the IA or DSCA should be used.

## C5.4. - Letter of Request Responses - Letter of Offer and Acceptance

**C5.4.1. Definition.** The Letter of Offer and Acceptance (LOA) is the legal instrument used by the USG to sell defense articles, defense services including training, and design and construction services to a foreign country or international organization under authorities provided in the [Arms Export Control Act \(AECA\)](#). The LOA itemizes the defense articles and services offered and when implemented, becomes an official tender by the USG. [Section C5.4.1.1](#), and [Section C5.4.1.2](#), provide additional guidance on itemizing defense articles and services. The LOA is not used to provide Price and Availability (P&A) data. Signed LOAs and their subsequent Amendments and Modifications are also referred to as "Foreign Military Sales (FMS) cases." See [Chapter 15](#) and [Chapter 15-Legacy](#). (for programs as identified in the [Chapter 15](#) introduction) on use of LOAs to implement Building Partner Capacity (BPC) cases.

**C5.4.1.1.** Case lines will clearly identify whether defense articles, defense services, or training is being provided. Offset related costs must follow SAMM guidance. See [Section C6.3.9](#).

**C5.4.1.2.** Case lines will also identify defense articles that are procured in support of case execution that will be in possession of the USG, but that are not intended to be shipped to the purchaser, such as special tooling, test equipment, and non-exportable hardware, etc.

**C5.4.1.2.1.** To meet the requirements of the identification of defense articles that are not intended to be shipped to the purchaser, within the case line notes case managers should add a sentence stating the following:

Defense articles not intended to ship - "This line contains defense articles that are not intended to be shipped to the purchaser."

**C5.4.2. Letter of Offer and Acceptance Document Preparation Timeframe.** The time required to prepare LOA documents (LOAs, Amendments, and Modifications) varies with the complexity of the sale. Standards are established and tracked by specific case category as shown on [Table C5.T6](#). The Implementing Agency (IA) is responsible for assigning a case development category to each LOA document for tracking against the specific standard in accordance with guidance provided in [Table C5.T6](#). The IA must enter the applicable case development category into the Defense Security Assistance Management System (DSAMS) when the case is created. For Category A, B, and C documents, the IA sends a copy of the LOA document to the purchaser (through the Security Cooperation Organization (SCO) as appropriate) once the LOA document has reached "OFFERED" status. For Category D documents, after DSCA has countersigned the LOA document, it is sent to the IA for USG signature and acceptance.

**Table C5.T6. Case Development Categories and Standards**

Category	Description	Standard	Clock Start	Clock Stop
A	Blanket order LOAs (including blanket order training); Cooperative Logistics Supply Support Arrangements (CLSSAs), and associated Amendments and Modifications.  Note: Modifications for cases that were originally prepared as Category C documents will be prepared using Category A or B standards.	85% within 45 days	Letter of Request (LOR) Receipt	Offer
B	Defined order LOAs (including defined order training) and associated Amendments and Modifications.  Notes: 1. An LOA document originally assigned to Category B can be re-assigned by the IA to Category C if the IA subsequently determines the document meets the requirements of Category C. 2. Modifications for cases that were originally prepared as Category C documents will be prepared using Category A or B standards.	85% within 100 days	LOR Receipt	Offer
C	Defined Order LOAs, and associated Amendments with specific factors that are expected to significantly impact the LOA document development processing time. See <a href="#">Figure C5.F13</a> , for a list and definition of eligible factors.  Note: Modifications for cases that were originally prepared as Category C documents will be prepared using Category A or B standards.	85% within 150 days	LOR Actionable	Offer
D	BPC (or other non-FMS programs that use FMS processes and procedures) and associated Amendments and Modifications.  Note: All BPC LOAs and associated Amendments and Modifications must be tracked as Category D regardless of the type of items included on the document. While these documents may include Blanket Order or Defined Order articles and services, they are inherently BPC cases. Assignment of BPC case documents to Category A, B, or C is not allowed.	85% within 60 days	LOR Receipt	BPC Wait
	Title 10 BPC cases utilizing the Long Term Solution effective 1 October 2024.	85% within 60 days	Customer Request Complete	BPC Wait

**C5.4.2.1. Case Development Extenuating Factor.** A Case Development Extenuating Factor (CDEF) identifies a reason why the processing time of an LOA document might exceed the standards from [Table C5.T6](#). Once the IA has determined that its ability to meet the case development standard will be impacted for a given LOA document, the IA should enter a CDEF reason code in DSAMS. A CDEF can be applied to all preparation categories but is mandatory for LOA documents in Category C. One or more CDEFs can be applied to an LOA document. When entering a CDEF reason code, the IA must include an estimated number of days the CDEF will take to be resolved and once resolved, the IA must go back into DSAMS to enter the actual number of days that were required to resolve the CDEF issue. DSAMS will not allow the LOA document to be signed (e.g. MILSGN) until the actual number of days it took to resolve the CDEF is entered. This will enable the IA and DSCA to measure the impact of specific CDEFs on our ability to meet the case development standards. A list of CDEFs is identified in [Figure C5.F13](#). This list should also be used when determining what LOA documents should be tracked as Category C.

**Figure C5.F13. Case Development Extenuating Factors**

#	Factor	Definition or Examples
1	First time purchase of defense article or service by an FMS purchaser	<ul style="list-style-type: none"> <li>Initial sale of a specific major defense item to a country or international organization.</li> <li>Requires assessment, planning, or acquisition of infrastructure, facilities, supply chain, technical training, organizational training, force restructure, force realignment, or employment or doctrinal development support.</li> </ul>
2	First time FMS purchase by a specific country or international organization	<ul style="list-style-type: none"> <li>Sales to countries or international organizations with limited or no experience with USG FMS.</li> <li>The experience and culture of the purchaser is expected to impact case development.</li> </ul>
3	Case requires engineering, system integration, or special acquisition	<ul style="list-style-type: none"> <li>Any case requiring developmental engineering, systems integration or special acquisition to replace, augment, or improve end item baseline subsystems, components or parts.</li> <li>Major system cases pulling numerous systems together for integration into a major weapon system platform.</li> <li>Efforts include systems where tactical data links are required such as Link 16.</li> <li>Special acquisition or integration requirements for installation of non-U.S. subsystems on U.S. weapons platform.</li> </ul>
4	Requested use of the system is different from its use by U.S. military forces	<ul style="list-style-type: none"> <li>Any purchaser intending to use USG-developed materiel to meet requirements or function in a manner different from the article's original design.</li> <li>Example: a Navy ship missile to be fired from an Army or foreign country's helicopter.</li> </ul>
5	Detailed release or disclosure coordination required  5a. Technology Release  5b. Policy Release	<ul style="list-style-type: none"> <li>Requirement to work with other IAs to get approvals for release.</li> <li>Includes (a) Technology Release Processes (i.e., Low Observable/Counter Low Observable (LO/CLO)/Tri-Service); (b) Exception to National Disclosure Policy (ENDP).</li> </ul>

6	Complex pricing effort required 6a. Contractor Pricing Delays	<ul style="list-style-type: none"> <li>• Efforts on a major weapons platform which pulls many Major Defense Equipment (MDE), Significant Military Equipment (SME), or non-standard components in from various sources.</li> <li>• The Program Managers (PMs) have to ensure that the pricing efforts include the capability to meet all U.S. financial requirements and that they directly correlate with the purchaser requirements for delivery.</li> <li>• Includes (a) Contractor Pricing delays.</li> </ul>
7	Extraordinary coordination required inside or outside the IA 7a. Congressional Notification (CN) 7b. Waiver Required 7c. Excess Defense Articles (EDA)	<ul style="list-style-type: none"> <li>• Working with other IAs to get approvals for release of required items, multi-country consortium approvals, as well as hybrid sales which contain both FMS and Direct Commercial Sales (DCS) elements.</li> <li>• Includes (a) Any case that requires CN.</li> <li>• Includes (b) Requirement for waivers, accomplished simultaneously, IF completion of those waiver requests will extend the case development time.</li> <li>• Includes (c) EDA cases that require CN or resourcing through the EDA process.</li> </ul>
8	Purchaser LOR Incomplete 8a. Changing Requirements	<ul style="list-style-type: none"> <li>• Changing Requirements.</li> </ul>
9	Funding Issues or Delays	<ul style="list-style-type: none"> <li>• Instances where the purchaser does not have funding readily available to cover case requirements (such as when the purchaser has to wait for their yearly allotment of Foreign Military Financing (FMF) to be allocated).</li> <li>• Billing issues, Obligation Authority adjustments, or over-commitment conditions on modifications and amendments where interface with the Defense Integrated Financial System (DIFS) is required.</li> </ul>
10	Other	<ul style="list-style-type: none"> <li>• Unique circumstances requiring detailed milestone explanation in DSAMS.</li> </ul>

**C5.4.2.2. Holds During Case Development.** Recognizing that there will be times when circumstances outside our control will prevent the USG from meeting the LOA development standard timeframes, DSCA established a standard (see [Table C5.T6.](#)) that are set at 85 percent of the time (vice 100 percent). In rare circumstances, there may be instances where the IA is unable to complete any further case development processing of an LOA document due to a unique constraint. In these instances, the IA may request that DSCA grant a CPOHOLD.

**C5.4.2.2.1. CPOHOLD.** A CPOHOLD milestone captures the period of time in DSAMS where no further case development processing (parallel or sequential) can take place, thereby excluding that time from performance metrics. These circumstances must be unique in nature (e.g., on hold by a member of Congress, Under Secretary of Defense policy position, etc.) and cannot be a part of a routine or standard process (e.g., CN or Technology Security and Foreign Disclosure processes, etc.). A CPOHOLD can only be approved by DSCA (Office of Administration, Performance, Improvement, and Effectiveness Directorate (ADM/PIE)). Requests must include an endorsement from the IA's Security Cooperation (SC) policy office. Multiple CPOHOLDS can occur at the same time to reflect different process constraints.

**C5.4.2.2.2. CPOHOLD Requests.** DSCA (ADM/PIE) is responsible for reviewing all CPOHOLD requests and for making a determination to approve or disapprove. The IA is responsible for conducting all necessary research and providing all necessary information/justification to DSCA (ADM/PIE) for review and consideration. The IA SC policy office must submit the CPOHOLD requests to the DSCA CPO LOA Hold Mailbox, [dscanccr.cpo.mbx.cpo-hold@mail.mil](mailto:dscanccr.cpo.mbx.cpo-hold@mail.mil). The "subject" line of the e-mail must specify the case identifier and document type/number associated with the request. The following information must be included in the request:

1. Case identifier, and document type/number,
2. Reason for request,
3. Date the issue was first identified,
4. Justification for why the issue is out of DSCA and/or IA control and further processing is not possible,
5. If the justification is related to CN, and there is an associated CN Transmittal Number, then it must be included,
6. Date that all case development processing (parallel or sequential) stopped,
7. The step in the case development process (e.g., Letter of Offer and Acceptance Data (LOAD), Review Status, etc.) when processing stopped,
8. Estimated timeframe when the issue will be resolved,
9. Endorsement from IA SC Policy Office,
10. IA point of contact who will provide updates and respond to queries for status, and
11. Additional supporting information that may be used to determine whether or not a case warrants a CPOHOLD.

**C5.4.2.2.3. CPOHOLD Processing.** DSCA (ADM/PIE) will acknowledge receipt of the CPOHOLD request through e-mail within three business days. If the request does not include the required information as indicated in the above table, DSCA (ADM/PIE) will notify the IA and will not consider the request until all required information is received. Once a complete request is received, DSCA (ADM/PIE) will review and, if necessary, coordinate with pertinent subject matter experts (SMEs) for their input. A decision will be provided to the IA within five business days of receipt of a complete request. If the request is denied, DSCA (ADM/PIE) will provide an explanation to the submitter through e-mail.

**C5.4.2.2.3.1. CPOHOLD in DSAMS.** If the CPOHOLD request is approved, DSCA(ADM/PIE) will post the CPOHOLD milestone in DSAMS to start the hold time and include reasons for the hold. The CPOHOLD start date will be when all case processing stopped. When DSCA is notified that the issue has been resolved or the CPOHOLD milestone is no longer needed, DSCA (ADM/PIE) will post the CPOHOLDREM milestone to stop the hold time.

**C5.4.2.2.3.2.** For approved CPOHOLDS, the IA will provide an update on the status of the issue preventing case development from proceeding to DSCA (ADM/PIE) on a monthly basis until the issue has been resolved. An e-mail from the IA to the CPOHOLD mailbox is sufficient for providing these updates. Once the issue has been resolved, the IA will notify DSCA (ADM/PIE) and provide the date of resolution and supporting documentation, if available.

**C5.4.2.3. Changes in Purchaser Requirements after Case Development Started.** After an LOR has been deemed actionable and case development activities are underway, there is still a possibility that the purchaser's requirements could change. Changes may be caused for a number of reasons that are unique to the purchaser and case. Processing requirements differ depending on the significance of the changes and when in the process they occur.

**C5.4.2.3.1. Requirement Changes Prior to Offer.** If the case requirements change before the LOA document has been offered to the purchaser, the LOA document should be adjusted and updated to reflect any changes that are suitable for inclusion. As with the initial requirements, the IA must review any changes in accordance with the criteria on [Table C5.T3A](#), to see if the updated requirements are allowable. If the requirements changes are minor, the IA should incorporate them into the current development effort without change to the document milestones. If the requirements changes are significant (in accordance with [Section C5.1.7.3.](#)), the IA must enter a new "LOR Actionable" date to allow tracking of the document preparation against the revised date.

**C5.4.2.3.2. Requirement Changes After Offer - Restatements.** There may be times when major changes (See [Section C5.4.15.3.](#)) need to be made to a document after it has been countersigned and offered to the purchaser. If the purchaser wants to retain the existing designator (instead of cancelling the offer and issuing a new case), the offered document may be restated. Restatements can be made as long as: (1) the document is in "OFFERED" status; and (2) the purchaser has not yet signed the document; and (3) the Offer Expiration Date (OED) has not been expired for more than six months; and (4) all changes are consistent with FMS policies and procedures. See [Section C6.7.1.3.](#) for more information on restatements. DSAMS will automatically revise the original customer request status of an LOA document from "LOR Complete" to "LOR Restate" once an IA selects the restatement tool in DSAMS. The IA must revise the customer request status in DSAMS from "LOR Restate" to "LOR Complete" before DSAMS will allow the military department (MILDEP) Approval (MILAP) on the restated LOA document. For purposes of measurement against the standard, DSCA measures to the first offer date. Restatements should also be tracked and analyzed by the IAs to inform business practices and identify individual purchaser trends. Before restating an LOA, the Purchaser must be notified in writing by the IA that the original offer is no longer valid. If the purchaser signs the original offer, it is considered an invalid acceptance because the original offer either expired or was withdrawn. This action is considered a counteroffer and a new offer should be made to the purchaser by extending and then restating the LOA, or the case should be cancelled, and a new LOA (new offer) prepared.

**C5.4.3. Types of Foreign Military Sales Cases.** The three types of FMS cases are Defined Order, Blanket Order, and Cooperative Logistics Supply Support Arrangement (CLSSA). Each FMS case is managed by one IA and is developed with one primary purpose (e.g. major end-item acquisition/program or category of support such as training or sustainment to a program). DoD utilizes the FMS program to provide FMS purchasers the same types of defense articles and services used by U.S. forces. Defined Order and Blanket Order cases may also be used to provide hardware or services to support commercial and obsolete end items (including end items that have undergone system support buy outs). To accommodate changes to an FMS case, the IA must review scope to determine whether to prepare an Amendment, Modification, or a new basic LOA. Scope changes to a case are determined at the line level, including associated case notes. See [Section C6.7.](#) on Amendments and Modifications.

**C5.4.3.1. Defined Order Cases or Lines.** Defined Order cases or lines are used for the sale of items that require item-by-item security control throughout the sales process or that require separate reporting. Implementing Agencies may also choose to use Defined Order cases or case lines if internal mechanisms require this practice. Items to be provided are stated explicitly on the LOA and include specific quantities or Months (MOS).

**C5.4.3.1.1. Scope on Defined Order Cases or Lines.** Scope for Defined Order materiel lines is limited to the original quantity of items listed in the LOA. Scope for Defined Order service lines is limited to the MOS on the line and description/category of service on the line, in the case notes, and within the Manpower Travel Data Sheet (MTDS) (including work-years). Any service provided by the Defense Transportation System (DTS) is included as part of the scope of the case. See [Table C6.T7.](#) for additional guidance regarding allowable changes on Modifications.

**C5.4.3.1.2. Items Provided on Defined Order Cases or Lines.** MDE, SME, related initial support package, explosives (including munitions), specific services, classified materiel (e.g., software), a Security Risk Category (SRC) ([Section C7.15.](#)), and Technical Data Packages (TDPs) are types of items generally provided under Defined Order cases. Defined Order cases or lines may also be used to provide specific services that are designated for a specific period of time. MDE and SME items must be identified clearly on the LOA with specific quantities on its own separate lines and must not be embedded in a line coded as non-SME or non-MDE. Defined Order cases may also include Blanket Order non-MDE lines when no specific MOS or quantity is identified for the support on those lines, and the intent is to use the lines until funds are exhausted.

**C5.4.3.1.3. Items Not Provided on Defined Order Cases or Lines.** Relatively minor, non-SME items that do not require item-by-item control are not typically provided on Defined Order cases or lines, except as part of an initial support package for a system or major end item. (An end item is defined as an assembled article that has been fully manufactured for its intended use. Only ammunition, fuel, or another energy source is required to place it in an operating state.)

**C5.4.3.2. Blanket Order Cases or Lines.** Blanket Order cases or lines are used to provide categories of items or services (normally to support one or more end items) with no definitive listing of items, quantities, or MOS with the intent to use the lines until funds are exhausted. Separate Blanket Order lines are required for each category of item. Blanket Order lines may be added to Defined Order cases for initial support. However, it is preferred that these requirements to be developed as stand-alone Blanket Order cases for continued life-cycle sustainment. The preferred method is for FMS purchasers to submit requisitions through the Security Cooperation Information Portal (SCIP).

**C5.4.3.2.1. Scope on Blanket Order Cases or Lines.** Scope on Blanket Order cases or lines is limited to the specified categories of items or services and the FMS purchaser-specified case or line dollar value on the LOA. Any service provided by DTS is included as part of the scope of the case.

**C5.4.3.2.2. Items Provided on Blanket Order Cases or Case Lines.** Types of unclassified, non-SME items or services that can be provided on Blanket Order cases or lines include spares and repair parts (consumables and repairables), support equipment (tools, test equipment), supplies (fuel, personnel items, commercial consumable items), maintenance (repair, rebuild, minor modifications or alterations), technical assistance (specialist advice or actions, system integration, item checkout, systems evaluation, study groups to develop engineering requirement plans, technical assistance teams), publications (forms, catalog data, technical order manuals, stock lists, reports, books, maps), unclassified software, and training aids. Training (both unclassified and classified) may be placed on Blanket Order training cases or case lines. Classified training must be included in a separate classified training line. Classified publications, including technical manuals and reports, may be included on Blanket Order lines, however the line and corresponding line note must be developed in accordance with [Table C5.T7.](#)



**Table C5.T7. Blanket Order Case Conditions for Classified Publications**

#	Condition
1	Classified publications must be offered as a standalone line item and cannot be combined with unclassified publications
2	Military Articles and Services List (MASL) for classified publications must be used
3	Quantities of the classified publications must be identified in the corresponding line item description note
4	Statement must be included in the line item description note that only the USG is authorized to acquire the classified publications

**C5.4.3.2.3. Items Not Provided on Blanket Order Cases or Lines.** Classified material, MDE, SME, commercial items more readily provided from in-country (e.g., lumber, sand, gravel, household goods), TDPs, and ozone depleting substances are not provided on Blanket Order cases or lines. Refer to <https://www.epa.gov/ozone-layer-protection> for information on ozone depleting substances.

**C5.4.3.3. Cooperative Logistics Supply Support Arrangements.** CLSSAs provide for pre-stock and storage of DoD-stocked non-SME items that are needed and used by the FMS purchaser on a recurring basis. CLSSA LOAs reflect support for end items with no definitive listing of items or quantities, although items and quantities may be negotiated with the FMS purchaser as part of the CLSSA management process. CLSSA programs consist of two separate cases: 1) a Foreign Military Sales Order (FMSO) I case, and 2) a FMSO II case. The FMSO I case provides for the purchase and sustainment of spare and repair parts in DoD inventory and is not used to provide any defense articles to the FMS purchaser. The FMSO II case is used by the FMS purchaser to requisition those spare and repair parts to replenish the purchaser's in-country stock. FMSO I and II dollar values are based on the cost of forecasted requirements for the anticipated period of support, and should not include specific MOS. The purchaser normally submits requisitions through SCIP. The IA will provide specific guidance in a case note if the IA's procedure varies from those listed in this section. See [Section C6.4.3.2.](#) for more information on CLSSAs.

**C5.4.3.3.1. Scope on Cooperative Logistics Supply Support Arrangements Cases.** Scope for CLSSA cases is limited by the LOA description of end items to be supported and dollar values of the FMSO I and FMSO II cases. Any service provided by the DTS is included as part of the scope of the case.

**C5.4.3.3.2. Items Provided on Cooperative Logistics Supply Support Arrangement Cases.** Centrally stocked or centrally managed spare and repair parts of defense systems common to FMS purchaser and U.S. forces are provided on CLSSA cases. CLSSA item eligibility is based on the Acquisition Advice Code (AAC), except as noted in [Section C5.4.3.3.3.](#)

**C5.4.3.3.3. Items Not Provided on Cooperative Logistics Supply Support Arrangement Cases.** MDE, SME, EDA, parachutes, explosive ordnance items, commercial items of materiel more readily provided from in-country, controlled medical items, modification kits, ozone depleting substances, TDPs or other similar documentation that conveys manufacturing process information, publications, tool sets, cryptographic equipment, classified materiel, and initial spare parts are not provided on CLSSA cases even when they are identified by an eligible AAC.

**C5.4.3.4. Classified Letters of Offer and Acceptance.** LOAs are classified only in rare circumstances. Classified LOA data cannot be entered into DSAMS. LOAs may be classified only when the classification is directed, or the FMS purchaser's request for classification is approved, by the Department of State (State), the Secretary of Defense (SECDEF) or his or her designees to include the Director, DSCA. If a case is approved to be classified, the FMS purchaser will be responsible for all costs associated with the development and execution of the case in a classified environment. See [able C9.T2A.](#) for a list of manpower functions and their funding source.

**C5.4.4. Letters of Offer and Acceptance for Non-Program of Record System Support.** Articles or services that support NPOR systems and subsystems (such as commercial end items, obsolete end items including those that have undergone system support buy outs, and non-U.S.-origin military end items) may be incorporated within the LOA. Duration of Total Package Approach support for NPOR items and services (including spare parts, maintenance, sustainment, and training), at the discretion of the IA, may differ from the period of performance of the LOA or of the contracts that will execute the LOA.

**C5.4.5. Letters of Offer and Acceptance for Nonstandard Support.** LOAs may be used to provide nonstandard support. Nonstandard support may include hardware or services required to support commercial end items; support of obsolete end items, including end items that have undergone system support buy outs; and support of selected non-U.S. origin military equipment. Requests involving sensitive technology or that have significant impact on U.S. programs should be coordinated with DSCA (Office of International Operations, Weapons Directorate (IOPS/WPN)) and DSCA (Office of Strategy, Plans, and Policy (SPP)).

**C5.4.6. General Letter of Offer and Acceptance Preparation Guidelines.** All unclassified portions of LOAs are prepared using DSAMS. See [Figure C5.F3.](#) for instructions pertaining to general LOA preparation and See [Section C5.4.14.](#) for guidance pertaining to preparation of classified LOAs.

**C5.4.6.1. Implementing Agencies.** Organizations authorized to receive LORs and responsible for preparing and processing LOAs in accordance with the SAMM are known as IAs (See [Table C5.T2A.](#) or [Table C5.T2B.](#)). When an LOR received by an IA includes a requirement for an item managed by another IA, the LOR must be coordinated with all organizations involved. The IA should consider a Multi-Service LOA when the purchaser advises the USG that it requires multiple weapon systems on a single case for its own budgetary or other internally-based reasons. However, if the additional financial and logistical processing is required to prepare and execute a Multi-Service LOA, the LOR requirements may be split into multiple LOAs that are separated by IA, and major weapon system, and managed in coordination with one another. DSCA (Office of International Operations (IOPS)) Country Portfolio Director (CPD) will coordinate with the purchaser and SCO before separating between multiple IAs. The IAs must operate under mutually agreed terms, assigning a "Lead IA" to the LOAs to ensure a Total Package Approach (TPA) is delivered. Questions relating to this subject, and the designation of the IA for Multi-Service LOA should be referred to DSCA (IOPS) CPD and DSCA (IOPS/WPN) for resolution. For the multiple-LOAs option, the IAs involved must, to the greatest extent practicable, plan events such as Program Management Reviews (PMRs) as joint events in which all IAs participate. Regardless of the method used, IAs must operate within a framework that clearly defines the roles and responsibilities of each participant. If multiple LOAs separated by IA and major weapon system are used to respond to an LOR submitted for a single program, the IA that received the LOR must advise the purchaser that the response will be multiple LOAs instead of a Multi-Service LOA. IAs are encouraged to consolidate requirements as much as possible. Multiple LORs from the same purchaser may be answered by a single LOA.

**C5.4.6.2. Purchaser Participation in the Letter of Offer and Acceptance Preparation Process.** Purchaser involvement early in the LOA development process is essential to ensure the final document best satisfies its requirements. Purchasers should be encouraged to attend meetings and receive correspondence designed to clarify LOR information. As the development of the LOA progresses, there are many instances where purchaser participation and input are necessary (e.g., the purchaser should help identify unique requirements and special needs that must be accommodated in the final sales



### Figure C5.F5. Letter of Offer and Acceptance Information

**Figure C5.F5. Letter of Offer and Acceptance (LOA) Information**

1. **GENERAL.** This provides basic information pertaining to the LOA for U.S. and Purchaser use. Additional information may be obtained from the Security Assistance Management Manual, DSCA 5025.5B.W, the in-country Security Cooperation Organization (SCCO), the DSCA Country Program Director, or from the Implementing Agency (IA).

2. **INFORMATION INTERESTED BY THE USG:**

a. **Terms of Sale and Purchase responsibilities under these Terms**, as described on the LOA. A list of all Terms of Sale, with explanations for each, is shown in DSCA 5025.5B.W.

b. **Description/Content.** The item description consists of coding for use in U.S. management of the LOA (starting with General/Phase), and codes, listed automatically based on the MDE, that identify whether the item is a Significant Military Equipment (SME/Significant Equipment (SME)), controlled under the Missile Technology Control Regime (MTCR), subject to special end use monitoring (SEUM), and controlled under an identified Category of the International Traffic in Arms Regulations (ITAR) i.e., Munitions List (USML). Codes used are listed below:

**SEUM/CE:**

☐ MDE  
☐ SME that is not MDE  
☐ Non-SME

**Missile Technology Control Regime (MTCR)**

☐ Contains MTCR-controlled components  
☐ Contains no MTCR-controlled components

**End-use Monitoring (SEUM)**

☐ Allowed  
☐ Restricted

**International Traffic in Arms Regulations (ITAR) i.e., Munitions List (USML) Category**

☐ I Firearms, Close Assault Weapons and Combat Strategists  
☐ II Guns and Ammunition  
☐ III Ammunition/Explosives  
☐ IV Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines  
☐ V Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents

50A-2 (014)  
Page 17 of 25

- [PDF Version of Figure](#)
- [Web Version of Figure](#)

**Figure C5.F6. Instructions for Preparing a Letter of Offer and Acceptance**

**Figure C5.F6. Instructions for Preparing a Letter of Offer and Acceptance (LOA)**

1. **Case Identifier.** Each case includes a unique case identifier (CN-XXXX) composed of the country code, the IA code, and a case designation. The case designation is a three position code assigned to the IA. The first letter shows the letters used by the Military Departments to assign case designations. This chart is for information purposes only and does not constitute use of these four position letters. Case designations are the responsibility of the IA.

U.S. Army	U.S. Navy	U.S. Air Force
A. Repair Parts	A. Ammunition and Other	A. Munitions (MTC)
B. Training (CONUS)	B. Personnel	B. General/Assigned
C. Individual Items and Components	C. Individual Items and Components	C. General/Assigned
D. Logistics/Communications	D. Logistics/Communications	D. General/Assigned
E. Construction (Group of Engineers)	E. Technical and Engineering Services	E. General/Assigned
F. Logistics (Group of Engineers)	F. Direct Requirements	F. General/Assigned
G. Logistics (Group of Engineers)	G. Logistics (Group of Engineers)	G. General/Assigned
H. Foreign Military Sales (FMS) (USML) and S	H. Foreign Military Sales (FMS) (USML) and S	H. Foreign Military Sales (FMS) (USML) and S
I. Loans	I. Loans	I. Loans
J. Medical (U.S. Army Medical Materiel Agency)	J. Medical (U.S. Army Medical Materiel Agency)	J. Medical (U.S. Army Medical Materiel Agency)
K. Construction	K. Construction	K. Construction
L. Training (CONUS)	L. Training (CONUS)	L. Training (CONUS)
M. Planning	M. Planning	M. Planning
N. Logistics Services (U.S. activities located in CONUS)	N. Logistics Services (U.S. activities located in CONUS)	N. Logistics Services (U.S. activities located in CONUS)
O. Logistics Services (Non U.S. Army Materiel Agency)	O. Logistics Services (Non U.S. Army Materiel Agency)	O. Logistics Services (Non U.S. Army Materiel Agency)
P. Publications	P. Publications	P. Publications
Q. Logistics Services (Provided from within U.S. Army Materiel Agency)	Q. Logistics Services (Provided from within U.S. Army Materiel Agency)	Q. Logistics Services (Provided from within U.S. Army Materiel Agency)
R. Publications	R. Publications	R. Publications
S. Publications	S. Publications	S. Publications
T. Publications	T. Publications	T. Publications
U. Publications	U. Publications	U. Publications
V. Publications	V. Publications	V. Publications
W. Publications	W. Publications	W. Publications
X. Publications	X. Publications	X. Publications
Y. Publications	Y. Publications	Y. Publications
Z. Publications	Z. Publications	Z. Publications

2. **Purchaser's Reference.** The LOA date, serial number, etc., is entered in the "Serial and Date" field.

50A-2 (014)  
Page 17 of 25

- [PDF Version of Figure](#)
- [Web Version of Figure](#)

**C5.4.8.2. Letter of Offer and Acceptance Notes/Supplemental Information.** Standard Terms and Conditions must be supplemented with additional items or notes for each offer in order to make obligations clear. Notes in LOAs provide more detailed information concerning items or services being offered. When LOAs are prepared before details are known, notes include general coverage of this information and an estimate of when specific information on these topics can be provided to the purchaser. These notes may be shared in advance with the purchaser to ensure any purchaser-unique requirements are accommodated.

**C5.4.8.3. Deviations from the Letter of Request.** Extraordinary reservations concerning the price quoted, and the extent to which either the price or availability is dependent on action to be taken by the USG, e.g., selection of equipment for U.S. Forces, are examples where further explanation should be included. Advice should be obtained from the DSCA (Front Office, Office of the General Counsel (FO/OGC)) when special circumstances require an expansion of standard or supplemental indemnity clauses included in this Manual. [Appendix 6](#) lists the notes that should be included in LOAs as indicated. The "Note Usage" column of this table is intended to show when the note should be included on a Basic LOA, Amendment, and Modification. This column is not intended to show when an Amendment or a Modification should be used. See [Section C6.7.](#) for information on determining which document is appropriate. See [Figure C5.F6.](#), for guidance on the ordering of notes within an LOA.

**C5.4.8.4. Combining Requirements.** LOAs for major systems or end items should include supporting items and services rather than offering for these items or services on separate LOAs.

**C5.4.8.5. Estimated Delivery Schedule.** The MOS entry on the LOA for materiel lines provides the anticipated time period when the materiel is available to the purchaser. See [Figure C5.F5.](#) for a definition of MOS. IAs may provide an Estimated Delivery Schedule on all Defined Order materiel lines for in-country or continental United States (CONUS) deliveries. However, all MDE and SME lines will include an Estimated Delivery Schedule (by quarter), which must be consistent with the MOS for the line. This schedule will print out at the end of the LOA to provide the FMS purchaser a clearer picture of the anticipated deliveries for MDE and SME items.

**C5.4.8.6. Permanent Change of Station Costs.** The IA notifies the SCO by message of requirements for assignment of permanent change of station (PCS) (but not temporary duty (TDY)) personnel to the purchaser country, including projected start date and duration, rank or grade and specialty, and in-country location. The DSCA (IOPS), the geographic Combatant Command (CCMD), the Department of State, Bureau of Information Resource Management (State (RM)) and Department of State, Bureau of Political-Military Affairs, Office of Regional Security and Arms Transfers (State (PM/RSAT)), and the U.S. Embassy are information addressees. The SCO coordinates with the U.S. Chief of Mission (COM) and reports PCS personnel support cost data, as well as obstacles

to their acceptance or support, to the IA. The IA includes PCS personnel support costs in the LOA, adds a note at the bottom of the item description (See [Figure C5.F6](#), for LOA Notes requirement), ensures the PCS block on the Case Detail Document Tab in DSAMS is checked, and lists the PCS requirement and any support problems in the LOA Checklist (formerly the LOA Cover Letter or Transmittal) when the LOA is transmitted to DSCA for countersignature.

**C5.4.8.6.1.** LOAs that include PCS or TDY personnel should specify the number of personnel who will perform the task, planned dates of arrival and departure, in-country destination and home station, and extent of in-country travel required.

**C5.4.8.7. Personnel Protection and Related Costs.** For the purpose of performing services outside of the United States, the term "U.S. personnel" as discussed below and in [Appendix 6](#) pertains to USG or U.S. contracted personnel involved in the performance of actions under the LOA.

**C5.4.8.7.1.** In carrying out LOA programs, it is desirable that USG personnel operate under conditions most advantageous to their legal status. In many cases a Status of Forces Agreement (SOFA) will be in effect. USG employees, executing their duties under an LOA with a country which also has a SOFA with the United States, are covered by the provisions of that SOFA, which will typically grant substantial administrative jurisdiction, and other benefits that modify the host nation's law. When DSCA (FO/OGC) indicates a SOFA or SOFA-like agreement exists that is pertinent to the specific FMS or BPC LOA, that agreement is referenced in the LOA for guidance of the U.S. personnel executing the LOA. The LOA itself does not create any rights or benefits. Inclusion of SOFA-like status provisions in an LOA requires that the LOA be staffed in accordance with procedures for staffing international agreements in [DoD Instruction \(DoDI\) 5530.03](#). Since these procedures are complex and require the development of specialized supporting documentation, inclusion of status provisions in LOAs should be avoided if possible. Status provisions are not normally used to require compliance when authority to ensure compliance is outside the purchaser's defense establishment. Individual situations should be brought to the attention of the DSCA (IOPS) and DSCA (FO/OGC) for coordination during LOA preparation.

**C5.4.8.7.2.** Provisions for recouping costs associated with in-country duty, (e.g., currency revaluation or unanticipated import or export charges), are covered in the LOA Standard Terms and Conditions and do not normally require special LOA provisions. When it is envisioned that the purchaser may fail to abide by existing SOFA or other status provisions and thus increase costs associated with an FMS program, special notes may be included in the LOA. [Appendix 6](#) shows sample notes and required purchaser actions that can be used as a guide.

**C5.4.8.7.3.** For every FMS and BPC LOA line that anticipates funding for travel of USG or U.S. contracted personnel to the recipient or Benefitting Partner or to another overseas location, IAs are required to input in the LOA case line-item description "Outside the Continental United States (OCONUS) travel of USG or U.S. contracted personnel anticipated." If OCONUS travel is not to the LOA Purchaser, identify the location of the OCONUS travel in line-item description.

**C5.4.8.8. Separate Memorandum of Understanding, Detailed Statement of Work, or Performance Work Statement.** Major programs may call for a Memorandum of Understanding (MOU), Statement of Work (SOW), or Performance Work Statement (PWS), which should be referenced or attached to the LOA. For routine LOAs, a detailed SOW or PWS can be avoided by providing the following information:

**C5.4.8.8.1. Routine Letters of Offer and Acceptance.** A detailed SOW or PWS can be avoided if the description and purpose of the service to be performed; a statement of where and how the service will be performed; and a statement of the anticipated result when the service is completed, together with any information the purchaser should be aware of regarding USG reservations or qualifications to the probable success of the project.

**C5.4.8.9. Schedule of Personnel Training.** Defined order LOAs should include a confirmed schedule of personnel into specific training courses. When this is not feasible, LOAs should set forth training plans and schedules in general terms and should show the need to define training needs at a later date. Blanket Order LOAs for training include notes to explain the scope of coverage and methods for definitizing and requesting courses. LOAs must specify purchaser responsibilities, such as providing pay and allowances; housing; medical expenses; insurance; qualified students; and any required supervision thereof.

**C5.4.8.10. Logistics Information.** LOAs show the configuration of equipment being sold but furnish detailed equipment specifications only if required. Variations from standard USG configurations are noted, together with risks that might be assumed as a result of the variance. The notes highlight any purchase of a configuration contrary to that recommended by the USG.

**C5.4.8.10.1.** LOAs include any requirement for, and scheduling of, logistics conferences or other program management actions for the purpose of definitization. The costs of such conferences that occur prior to implementation of the LOA can be funded from the Administrative Budget Account Allocation of the IA, with reimbursement from the LOA after it is implemented. These actions pertain to approved programs and are distinguished from AECA, section 26 ([22 U.S.C. 2766](#)), Survey Teams.

**C5.4.8.10.2.** The IA assures that at least a one-year supply of concurrent (initial) spare parts, at U.S. peacetime usage rates, is included on the LOA with equipment being offered. Such spare parts packages should be identified on the LOA by category and total value (Blanket Order line) rather than by article.

**C5.4.8.10.3.** For offers of MDE items, the purchaser is advised of the estimated period that USG repair parts support is available.

**C5.4.8.10.4.** If the purchaser has requested that a particular item be provided from a sole source, and the IA has approved this request, the sole source designation is included in the notes. See [Appendix 6](#).

**C5.4.8.10.5.** Any USG intent to develop logistics or maintenance support plans will be specified.

**C5.4.8.10.6.** The basis for logistics support costs will be specified. This must include the period of support of the initial spares package, operational deployment of equipment, level of maintenance to be accomplished by the purchaser, number of maintenance sites, or other cost basis as applicable.

**C5.4.8.10.7.** To ensure logistics support of weapons systems, the LOA should identify critical long lead-time items that must be procured in advance of total program definitization.

**C5.4.8.10.8.** Known limitations in condition must be shown using codes in [Figure C5.F5](#), or in unique case notes. The LOA should specify that the cost of any rehabilitation is not included in the "as-is" price. Purchasers are encouraged to perform Joint Visual Inspection (JVI) of the materiel before accepting it, in advance of receipt of the LOA if possible. JVI of materiel cannot occur prior to transfer approval from DSCA unless DSCA (IOPS) CPD and DSCA (SPP) has granted an exception. See [Section EDA.2.4](#), for more information on JVI.

**C5.4.8.10.9. Cooperative Logistics Supply Support Arrangement and Blanket Order Letters of Offer and Acceptance must show supported major items.** CLSSA FMSO II LOAs must reference the associated FMSO I LOA.

**C5.4.8.10.10. Responsibility for Initiation of Requisitions.** The LOA will show which party is to initiate requisitions. If requisition input is a purchaser responsibility, the LOA contains information to enable correct requisition initiation and routing.

**C5.4.8.10.11. Storage of Items.** As LOAs are drafted, IAs will include estimated costs which may be incurred to store items identified for FMS at USG or contractor facilities prior to integration into the final end item or before delivery to the customer. See SAMM [Section C9.3.1.](#), [Table C9.T4.](#), and [Section C7.11.1.](#) for information on financial policies, types of storage costs, and notices of availability. In addition, see [Department of Defense Financial Management Regulation \(DoD FMR\), Volume 15 Chapter 7](#) for information on above-the-line transportation services and storage guidance.

**C5.4.8.11. Military Articles and Services List Requests.** MASLs are composed of descriptive codes and text and are used to identify articles and services proposed for transfer on an LOA document. If an appropriate MASL does not exist for an article or service, an IA may submit a request to DSCA to either update an existing MASL or to establish a new one. The IAs should submit MASL requests at the earliest possible point in the LOA document development process to avoid delays. The [MASL handbook \(DSCA Handbook 7003\)](#) provides additional detailed information.

**C5.4.8.11.1. Military Articles and Services List Request Submission and Review Process.**

**C5.4.8.11.1.1. Roles and Responsibilities of the Implementing Agency.** Each IA will assign a Point of Contact (POC) to facilitate MASL request processing and allow for efficient responses to any questions or concerns. The IA MASL POC is responsible for ensuring the MASL Request Form is used for all requests and that completed request forms are accurate and complete prior to submission to DSCA's MASL mailbox at: [dscanocr.dbo.mbx.masl@mail.mil](mailto:dscanocr.dbo.mbx.masl@mail.mil). DSCA (Office of Business Operations, Financial Policy and Regional Execution Directorate, Financial Analysis and Compliance Division (OBO/FPRE/FAC)) is responsible for reviewing, processing, and approving MASL requests.

**C5.4.8.11.1.2.** IAs must submit all MASL requests to the DSCA MASL inbox using the MASL Request Form, [Figure C5.F23](#). The MASL Request Form includes complete and comprehensive MASL-related information required to establish the MASL in the DSAMS. DSCA will not process MASL requests submitted without the MASL Request Form, and will return incomplete forms to the IA, which may delay processing. For MASL requests associated with MDE, the MASL Request Form must include either the estimated or approved calculations for any applicable nonrecurring costs (NCs).

**C5.4.8.11.1.3. Roles and Responsibilities of the Defense Security Cooperation Agency.** Upon receipt of a MASL Request Form, DSCA (OBO/FPRE/FAC) will review the request for completeness and accuracy. For new MASLs, DSCA (OBO/FPRE/FAC) will also ensure recommended MASL nomenclature and abbreviations are consistent with similar existing MASL entries. DSCA (OBO/FPRE/FAC) will contact the IA MASL POC if any additional information or clarification is needed.

**C5.4.8.11.1.4.** DSCA (OBO/FPRE/FAC) will coordinate valid and complete requests with DSCA (Office of International Operations, Global Execution Directorate (IOPS/GEX)) and the DSCA (IOPS/WPN). These offices will verify the following information:

- Non-recurring cost charges
- Transportation costs
- SME and MDE codes
- Missile Technology Control Regime (MTCR) codes
- Selected Item Description Number (SIDN) codes
- Selected Item Sequence Code (SISC) codes
- Selected Item Sequence Number (SISN) codes
- Significant Category Code (SCC) codes
- Wassenaar Arrangement codes
- United Nations (UN) Transparency in Armaments (UNTIA) codes
- International Traffic in Arms Regulations (ITAR) codes
- End Use Monitoring (EUM) codes
- [DSCA 5105.38-M \(SAMM\)](#) conformance

**C5.4.8.11.1.4.1.** If any additional clarification is needed by these offices, DSCA (OBO/FPRE/FAC) will relay these questions to the requesting IA. Once DSCA coordination is complete, DSCA (OBO/FPRE/FAC) will establish the MASL in DSAMS and inform the IA MASL Request POC.

**Table C5.T19. General Military Articles and Services List Responsibilities**

Implementing Agency	Defense Security Cooperation Agency
<p><b>Submit MASL related information:</b></p> <ul style="list-style-type: none"> <li>• Request Date</li> <li>• MASL Type</li> <li>• Nonrecurring cost charges</li> <li>• Verification Date</li> <li>• National Stock Number (NSN)/MASL Number</li> <li>• NSN/MASL Description</li> <li>• LOA Worthy Description</li> <li>• Transportation Costs from Lookup Table (current year)</li> <li>• Action Code</li> <li>• Generic Code</li> <li>• SME and MDE designator</li> <li>• Current MASL</li> <li>• Added/Revised NSN/MASL</li> <li>• Unit of Issue</li> <li>• Classification</li> <li>• MTCR code</li> <li>• SCC</li> <li>• EUM Code</li> </ul>	<p><b>Verify MASL related information:</b></p> <ul style="list-style-type: none"> <li>• Nonrecurring cost charges</li> <li>• Transportation costs</li> <li>• SME and MDE designator</li> <li>• MTCR code</li> <li>• SIDN code</li> <li>• SISC code</li> <li>• SISN code</li> <li>• SCC</li> <li>• Wassenaar Arrangement code</li> <li>• UNTIA code</li> <li>• ITAR code</li> <li>• EUM code</li> <li>• <a href="#">DSCA 5105.38-M, (SAMM)</a> conformance</li> </ul>

- Communications Security (COMSEC) designator (Y/N)
- Routing Identifier Code (RIC)
- ITAR code
- Footnote
- IA Remarks

**Figure C5.F23. Military Articles and Services List Form and Instruction Sheet**

- [PDF Fillable Form](#)
- [PDF Form Instructions](#)
- [Web Image Version of Figure](#)

#### **C5.4.8.11.2. Military Articles and Services List Request Processing Standards.**

**C5.4.8.11.2.1. Timelines.** DSCA will normally process "Routine" MASL requests, those requiring standard processing, within 10 business days of receipt. For "Urgent" MASL requests, those requiring expedited processing for a special purpose, DSCA will normally process these requests within 2 business days of receipt. Requests for "Urgent" processing should be limited to instances where the LOA document processing is being expedited and should include supporting justification.

**C5.4.9. Manpower on Letters of Offer and Acceptances.** Manpower in support of specific FMS programs is provided on FMS cases; either on applicable services lines or included directly in the price of materiel for activities that are not part of the Standard Level of Service. See [Section C9.4.2.](#) for information on specific line item pricing for manpower support of FMS programs and [Section C9.4.2.4.4.](#) for MTDS exemptions.

**C5.4.9.1. Case-Related Manpower Functions and Funding Sources.** [Table C9.T2A.](#) describes case related manpower functions and indicates which activities are covered under the FMS Administrative Surcharge and which should be included as line items on the LOA.

**C5.4.10. Recording Non-Program of Record Case Line Items in DSAMS.** IAs must ensure that each case line item in development (regardless of whether it is a base case, amendment, or modification) within the DSAMS is appropriately marked as either a Program of Record (POR) or Non-Program of Record (NPOR). This DSAMS NPOR case line guidance applies to FMS and BPC cases. If a case line item is a NPOR, case writers must select the appropriate NPOR type as identified below. IAs are not required to update existing LOAs to the new standard but must update affected lines when processing new case amendments or modifications to existing LOAs. This data, as captured in DSAMS, will support efforts to identify, track, and analyze the industry and purchaser demand signal for NPOR defense articles and services as well as the DoD's overall activities involving them.

**C5.4.11. Categorization of Non-Program of Records.** To better align FMS procurements with DoD's acquisition processes and contextualize NPOR-related challenges within the security cooperation enterprise, NPOR solutions are to be categorized using the following "types" (for detailed guidance on NPOR types, refer to IA supplemental NPOR policy):

- **NPOR Type A: Modified/Former POR.** Includes requests to modify an existing POR with NPOR elements and requests tied to former PORs.
- **NPOR Type B: Military Unique.** Includes commercial capabilities that are designed, modified, or built specifically for military applications and are not current or former PORs.
- **NPOR Type C: Commercial.** A "commercial product" as defined in [FAR 2.101](#) that is not classified.

**C5.4.12. Non-Program of Record Disclaimer.** Responses to Letters of Request for P&A or LOAs that contain a NPOR solution must include the [NPOR Disclaimer for FMS line note](#) found in Appendix 6.

**C5.4.13. Non-Specific Requirements Lines.** Undefined requirements lines with MASL "R9B 079200N0NSPRQ, Non-Specific Requirements" may be included on FMS cases when requested by or coordinated with the purchaser as a holding place for funds budgeted but not yet programmed. Non-Specific Requirements lines cannot be used to requisition items or to provide services. Non-Specific Requirements lines must be added through an LOA Amendment. BPC cases will not include Non-Specific Requirements lines as BPC cases should define the requirements with sufficient specificity to obtain congressional approval or accept funds from the ordering organization. Similarly, Foreign Military Financing (FMF) will not be used to fund Non-Specific Requirements lines.



**C5.4.13.1. Non-Specific Requirements Lines on a Letter of Offer and Acceptance.** Non-Specific Requirements lines are written without a defined period of performance and are written with Source Code "S" (stock). MASLs other than "R9B 079200N0NSPRQ, Non-Specific Requirements" must not be used on Non-Specific Requirements lines. The FMS Administrative Surcharge is applied to the Non-Specific Requirements line value. The value of Non-Specific Requirements lines is limited to ten percent or less of the LOA value. Non-Specific Requirements lines must use the line note language as listed in the [Line \[Insert Line Number\] Description](#) in [Appendix 6](#). Funds collected for a Non-Specific Requirements line will normally be included at the end of a payment schedule to provide time for the requirements to be further defined and identified on separate lines. Any transactions inadvertently assessed against Non-Specific Requirements lines must be "backed out" and applied to a case line that is eligible to convey obligation authority.

**C5.4.13.2. Execution of Non-Specific Requirements Lines.** Obligation authority is not granted for Non-Specific Requirements lines. Orders cannot be placed against Non-Specific Requirements lines. When requirements are identified by the FMS purchaser, the applicable dollar values included in the Non-Specific Requirements line must be moved to other specific defense articles or services lines, with commensurate payment schedule and other LOA adjustments, as needed. LOA Amendments are used for the reallocation of Non-Specific Requirements line funds, unless the purchaser specifies in the LOR to allow use of funds for price increases on other lines utilizing the LOA Modification process. Such a request must be captured in the Non-Specific Requirements line note.

**C5.4.13.3. Authorized Uses of Exception to Policy.** IAs are authorized to request the following for Non-Specific Requirements lines using the Exception to Policy process in accordance with [Section C6.7.4.](#):

1. exceed ten percent of the total LOA value (DSCA (OBO/FPRE/FP) approval authority) and
2. add new lines through an LOA Modification in order to meet urgent FMS partner requirements (DSCA (SPP) approval authority).

**C5.4.14. Preparing Classified Letters of Offer and Acceptance.** Classifying LOAs at the secret level or higher should be strongly discouraged. [Section C5.4.3.4.](#) provides information on when LOAs may be classified. DSAMS is an unclassified system; therefore, classified information cannot be entered into this system even on a temporary basis. Preparation of cases classified on a temporary basis in advance of a sensitive Congressional Notification is described at [Section C5.5.5.1.1.4.](#) In all other cases where classification is required, the following procedures should be applied when using DSAMS to write these cases.

**C5.4.14.1.** The country must ensure LORs are marked in accordance with classification guidelines and must specify the classified data. For example, some purchasers may wish for the nomenclature of the item to remain classified, others may want to classify the quantity or information normally provided in the line item description note. At a minimum, each paragraph must be annotated with the specific classification markings, to include data that can remain unclassified.

**C5.4.14.2.** Any piece of information that is considered classified cannot be entered into DSAMS. The bulk of the case (containing all unclassified information) may be created using DSAMS. Any classified information must be entered on the document using approved classified systems after the document has been printed (e.g., using a typewriter, Secret Internet Protocol Router Network (SIPRNET)) or via separate classified annex. Pseudo or generic MASL lines may be used within the system to prevent the item from being disclosed. Using a pseudo MASL line does not allow automated application of pricing or waivers that are linked to the real MASL (e.g., NC Recoupment Charges). The case developer must ensure all appropriate charges are applied. If the application of specific pricing within DSAMS could reveal the item being purchased (e.g., inputting a specific NC value could be used to determine the exact item being sold), the pricing must be done off-line and only a total price for the line should be entered. When generic MASL lines are used, the correct MASL lines must be entered on the document off-line after it has been printed. The hard copy document must be marked in accordance with classification guidelines. Costs incurred to write and execute classified cases will be charged to the purchaser in accordance with [Table C9.T4.](#)

**C5.4.15. Quality Control of Letter of Offer and Acceptance Documents.** IAs must ensure that adequate controls exist to ensure the LOA package is factually accurate, complete and compliant with all statutory, regulatory, and fiscal requirements. See [Table C5.T8.](#) for more specifics on IA and DSCA (Office of International Operations, Global Execution Directorate, Case Writing and Development Division (IOPS/GEX/CWD)) responsibilities. The [LOA Standardization Guide](#) is available on the [DSCA website](#).

**C5.4.16. Pre-Case Reviews for New Letters of Offer and Acceptance.** DSCA may conduct a Pre-Case Review (PCR) with the IAs and other stakeholders on new LOAs during case development and before the IA submits the case to DSCA (IOPS/GEX/CWD) for processing. The purpose of the PCR is to identify issues and discrepancies in the LOA so that the IA can address them before the case is submitted to the DSCA (IOPS/GEX/CWD) for review and to reduce the amount of rework during case development. A PCR is not appropriate or necessary for all LOAs, but should be considered for cases meeting the criteria in [Section C5.4.16.1.](#) The (Office of International Operations, Regional Execution Directorate (IOPS/REX)) Regional Division leadership is the final decision authority for whether or not a PCR should be held. The IA will request a PCR through the DSCA CPD for cases meeting the listed criteria. If a PCR is approved, the DSCA (IOPS/REX) Regional Division leadership will designate the PCR lead. It is the responsibility of the PCR Lead to coordinate and schedule the PCR, facilitate the meeting, assign actions, capture and disseminate meeting notes and action items, and conduct follow-up actions, as appropriate.

**C5.4.16.1. Determining if a Pre-Case Review is Needed.** Cases that meet one of more of the following criteria may warrant a PCR:

1. new sales that represent an increase of more than 15 percent to the FMS purchaser's current active program,
2. sales that trigger AECA Section 36(b) [22 U.S.C. 2776](#) ("36(b)") thresholds and represent new introduction of a capability to a partner nation,
3. sales that trigger 36(b) threshold and involve FMS non-program of record articles,
4. sales that are part of international weapon competitions, or
5. sales that have unique aspects that warrant a review prior to finalization.

**C5.4.16.1.1.** If a case meets any of these criteria, the IA notifies the DSCA (IOPS/REX) Regional Division through the CPD upon case initialization and no later than 30 calendar days prior to submitting the LOA to DSCA (IOPS/GEX/CWD) for review. The request should include the IA POC for the request, case designator, and an explanation for why the case warrants a PCR. For competitions, the DSCA (IOPS/WPN) division will notify the IA and the DSCA



(IOPS/REX) through the CPD. The CPD will confer within their DSCA (OBO) Country Finance Director (CFD) and DSCA (IOPS/REX) Regional Division leadership, to evaluate the case against the list of criteria and their knowledge of the program. The DSCA (IOPS/REX) Regional Division leadership will make the final determination whether a PCR is required and will assign a PCR Lead for the approved meeting. DSCA (IOPS/REX) Regional Division leadership may also mandate a PCR for cases not requested by the IA or DSCA (IOPS/WPN). The PCR Lead will notify the IA and DSCA (IOPS/WPN) within 10 calendar days with a proposed date for the PCR.

**C5.4.16.1.2.** If DSCA (IOPS/REX) Regional Division leadership determines that a PCR is not required, the CPD will notify the requestor and enter the justification for why a PCR is not necessary in the case remarks in the DSAMS within 10 calendar days. A requestor may appeal a decision to deny a PCR by providing the CPD additional justification for why a PCR is necessary. DSCA (IOPS/REX) Regional Division leadership will review and make a final determination based on the rationale provided.

**C5.4.16.2. Pre-Case Review Objective.** The objective of a PCR is to complete a review of the LOA and all appropriate documentation to ensure it meets the purchaser's requirements and to reduce the amount of rework needed during case development. A PCR may include additional objectives unique to each case and other relevant topics of discussion. The PCR Lead should identify all objectives in the meeting invite so that attendees are prepared to address them. Specific focus areas may include:

- a. A line-by-line examination to ensure the line description and references, line item quantity, line pricing data, source code, and transportation methods are accurate.
- b. A check for each MASL to ensure it is correct and all associated standard and unique notes are appropriate.
- c. A review of the delivery schedule to ensure it correlates with the Period of Performance (PoP), MOS, and matches the quantities to be delivered in the LOA; and to ensure that cash will be collected prior to deliveries.
- d. A comparison of LOA information with data provided on the accompanying MTDS and Pricing Report (RP069).
- e. A review to confirm that the LOA document contains all approved purchaser requirements in the LOR, that any requirements not included (e.g., not able to provide, etc.) are discussed by the group, and ensure that unfulfilled requirements have been/will be addressed with the international partner.
- f. Check that any required Technology Transfer Disclosure reviews have been conducted, and that any discrepancies in the LOA have been identified and corrected before the document is sent to the DSCA (IOPS/GEX/CWD).
- g. Check that any necessary supporting documents required for a particular case are completed and included in the package to DSCA (IOPS/GEX/CWD). This includes, but is not limited to, MTCR approvals, Yockey Waivers, COMSEC Approval to Sell letters, Night Vision Device (NVD) approvals, etc.
- h. If a unique payment schedule is required, check that specific payment dates and dollar amounts are provided so a credible payment schedule can be constructed.

**C5.4.16.3. Pre-Case Review Participants.** The PCR Lead will determine which offices will be required to attend the PCR. Stakeholders may include, but are not limited to: DSCA offices (DSCA (IOPS), DSCA (Office of Business Operations, Financial Policy & Regional Execution Directorate (OBO/FPRE)), DSCA (IOPS/WPN), DSCA (IOPS/GEX/CWD), DSCA (Office of Business Operations, Financial Policy & Regional Execution Directorate, Financial Policy Division (OBO/FPRE/FP)), DSCA (Office of Strategy, Plans, and Policy, Execution Policy and Analysis Directorate (SPP/EPA)), DSCA (IOPS/GEX), DSCA (IOPS/REX), DSCA (FO/OGC)), IAs, and program offices. The PCR Lead will identify mandatory attendees well in advance of the meeting. Attendance is optional for all other stakeholders. Optional stakeholders should inform the PCR Lead if they would like to attend. Stakeholders who cannot attend must review the documents and provide any changes and input to the PCR Lead 48 hours prior to the scheduled meeting.

**C5.4.16.3.1.** Prime contractors will be included in the discussion when necessary and only for the portion that requires their participation. The LOA and other supporting documents should not be visible when the contractor is in the meeting. The PCR Lead will identify in the meeting invitation whether or not a prime contractor should attend the PCR. If there is concern about a prime contractor attending a meeting, the concerned party should respond to the invitation and provide the reasons for concern, and after discussions with the stakeholders, the PCR Lead will make the final decision whether or not to invite the prime contractor. If the decision is to include them, the PCR Lead will send a meeting invitation to the prime contractor with a designated time within the PCR meeting to discuss only topics that require their input.

**C5.4.16.4. Scheduling.** The PCR Lead is responsible for scheduling the meeting within 10 calendar days after the receipt of request from the IA or DSCA (IOPS/WPN). The meeting should occur no later than ten work days before the LOA document is sent to DSCA (IOPS/GEX/CWD) for action to allow the IA time to correct deficiencies identified at the PCR.

**C5.4.16.4.1.** The PCR Lead will send to all identified PCR stakeholders (required and optional) a meeting invitation that at minimum, will identify how the meeting will be conducted, when and where the meeting will take place, the objectives of the meeting, the mandatory and optional attendees, and any required documents that will be reviewed at the PCR.

**C5.4.16.5. Required Documents.** The IA will provide a complete LOA package to the PCR Lead seven work days prior to the meeting. The LOA package will include the following documents, as applicable: LOR, LOA document, LOA checklist, MTCR approval by State, 36(b) CNs, EDA approval message, MTDS, related waivers (e.g., NC, Yockey Waiver), COMSEC Approval to Sell letters, Multifunctional Information Distribution System (MIDS) Consortium approval memo, Global Positioning System (GPS) approval memo, Line Item Pricing (RP069) report, Case Remarks (RP084) report, unique notes and any other applicable offline information related to the LOA. Depending on the focus of the PCR, the PCR Lead may identify additional required documents. If an LOA is only waiting for long lead waivers and/or CN and all other case development processes have been complete, the IA should notify the PCR Lead and a PCR can be conducted while waiting for those waivers and/or CN to be completed.

**C5.4.16.5.1.** The PCR Lead will forward the LOA package to all stakeholders upon receipt. The stakeholders must review the LOA package and document any issues or recommended changes prior to the PCR for discussion. If the IA makes any changes to any of the documents after the complete LOA package is sent to the PCR Lead, the IA must provide the updated version of the document to the PCR Lead for distribution to the group.

**C5.4.16.6. Minutes/Action Items.** The PCR Lead is responsible for ensuring meeting minutes capturing all action items are produced and distributing the minutes to all stakeholders within 3 work days after the meeting. All action items should be worked as expeditiously as possible to avoid delays in case development and implementation schedules. All actions must be approved/adjudicated by the supervisor of the designated office before the LOA document is sent to DSCA (IOPS/GEX/CWD) for action. The IA is responsible for providing a copy of the PCR meeting minutes, with all action items marked as "complete," in the LOA package submitted to DSCA (IOPS/GEX/CWD).

**C5.4.16.6.1.** There may be new issues identified during final review of the LOA that may require additional edits to the LOA document. The IA should do a quality review of the LOA and the supporting documentation prior to submitting them to DSCA in support of the PCR.

**C5.4.16.7. Pre-Case Review Decisions.** The PCR Lead is not authorized to give exceptions to policy or approve policy changes during the PCR or through the PCR minutes. Requests for exceptions to policy must follow the procedures identified at [Section C6.7.4.](#)

**C5.4.17. Coordination and Countersignature of Letter of Offer and Acceptance Documents.** All LOA documents require coordination and DSCA countersignature. The Case Tracking System (CTS), an application available to authorized users within the SCIP, streamlines LOA coordination with the IAs and DSCA stakeholders and is a temporary repository for the LOA electronic package (ePKG). DSAMS records the LOA development life cycle via various milestone entries, including IA (MILSGN), State (STAP) approval (when required) and DSCA countersignature, and stores the final LOA. In the last stages of LOA development, DSCA (IOPS/GEX/CWD) initiates and monitors coordination via the CTS module. DSCA stakeholders provide approval directly within CTS while IA coordination is recorded via entry of the MILSGN milestone in DSAMS. The IAs review and approval date (MILSGN) auto-populates in CTS and annotates the first page of the LOA document. The MILSGN milestone is a mandatory precursor to coordinating LOAs with State or offered/implemented as required. Once coordination with DSCA stakeholders and IA is complete, DSCA (IOPS/GEX/CWD) enters the PROPOSED milestone in DSAMS and initiates coordination with State via the Daily FMS List (DSAMS generated report) transmitted electronically via e-mail. Upon e-mail approval from State, DSCA (IOPS/GEX/CWD) countersigns the LOA document in DSAMS via the DCSGN milestone, culminating in an LOA approved to be offered (or Implemented status for modifications). DSCA review/approval also auto-populates in CTS (as OSTATUS or ISTATUS) and annotates the date on the first page of the LOA document.

**C5.4.17.1. Preparation of Letter of Offer and Acceptance Documents.** Preparation of Basic LOAs, Amendments, and Modifications is divided between the IAs and the DSCA (IOPS/GEX/CWD). LOA documents progress through various milestones and statuses within DSAMS prior to Offer to the purchaser. [Table C5.T8.](#) shows the basic allocation of case development responsibilities between the IAs and the DSCA (IOPS/GEX/CWD). [Table C5.T9.](#) shows the totality of LOA document preparation milestones from Case Initialized to Case Implemented. To ensure consistency of application and allow for more accurate measurement of case preparation against the standards provided in [Table C5.T6.](#), definitions for the following milestones/statuses are provided here in more detail in [Table C5.T18.](#):

**Table C5.T8. General Letter of Offer and Acceptance Preparation Responsibilities**

Implementing Agency	DSCA Case Writing and Development Division
<ul style="list-style-type: none"><li>• LOAD Development</li><li>• Input Letter of Request</li><li>• Create Case/Line Structure</li><li>• MTDS</li><li>• MTCR Review</li><li>• Critical Program Information (CPI) Anti-tamper (AT) Requirements</li><li>• Pricing (to include accessorial charges) and Delivery Data</li><li>• Terms of Sale</li><li>• Line Item Description Notes</li><li>• Case-unique Notes (to include Short OED, if needed)</li><li>• Service-unique Notes</li><li>• CN (36b) Information</li><li>• Waiver Requests (to include NC and Yockey)</li><li>• Releasability</li><li>• Sole Source</li><li>• Site Surveys</li><li>• Offset Information</li><li>• P&amp;A Data</li><li>• Leases</li><li>• AECA Section 30 Sales to U.S. companies</li><li>• Restatements</li><li>• Pen and Ink Changes (to include associated payment schedules)</li><li>• Input Applicable Case-related Milestones in DSAMS</li><li>• Review of LOAD and Preparing/Processing of LOA Prior to Sending to DSCA (IOPS/GEX/CWD)</li><li>• Approval of Customer-Requested Payment Schedules</li></ul>	<ul style="list-style-type: none"><li>• Finalize the LOA Document in DSAMS</li><li>• Sequence Line and Note Order</li><li>• Enter DSCA Standard and DSCA-unique LOA Notes</li><li>• Adjust OEDs to comply with <a href="#">Figure C5.F6.</a></li><li>• Validate Accessorial Charges</li><li>• Prepare and Validate Payment Schedules (except for Pen and Ink changes)</li><li>• Perform Review of Entire Package to Ensure Compliance with Laws (AECA and Foreign Assistance Act (FAA)), Regulations, and Policies</li><li>• Obtain DSCA and IA Coordination/Review</li><li>• Prepare and Coordinate State List</li><li>• Perform Internal Case Tracking and Reporting</li><li>• Load Case-related Milestones in DSAMS</li><li>• Obtain DSCA Approval and Countersign</li></ul>

**Table C5.T9. Letter of Offer and Acceptance Preparation Milestones**

Click to view :

[Table C5.T9. Letter of Offer and Acceptance Preparation Milestones](#)

**Table C5.T20. Letter of Request Milestone Definitions**

Milestone/Status	Entered in the Defense Security Assistance Management System by:	Definition
LOR Date	IA	<ul style="list-style-type: none"><li>• Date included on the actual request from the purchaser.</li></ul>

LOR Receipt	IA (through the customer request window)	<ul style="list-style-type: none"> <li>Date the IA received the LOR, independent of any validation or assessment of whether it is actionable.</li> <li>"LOR Receipt" date is the "clock start" point for Category A, B, and D documents.</li> </ul>
LOR Assessment  NOTE: This milestone is not yet in DSAMS. Tracking and analysis of this milestone will be at the discretion of the IA until DSAMS is updated.	IA	<ul style="list-style-type: none"> <li>The process used to determine if the request submitted by the purchaser meets the actionable criteria in <a href="#">Table C5.T3A</a>.</li> <li>The "LOR Assessment" date is the date the LOR Assessment period begins. While it is expected that this date will be close to the "LOR Receipt" date, there may be legitimate reasons why the dates do not match exactly.</li> <li>The LOR Assessment ends at "LOR Insufficient" or "LOR Actionable," whichever occurs first.</li> <li>The LOR Assessment milestone will be mandatory for Category C cases but optional for other categories.</li> </ul>
LOR Insufficient  NOTE: This milestone is not yet in DSAMS. Tracking and analysis of this milestone will be at the discretion of the IA until DSAMS is updated.	IA	<ul style="list-style-type: none"> <li>An LOR that does not meet the mandatory criteria found on <a href="#">Table C5.T3A</a>, is considered insufficient.</li> <li>The "LOR Insufficient" date must be entered into DSAMS and is the date that the LOR Assessment process has determined that the LOR does not meet the mandatory actionable criteria as defined in <a href="#">Table C5.T3A</a>.</li> <li>Case development activities, to include case initialization, cannot be started until more information is obtained or clarified with the purchaser.</li> </ul>
LOR Actionable	IA	<ul style="list-style-type: none"> <li>An LOR that meets the mandatory requirements found on <a href="#">Table C5.T3A</a>, is considered actionable.</li> <li>The "LOR Actionable" date must be entered into DSAMS for AOD Category C cases (optional for other categories) and is the date that the "LOR Assessment" process determined that the LOR meets the mandatory actionable criteria as defined in <a href="#">Table C5.T3A</a>.</li> <li>IA may proceed with case development actions once this milestone is entered.</li> <li>The time period between "LOR Receipt" and "LOR Actionable" should be minimized to the extent possible.</li> <li>"LOR Actionable" date is the "clock start" point for Category C documents</li> </ul>
LOR Complete	IA	<ul style="list-style-type: none"> <li>Date when all applicable criteria in <a href="#">Table C5.T3A</a>, and <a href="#">Table C5.T3B</a>, have been met and all Requests for Information have been addressed.</li> <li>Once an LOR, to include any additional information provided by the purchaser, contains all information needed to complete case development, an "LOR Complete" date must be entered into DSAMS. This must occur before the Military Department approval (MILAP) milestone is entered.</li> </ul>
Offer Status	DSAMS-generated	<ul style="list-style-type: none"> <li>Date when the document is ready to offer to the purchaser.</li> <li>This happens automatically when the countersignature date is entered in DSAMS by DSCA (IOPS/GEX/CWD).</li> <li>Offer status is the "clock stop" point for Category A, B, and C documents.</li> <li>All LOA Preparation Milestones in <a href="#">Table C5.T9</a>, from CASEAGN-OFFERED must be achieved before Offer Status.</li> </ul>

**C5.4.17.1.1. Case Development Status.** In case development status, the IA is responsible for development of the LOAD and initial quality assurance. The IA loads the LOR and develops the basic structure of the LOA to include pricing and availability, individual case lines, releasability coordination, AECA section 36(b) ([22 U.S.C. 2776](#)) data for notification (if appropriate) manpower worksheets, and other related supporting documents into DSAMS. All waivers, releasability coordination and any special approvals should be complete before the LOAD is submitted to the DSCA (IOPS/GEX/CWD) for final processing. The IA should conduct a quality review of the LOAD before submission for further processing.

**C5.4.17.1.2.** When the IA has completed the LOAD process and its quality review of the LOAD package for the Basic LOA, Amendment or Modification, it will post the MILAP milestone in DSAMS, which moves the document from development to Write status in DSAMS and creates a case record on their respective CTS dashboard for off-line documentation to be uploaded for transmission to the DSCA (IOPS/GEX/CWD). Once this action is complete, the case record, along with off-line documentation submitted by the IA, will transition to DSCA (IOPS/GEX/CWD) in the CTS application for processing. Various DSAMS reports used by the DSCA (IOPS/GEX/CWD) indicate when case documents have moved to Write status.

**C5.4.17.1.3.** Concurrent with movement of the document to Write status via MILAP, the IA must upload ONLY UNCLASSIFIED off-line documentation into the CTS application no later than 24 hours after the MILAP submission. Off-line documentation must include all applicable supporting files (editable LOA Checklist, LOR, MTDS, MCTR approval, etc.), that supports preparation of the case.

**C5.4.17.1.3.1.** For cases that include classified documentation, ONLY the classified portion of the documentation is to be e-mailed to:

- USAF.WRIGHT-PATT.USAF-RSRCMGMT.LIST.AFMC-MBX-DSA-CWD-ORG-BOX@ mail.smil.mil
- DSCA.NCR.IT.MBX.LOA-OPS@ mail.smil.mil
- DSCA.NCR.IT.MBX.LOA-POL@ mail.smil.mil
- DSCA.NCR.DBO.MBX.LOA-FPIO@ mail.smil.mil

**C5.4.17.1.3.1.1.** ONLY the unclassified portion of an off-line package must be uploaded into the CTS application.

**C5.4.17.1.3.2.** The DSCA (IOPS/GEX/CWD) cannot initiate action to prepare the case until both the MILAP milestone and the UNCLASSIFIED off-line documentation is uploaded into the CTS application. For off-line documentation that is not uploaded within 24 hours of MILAP, the DSCA (IOPS/GEX/CWD) will return the document to Development status in DSAMS. Returning documents back to Development status in DSAMS, will DELETE the previously uploaded off-line package in the CTS application. Questions and inquiries about cases in write status can be submitted to: [dsca.wright-patt.dsa.mbx.loa-draft-cwd@mail.mil](mailto:dsca.wright-patt.dsa.mbx.loa-draft-cwd@mail.mil).

**C5.4.17.1.4.** Table C5.T10, provides the specific naming taxonomy for off-line documentation to be uploaded into the CTS application. Each file name starts with the case identifier and indicates which version of the document is being submitted. Documentation is to be saved as an Adobe Acrobat Portable Document Format (PDF) document.

**Table C5.T10. Taxonomy for uploading documentation to the Case Tracking System**

File Name	Document Applies To
BN-B-SAA-BASIC	Basic LOA which includes sub-files as required
BN-B-SAA-A01	Amendment 1 to the LOA which includes sub-files as required
BN-B-SAA-M01	Modification 1 to the LOA which includes sub-files as required
Note: File names provided are samples only.	

**C5.4.17.1.4.1.** In instances where the DSCA (IOPS/GEX/CWD) cannot make corrections to a document returned by DSCA Headquarters (HQ) coordinators, the document is returned to Development status in DSAMS. In the CTS application, the previously uploaded package for the case record will automatically archive. When the IA re-inputs the MILAP milestone into DSAMS, a new "empty" case record will appear on their respective dashboard. This becomes the new iteration of the package. All iterations of a case record can be searched via a browse option in the CTS application.

**C5.4.17.2. Write Status.** In Write status, the DSCA (IOPS/GEX/CWD) will assemble the LOAD provided by the IA and conduct final preparation of Basic LOAs, Amendments or Modifications. When completed, DSCA (IOPS/GEX/CWD) will conduct a final quality assurance review on the submitted LOA document before moving the package to Review status in DSAMS. DSAMS feeds will update the CTS application accordingly.

**C5.4.17.2.1.** The IA may request adjudication of any Write or Review status return it believes was returned in error through IA Policy POCs. If an IA designated POC deems the request valid, they will send an adjudication request to DSCA (IOPS/GEX/CWD) via [dsc.wright-patt.iops-gex-mbx.cwd-fo@mail.mil](mailto:dsc.wright-patt.iops-gex-mbx.cwd-fo@mail.mil). DSCA (IOPS/GEX/CWD) will provide decision to the IA Policy POC, and if approved, update return code(s) as appropriate in DSAMS.

**C5.4.17.3. Review Status.** In Review status, the DSCA (IOPS/GEX/CWD) will upload the final version of the LOA for review by DSCA HQ and IA coordinators, in the CTS application. Coordinators will be notified via e-mail from the CTS application. Once the required DSCA HQ offices approve within the CTS application, and the IA approves via the MILSGN milestone in DSAMS, the document is moved to Proposed status in DSAMS. Documents in Proposed status can be searched via a browse option in the CTS application.

**C5.4.17.4. Proposed Status.** In Proposed status, staffed and approved LOA documents will be added to the daily State FMS List and submitted for review and approval by State. See [Section C5.4.17.11](#), for additional information on the State List Report.

**C5.4.17.5.** All case reviewers must enter comments in BOTH the CTS application and "Case Remarks" section of DSAMS when necessary. In DSAMS, case remarks are at the case level and are not automatically identified by document version (e.g., Basic LOA, Amendment 2 or Modification 1); reviewers must use a specific format when creating a title for their comments. A sample DSAMS entry would be: "PACOM CPD, Return-A02." In the CTS application, comments are mandatory when saved as "Return with comment," or "Delay with comment" (optional for "Approve with comment"). Records in the CTS application are automatically date/time/username identified and saved when entered.

**C5.4.17.5.1.** Until a future enhancement to the CTS application is complete, "Approve with comment" for IA reviewers must be submitted via email to: [dsc.wright-patt.dsa.mbx.countersignature-cwd@mail.mil](mailto:dsc.wright-patt.dsa.mbx.countersignature-cwd@mail.mil), and via Case Remarks in DSAMS. IA reviewers must submit comments in both the CTS application and Case Remarks in DSAMS, for all returns.

**C5.4.17.6.** IAs should use DSAMS Management Flags to provide notification, as a minimum, when documents have been countersigned by DSCA (Milestone - DCSGN), returned from Writing Status (Milestone - DSA CWDDOCRTN) by the DSCA (IOPS/GEX/CWD), or returned from Review Status (Milestone - WDOCRTN) by DSCA. A WDOCRTN milestone moves a case back to Writing Status for corrections, at which point DSCA (IOPS/GEX/CWD) returns it to Case Development status for the IA to make the corrections.

**C5.4.17.7.** DSAMS allows holds and suspensions to be placed on documents. These capabilities cannot be used as a substitute for returning documents or for moving documents through the process in a timely manner. Holds do not "stop the clock." The time period during which the case is on hold is included in the LOA processing metric time calculations.

**C5.4.17.8.** When the case is countersigned and the IA receives notification that the case is in "OFFERED" status, the IA signs the document and sends it to the purchaser.

**C5.4.17.9.** For Taiwan case documents, all milestones are entered in DSAMS and the IA is responsible for transferring signature dates and information onto the cover memorandum to the American Institute in Taiwan.

**C5.4.17.10.** For emergency situations and classified cases, the IA enters all DSAMS milestones and notifies DSCA (IOPS/GEX/CWD) in advance that these documents are being processed in hardcopy form. Concurrent with the MILAP milestone and subsequent processing of unclassified supporting documentation to [LOA-DRAFT-DSA CWD@DSA CWD.dsc.mil](mailto:LOA-DRAFT-DSA CWD@DSA CWD.dsc.mil) mailbox, IAs must forward classified documentation to the following SIPRNET addresses:

- [USAF.WRIGHT-PATT.USAF-RSRCMGMT.LIST.AFMC-MBX-DSA-CWD-ORG-BOX@mail.smil.mil](mailto:USAF.WRIGHT-PATT.USAF-RSRCMGMT.LIST.AFMC-MBX-DSA-CWD-ORG-BOX@mail.smil.mil)
- [DSCA.NCR.IT.MBX.LOA-OPS@mail.smil.mil](mailto:DSCA.NCR.IT.MBX.LOA-OPS@mail.smil.mil)
- [DSCA.NCR.IT.MBX.LOA-POL@mail.smil.mil](mailto:DSCA.NCR.IT.MBX.LOA-POL@mail.smil.mil)
- [DSCA.NCR.DBO.MBX.LOA-FPIO@mail.smil.mil](mailto:DSCA.NCR.DBO.MBX.LOA-FPIO@mail.smil.mil)



**C5.4.17.11.** State approval is required for LOA and subsequent Amendments that add or increase scope. DSCA (IOPS/GEX/CWD) submits the State List Report daily, which provides State with descriptions of defense articles and services being transferred on LOA documents. The report is produced by DSAMS and includes the "State Description" entered by the IA on the DSAMS Case Detail Window. The IA is responsible for ensuring the State Description as shown in [Table C5.T11](#).

**Table C5.T11. Implementing Agency Responsibilities concerning the State Description**

Step	Implementing Agency Responsibilities
A	A clear and concise description of the major defense articles and or services being transferred or sold to include quantities and if follow-on support or spares are also being provided (e.g., "This LOA is for the purchase of 6 PATRIOT PAC-3 Fire Units and related support equipment, spare parts and initial maintenance teams"). Sensitive munitions (e.g., White Phosphorus or Depleted Uranium) must also be highlighted in this field.
B	Lists additional end items being provided on Amendments to MDE cases. Quantities should be included only if there is an increase or decrease with a brief explanation of the change (e.g., "This Amendment provides 2 additional MIDS Terminals and associated support equipment per customer's request"). Amendments that realign funds between lines, adjust delivery schedules or periods of performance should provide a succinct statement that indicates the intent of the document (e.g., "This Amendment realigns funds between lines to reflect actual costs and adjusts delivery schedules for M1A2 Tanks and support equipment").
C	List the major end items being supported and provide descriptions of items previously delivered if multiple platforms are being supported for follow-on support documents, Basic LOAs, Amendments or Modifications, (e.g., "This LOA provides follow-on support for the M1A1 Abrams Tank, M2 Bradley IFVs, M113 APCs, M109 Howitzer and related support equipment including maintenance teams, spare parts and related services").

**C5.4.18. Documents to Accompany Letters of Offer and Acceptance During Coordination.**

**C5.4.18.1. Letter of Request.** The LOR must be included in electronic LOA packages submitted to DSCA for countersignature.

**C5.4.18.2. Manpower and Travel Data Sheet.** LOA documents that include case-funded manpower (program management or any other manpower) must include a MTDS as part of the electronic package. See [Figure C9.F2](#), for more detailed information on this worksheet.

**C5.4.18.3. Missile Technology Control Regime.** Cases that add MTCR items must include a copy of the State Office of Missile Threat Reduction (State (ISN/MTR)) approval as part of the electronic package. See [Section C3.7.1](#), for more information on MTCR.

**C5.4.18.4. Previous Versions of the Document.** When LOA documents are restated, a copy of the previously approved version must be included along with the restated version as a part of the electronic package. When LOA documents have been rejected and are resubmitted for countersignature, the electronic package must include the returned version as well as the new version. If there are concerns, changes must be clearly identified in DSAMS Case Remarks and the LOA Checklist. If no changes were made in response to a return reason that was identified, DSAMS Case Remarks and the LOA Checklist must provide the rationale. The IA should contact the individual(s) who initiated the return action to discuss the reason for the return and corrective action prior to resubmission to DSCA (IOPS/GEX/CWD) to avoid further returns or delays in processing.

**C5.4.18.5. Other Documents.** If there are any waivers of applicable laws, policies, or other unique circumstances related to the case, applicable documentation must be included as part of the package submitted to DSCA in CTS. Such information includes, but is not limited to, EDA approval; Nonrecurring Cost (NC) waivers; NVD approval; Yockey Waiver; National Security Agency (NSA) approval; Grant Agreements; and FMS purchaser notifications as described in [Section C5.2.2.1](#).

**C5.4.18.6. Restatements.** Restated documents must clearly state that they are restated and supersede the previously offered version and must be coordinated and countersigned using the same procedures as the original case. See [Section C5.4.2.3.2](#), for more information on restatements.

**C5.4.18.7. Reactivating Cancelled Offers.** Once an offered LOA has been cancelled, it will remain cancelled in most instances. Reactivating cancelled cases eliminates the data history. LOAs that are not yet offered can be cancelled/reactivated at the IA's discretion. Once an LOA is offered and it is determined that the document is no longer needed, e.g., the country stipulates they do not want it, the case should be cancelled in DSAMS. Cancellation cannot be used to place a document on hold. The Hold and Suspend milestones are used for that purpose. If the IA wishes an exception to allow reactivation, a request for a reactivation/data fix should be submitted through the DSCA Data Fix Tracker Tool available in SharePoint that identifies what actions are required along with sufficient justification warranting the changes. The request will be coordinated with the DSCA (IOPS) CPD, CFD, and DSCA (SPP) for their input on whether to approve or disapprove the request.

**C5.4.18.7.1.** Positive resolution could involve reactivating the document which takes it back to development status, or doing a data fix (removing milestones), which takes it back to a more appropriate status.

**C5.4.18.7.2.** If reactivation is approved, the DSCA (OBO/FPRE/FP) will post the Reactivation Authorized Milestone (DREACT) in DSAMS and notify the IA by e-mail. The IA will then post the MILDEP Reactivation (MILREACT) milestone in the DSAMS Case Milestone List Window and bring other systems that may have this case loaded up to date. This takes the case back to Development status.

**C5.4.18.7.3.** If a data fix is more appropriate, the IA must determine if there have been any changes, (e.g., lines or notes originally added to this document version that may have been deleted). DSCA (OBO/FPRE/FP) will post the Reactivation Authorized Milestone (DREACT) in DSAMS, and notify the DSCA (Office of Business Operations, Information Management and Technology Directorate, Enterprise Application Development and Support Division (OBO/IMT/EADS)) (info the IA), to do a data fix on the document placing it in the appropriate status. Once the data fix has been completed, the IA must then post the MILDEP Reactivation (MILREACT) milestone in the DSAMS Case Milestone List Window, replace/modify data in document, (e.g., lines/notes that were deleted), update the milestone as appropriate, and bring other systems that may have this case loaded up to date. This cannot be done systemically, as DSAMS does not retain this information.

**C5.4.19. Pen and Ink Changes.** There may be times when changes need to be made, with both purchaser and IA agreement, to an LOA after it has been countersigned and offered to the purchaser. OED changes can be made per [Section C5.4.19.1](#). Minor changes can be made if the LOA is in "OFFERED" Status, the purchaser has not yet signed the LOA, the OED has not yet expired, and all changes are consistent with FMS policies and procedures (see [Section C5.4.19.2](#)). With prior DSCA (OBO/FPRE/FP) and DSCA (SPP/EPA) concurrence, major changes can be made if the LOA is in "OFFERED" Status, the purchaser has not yet signed the LOA, the OED has not yet expired, and all changes are consistent with FMS policies and procedures (see [Section C5.4.19.3](#)). The purchaser must be

authorized via email or memorandum to make any Pen and Ink changes, with a copy of the email or memorandum to Defense Finance and Accounting Services - Indianapolis (DFAS-IN) for awareness that the LOA is being updated. All changes, including Pen and Ink, must be updated in DSAMS, with the updated copy of the LOA provided to purchaser. Pen and Ink changes should be kept to a minimum, with processing as follows:

**C5.4.19.1. Offer Expiration Date Changes.** Normally, the greater the period of time between Offer and Acceptance, the greater the likelihood of decreased accuracy of the LOA data. The OED may be extended, without a requirement for case restatement, only if requested no later than 6 months after the current valid OED expiration, the document is not cancelled (see [Section C5.4.18.7.](#)), and completion of IA review by the IA ensuring data are still valid for the extended period. All concerned should be advised of any consequences associated with the extension. Minor (see [Section C5.4.19.2.](#)) and MOS changes that result from the extension are updated as well. Payment schedules can only be updated to correspond with the MOS changes (see [Section C5.4.19.3.](#)).

**C5.4.19.2. Minor Changes.** Minor changes may include insignificant technical corrections, such as small arithmetical changes that do not increase total case value (TCV), or administrative changes, such as address corrections or minor changes to note wording. The IA may review and approve these changes.

**C5.4.19.3. Major Changes.** More significant changes, such as an increase or decrease in program scope, including a revision of the terms of sale or total costs, generally require a new or restated document. Pen and Ink changes for scope changes may be done only in exceptional circumstances and with prior DSCA (OBO/FPRE/FP) and DSCA (SPP) concurrence. Pen and Ink changes to the initial deposit or payment schedule adjustments must be approved by DSCA (OBO/FPRE/CFD) and requires an IA level evaluation of the requested changes to the payment schedule for feasibility. Changes initiated after the purchaser has signed the LOA are accomplished through a corrective Amendment or Modification implemented after the basic LOA See [Section C6.7.1.6.](#) and [Section C6.7.2.3.](#)

**C5.4.19.4. Unauthorized Pen and Ink Changes.** When an LOA is signed by the purchaser and returned to the IA with unauthorized Pen and Ink changes, it is processed as a counteroffer. The LOA should be restated and reoffered or cancelled and a new LOA prepared.

**C5.4.20. Letter of Offer and Acceptance Implementation.** LOA implementation occurs when an authorized representative of the partner nation signs the LOA, any required initial deposit has been received by DFAS and deposited, and any required data system implementing transactions have occurred. Once implemented, the FMS case is a government-to-government agreement between the purchaser government or international organization and the United States or in the case of the FAA Section 607 ([22 U.S.C. 2357](#)) certain voluntary non-profit relief agencies.

**C5.4.20.1.** In addition to signing the LOA, the purchaser must complete the "Typed Name and Title," "Agency," and "Information to be Provided by the Purchaser" fields on the LOA.

**C5.4.20.2.** When the LOA has been accepted or rejected, the SCO advises DSCA (IOPS) and the IA by priority message. When LOAs are accepted for a foreign country or international organization not served by a SCO, or where LOAs are often routinely signed without direct SCO involvement, the LOA includes a note requiring the purchaser country signature authority to notify DFAS-IN and the IA of the acceptance date.

**C5.4.20.3.** The purchaser should forward a copy of the signed LOA to the IA, which will maintain the original on file. DFAS-IN requires only a copy of the signed LOA cover page.

**C5.4.21. Letter of Offer and Acceptance Period of Performance.** An implemented FMS case is effective until all articles offered are delivered and all services have been performed. Blanket Order LOAs remain in effect until the purchaser has requisitioned articles or services up to funds available on the LOA.

**C5.4.22. Letter of Offer and Acceptance Document Prioritization.** The IA requests for prioritization of LOA documents must be sent through the DSCA (IOPS) CPD for review within 48 hours after the LOA is determined by the IA to be an emergency/priority. Each request must provide justification why the LOA document should be prioritized ahead of routine cases. Each request will be approved by the Principal Director or Principal Deputy Director for the DSCA (IOPS) on a case-by-case basis. The following information must be provided in the request:

- Desired offer date,
- How long the document has been in development,
- Any known reasons for delay, and
- Any background information on political-military sensitivity or operational issues associated with the LOA document.

**C5.4.23.** Short OEDs should not be used as justification to prioritize the processing of an LOA document. Prioritization should only be requested if there is a compelling reason to have the LOA document offered in less than the normal processing time. BPC LOA OEDs should follow similar guidelines.

## C5.5. - Congressional Notification - Arms Export Control Act 36(b) for Security Assistance Programs.

**C5.5.1. Definition and Purpose.** The Arms Export Control Act (AECA), Section 36(b) ([22 U.S.C. 2776\(b\)](#)), requires a numbered certification be submitted to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives (HFAC), and the chairman of the Committee on Foreign Relations of the Senate (SFRC) before Letter of Offer and Acceptance (LOA) documents that meet specific criteria may be offered to foreign purchasers. Congress reviews each such proposed sale and may prohibit the transfer by enacting a joint resolution before the end of the prescribed review period. If Congress does not enact a joint resolution, the LOA document may be offered when the review period expires.

The SAMM, Chapter 5, uses "36(b) congressional notifications" to refer to all three types of numbered certifications described in the AECA, Section 36(b). When differences exist in the handling of Section 36(b)(1), 36(b)(5)(A), and 36(b)(5)(C) congressional notifications (CNs), these differences are specifically identified below.

**C5.5.2. Legal References.** [Table C5.T12.](#) summarizes the 36(b) CN legal references.



**Table C5.T12. 36(b) Congressional Notification Legislation**

Legislation	Subject
AECA, Section 36(b)(1) ( <a href="#">22 U.S.C. 2776(b)(1)</a> ).	Notification Criteria, Content, Classification, Offset Arrangements, and Emergency Notification
AECA, Section 36(b)(2) ( <a href="#">22 U.S.C. 2776(b)(2)</a> ), - AECA, Section 36(b)(3) ( <a href="#">22 U.S.C. 2776(b)(3)</a> ).	Joint Resolutions of Disapproval
AECA, Section 36(b)(5)(A) ( <a href="#">22 U.S.C. 2776(b)(5)(A)</a> ).	Sensitivity of Technology Enhancement/Upgrade - Report
AECA, Section 36(b)(5)(C) ( <a href="#">22 U.S.C. 2776(b)(5)(C)</a> ).	Sensitivity of Technology Enhancement/Upgrade - New Notification
AECA, Section 36(b)(6) ( <a href="#">22 U.S.C. 2776(b)(6)</a> ).	Notification Thresholds for North Atlantic Treaty Organization (NATO) Countries, Australia, Israel, Japan, Republic of Korea, and New Zealand
AECA, Section 36(f) ( <a href="#">22 U.S.C. 2776(f)</a> ).	Federal Register Publication
AECA, Section 36(h) ( <a href="#">22 U.S.C. 2776(h)</a> ).	Qualitative Military Edge (QME) Determination
AECA, Section 36(i) ( <a href="#">22 U.S.C. 2776(i)</a> ).	Request for Notification of Shipment of Arms
Foreign Assistance Act (FAA), Section 620C(d) ( <a href="#">22 U.S.C. 2373</a> ).	Sales to Greece or Republic of Türkiye

**C5.5.3. 36(b) Congressional Notification Requirements.** An LOA, including Amendments and Modifications, may not be offered to a purchaser until all required CNs have been made and the formal notification periods have expired (if applicable).

**C5.5.3.1. 36(b)(1) Congressional Notifications.** By law, a 36(b)(1) CN is required when an LOA meets or exceeds one of the thresholds identified in [Table C5.T13](#). These thresholds vary by purchaser. A 36(b)(1) CN is also required if an LOA Amendment or Modification would increase the Major Defense Equipment (MDE) value or the total case value (TCV) such that it would meet or exceed the thresholds in [Table C5.T13](#), and Congress has not been notified of the sale previously. See [Section C5.5.3.2](#), for LOA Amendments and Modifications to cases that have already been notified to Congress.

**Table C5.T13. Thresholds for 36(b) Congressional Notification**

	North Atlantic Treaty Organization Countries, Australia, Israel, Japan, Republic of Korea, New Zealand	All Other Countries, North Atlantic Treaty Organization Organizations, All Other International Organizations
Major Defense Equipment	\$25M	\$14M
Any Articles, Services, or Both (Total Case Value)	\$100M	\$50M
Design and Construction Services	\$300M	\$200M

**C5.5.3.2. Amendments to 36(b)(1) Congressional Notifications - Sensitivity of Technology or Capability Enhancements or Upgrades.** 36(b)(5)(A) and 36(b)(5)(C) CNs modify existing 36(b)(1) CNs. A 36(b)(5)(A) or 36(b)(5)(C) CN is required when an LOA Amendment or Modification will enhance or upgrade the sensitivity of technology or the capability of the article, equipment, or service from the level of sensitivity or capability described in the previous CN. Increases of capability, addition of MDE items, increases in MDE quantity, and any other changes that would cause the previously notified total value to be exceeded are considered enhancements or upgrades. The total value of the enhancement or upgrade determines whether a 36(b)(5)(A) or 36(b)(5)(C) CN is required.

**C5.5.3.2.1. 36(b)(5)(A) Congressional Notifications.** A 36(b)(5)(A) CN (described as a “report” in the AECA, Section 36(b)(5)(A)) is required when the total value of the enhancement or upgrade is less than the thresholds identified in [Table C5.T13](#).

**C5.5.3.2.2. 36(b)(5)(C) Congressional Notifications.** A 36(b)(5)(C) CN is required when the total value of the enhancement or upgrade is equal to or greater than the thresholds identified in [Table C5.T13](#).

**C5.5.3.3. Congressional Notifications and Letters of Offer and Acceptance.** Multiple LOAs can reference a single CN, provided they do not in total exceed the MDE quantities and dollar value remaining on the CN. Each LOA, Amendment, and Modification may only reference one Section 36(b)(1) CN, in addition to any 36(b)(5)(A) and 36(b)(5)(C) amendments to that same 36(b)(1), if applicable.

**C5.5.4. Responsibilities for 36(b) Congressional Notification.** Under [Executive Order \(E.O.\) 13637](#), the President has delegated the responsibility of implementing AECA Section 36(b) to the Secretary of Defense (SECDEF) in consultation with the Secretary of State (SECSTATE). CN responsibilities are summarized in [Table C5.T14](#).

**Table C5.T14. 36(b) Congressional Notification Responsibilities**

Organization	Responsibilities
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Implementing Agencies (IAs)	<ul style="list-style-type: none"> <li>• Prepare initial notification package and provide necessary supporting information to DSCA.</li> <li>• Concurrently process any required Technology Security and Foreign Disclosure (TSFD) approvals.</li> </ul>
DSCA	<ul style="list-style-type: none"> <li>• Reviews and performs quality control/quality assurance on CN packages.</li> <li>• Coordinates CN packages within the DoD and submits to the Department of State (State) for approval.</li> <li>• Submits formal CN to Congress after State authorization.</li> </ul>
Department of State, Bureau of Political and Military Affairs (State (PM))	<ul style="list-style-type: none"> <li>• Consults with the DoD on CNs.</li> <li>• Prepares FAA, Section 620C (22 U.S.C. 2370) certifications on Greece and the Republic of Türkiye, if required.</li> <li>• Prepares QME determination, if required.</li> <li>• Coordinates with the National Security Council (NSC), if required.</li> <li>• State PM evaluates proposed sale with regard to the President's Conventional Arms Transfer (CAT) Policy, including with reference to support for foreign policy goals, regional stability, consistency with international agreements, and arms control initiatives.</li> <li>• Conducts informal coordination with the committees of jurisdiction via the State Tiered Review process.</li> <li>• Authorizes DSCA to provide formal notifications to Congress pursuant to AECA 36(b).</li> </ul>
Congress	<ul style="list-style-type: none"> <li>• Reviews CNs.</li> <li>• May prohibit the offering of articles, services, or both to a purchaser by passing, over Presidential veto if necessary, a joint resolution of disapproval in response to a CN.</li> <li>• May request additional information.</li> </ul>

**C5.5.5. 36(b) Congressional Notification Packages.** The IA is responsible for preparing the initial notification package for submission to DSCA. This section describes the information the IA must include in the initial notification package submission.

**C5.5.5.1. General Requirements.** Classification and cost estimate requirements apply to all 36(b) CNs.

**C5.5.5.1.1. Unclassified Congressional Notifications.** To the greatest extent possible, CNs should be unclassified. All documents and correspondence related to a CN that has not been formally notified must be marked in accordance with [Section C5.5.5.1.1.1](#). Unclassified CNs should be submitted to the DSCA CN team via the Non-classified Internet Protocol Router Network (NIPRNET).

**C5.5.5.1.1.1. Handling Prior to Notification.** All CN documentation should be marked with and handled as Controlled Unclassified Information (CUI) and "PRE-DECISIONAL" until the CN is formally notified to Congress, unless specifically directed otherwise by DSCA or State (PM). See Sections [C5.5.5.1.1.3](#), [C5.5.5.1.1.4](#), and [C5.5.5.1.2](#) for notification documentation that requires classified handling.

Note: The previous SAMM process requiring Confidential handling of all unclassified CNs prior to State providing its approval to handle at the For Official Use Only (FOUO) level no longer applies, except in rare circumstances (see [Section C5.5.5.1.1.4](#)). Country masking codes are no longer required for initial LOA processing, except in the situations described in [Section C5.5.5.1.1.4](#).

**C5.5.5.1.1.2. Public Information.** Following formal notification, the full text of the unclassified CN is published in the Congressional Record, which is available to the public online. With the exception of classified notifications and classified annexes, the full texts of 36(b)(1) and 36(b)(5)(C) CNs are also posted for the public in the Federal Register after notification and the details of 36(b)(1) notifications are published in the Major Arms Sales page on the [DSCA website](#). Therefore, unclassified CN documents may not contain any CUI, FOUO, unclassified information not authorized for public release, or classified information.

**C5.5.5.1.1.3. Classified Attachments.** If classified data or attachments (e.g., Country Team Assessments (CTAs), Combatant Command (CCMD) endorsements, QME determinations, Offset Certificates) are necessary to support a notification, those portions should be kept on pages separate from the rest of the draft unclassified notification. Classified attachments should be marked with the required level of classification, each paragraph should be portion marked with the required classification level, and the derivative authority "classified by" and "declassify on" data must be shown in the document footer. Classified attachments should be submitted via Secret Internet Protocol Router Network (SIPRNET) to the DSCA CN team concurrently with the unclassified package.

**C5.5.5.1.1.4. Sensitive Congressional Notifications.** In rare instances, DSCA (Office of International Operations (IOPS), DSCA Office of International Operations, Global Execution Directorate (IOPS/GEX)) or State may identify a draft response to an unclassified Letter of Request (LOR) as politically sensitive and request that it be handled as Confidential until State grants CUI handling approval. If it is determined that an unclassified case requires Confidential handling, any draft USG response document (specifically, the LOA, 36(b) notification, and nonrecurring cost (NC) recoupment waiver) that relates the country to the case details is handled as Confidential until DSCA notifies the IA that State has authorized either CUI handling or unclassified formal notification to Congress. IAs must maintain internal procedures to ensure these documents are handled appropriately. It is the sum of the parts (in particular one or more of the purchaser, system, quantity, and value) that, in the context of their inclusion in a formal USG response document, is handled as Confidential. The individual parts, if unclassified in the LOR, remain unclassified and can be discussed in an unclassified environment provided they are not associated with a USG response that has not yet been formally notified. The following procedures must be used:

**C5.5.5.1.1.4.1. Initial Entry into Defense Security Assistance Management System.** LOA documents for unclassified cases requiring Confidential handling will be entered into Defense Security Assistance Management System (DSAMS) with a case identifier using a "masked" country code (e.g., "XX") to ensure the prospective purchaser is not identified. This identifier is used to enter unclassified case information, including item descriptions, into DSAMS. Using the masked case identifier allows most of the case information to be entered and helps case developers continue their work prior to the notification. The purchaser cannot be named in the notes or other supporting data to ensure the information remains unclassified. The user must use caution when entering data under a masked country code. Many pricing waivers and restrictions are programmed in DSAMS under each specific country. When a masked country code is used, these waivers are not applied automatically, and the user must apply them individually as appropriate. The application of specific pricing within DSAMS could reveal the purchaser (e.g., entering a specific waiver percentage for Contract Administration Services (CAS) could identify a list of potential purchasers). In these instances, the pricing is done separately and only a total price for the line should be entered.

**C5.5.5.1.1.4.2. Congressional Notification Package Submittal to the Defense Security Cooperation Agency.** If Confidential handling is required and none of the data or attachments is classified for other reasons, all CN documents should be marked "CONFIDENTIAL" with all paragraphs preceded by the portion marking "(U)" and submitted to DSCA on SIPRNET, using the procedures identified in [Section C5.5.5.1.2](#). The bottom of the

first page of each submittal should state: "Declassify On Statutory Notification To Congress Unless Required Otherwise By Competent Authority."

Note: A statement at the bottom of the first page should include a reason for classification (e.g., Pre-decisional pending State downgrade or declassification) and its authorization for declassification, as well as compliance with other marking requirements, including DoD component, office, and date of origin.

**C5.5.5.1.1.4.3. Handling Determination and Procedures.** If State approves CUI handling, DSCA (IOPS/GEX) will enter the FOUO milestone into DSAMS, allowing DSAMS to be updated with the actual country code and prompting the inclusion of an FOUO header and footer on LOA documents until the formal notification is made. If CUI handling is not approved, the milestone will not permit the actual country code to be entered prior to the unclassified formal notification to Congress. In either event, upon entry of the actual country code, the remaining case information may be entered. Pricing that was not entered into the system to protect the classification is entered into DSAMS at this time.

Note: DSCA (IOPS/GEX) is working with DSCA (Office of Business Operations, Information Management and Technology Directorate (OBO/IMT)) on DSAMS changes to use CUI markings for the DSAMS milestone and other documents instead of FOUO. Once updated, the SAMM will be amended to remove the FOUO reference for this section.

**C5.5.5.1.2. Classified Congressional Notifications.** The AECA, in Section 36(b)(1), 36(f), and 36(i), allows for classified CNs if the public disclosure of the CN would be detrimental to the security of the United States. All classified CNs must be accompanied by a description of the damage to U.S. national security that could be expected to result from public disclosure of the information. Decisions to classify CNs will only be granted on exceptionally rare occasions. A purchaser's request or claim of potential damage to the purchaser's national security does not meet the legal standard to justify a classified CN. Classified CNs should be submitted to the DSCA CN team, which will solicit State approval.

**C5.5.5.1.3. Cost Estimates.** Rough Order of Magnitude (ROM) cost estimates and generic descriptions of the non-MDE elements of proposed sales are acceptable for processing CNs. For notification purposes, proposed sales should be developed for the maximum reasonable program scope and value to prevent the need to re-notify if the final offer should exceed the initial notification.

**C5.5.5.1.4. Program Issues Impacting Sales.** Prior to CN, the IA must advise DSCA ((IOPS), (IOPS/GEX), Office of International Operations, Regional Execution Directorate (IOPS/REX)), and the Country Portfolio Director (CPD)) of any program difficulties or changes that may impact or constrain the potential sale. For example, domestic program budget cuts, projected termination of domestic production contracts, unfavorable test and evaluation results, or program cost increases could have a detrimental effect on a potential sale and affect the CN process.

**C5.5.5.2. Implementing Agency Cover Memorandum.** The IA must submit an IA cover memorandum with each CN package. This memorandum should be signed at the general officer/flag officer/Senior Executive Service (SES) level or higher. This memorandum is for DSCA processing and is not included in the transmittal to Congress. The IA cover memorandum should contain the information listed below. [Figure C5.F7](#) provides a template detailing all required information, the proper format, and suggested language and tips.

**Figure C5.F7. Template for Implementing Agency Cover Memorandum**

- [PDF Version of Figure](#)
- [Web Version of Figure](#)

**C5.5.5.3. Country Team Assessment.** The IA must include a CTA when required in accordance with [Section C5.1.4](#). In general, CTAs must be dated within two years of the notification package submittal, unless DSCA requests a newer CTA. See [Section C5.1.4](#) for additional information regarding CTAs. The CTA is used for processing and is not included in the transmittal to Congress.

**C5.5.5.4. Combatant Command Endorsement.** The IA should include a CCMD endorsement with the CTA if the sale includes the first introduction of a technology or capability to a country or region. This endorsement is used for processing and is not included in the transmittal to Congress.

**C5.5.5.5. Congressional Notification Transmittal Document.** The IA must submit a draft transmittal document for all 36(b) notifications. This document, along with the Policy Justification and Sensitivity of Technology (if applicable), will be delivered to Congress as the formal CN package. The transmittal format for 36(b)(1) packages differs from 36(b)(5)(A) and 36(b)(5)(C) packages. [Figure C5.F8](#) and [Figure C5.F9](#) provide templates detailing all required information, the proper format, and suggested language and tips.

NOTE: The AECA, Section 36(b) requires that MDE be separately identified and quantified in the transmittal document. MDE cannot be offered on an LOA or LOA Amendment if the MDE has not been identified and quantified in the associated CN. This applies to all cases requiring CN, even those for which the MDE values are below the thresholds identified in [Table C5.T13](#), (e.g., if a notification is required due to the TCV, the IA still must provide the MDE description and identify quantities).

**Figure 3.16: Template for M002's Tendering Document**

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**NOTES**

1. Notation of bracketed text and strike brackets. Delete quotation marks around recommended language.
  - a. If bracketed text begins with "M002", choose only one of the provided options and delete the others.
  - b. Required language is provided throughout the document. Certain expressions are from prior to submitting the document to M002. If a statement is not true, do not use it.
2. All correspondence with M002 documentation should be marked as Controlled Documentation (CD) and "NO DISSEMINATION" prior to distribution unless a higher classification applies, in which case the documentation should be designated and controlled as Secret or more restrictive based on M002 (SPRINT). If any information in this document is CD or Controlled Documentation or is any Controlled Documentation, indicate the classification markings and include proper markings throughout the document.
3. All distribution material should be placed in the bottom right side of the page of the tendering document prior to the footer. The below language contains the approved CD language related to the M002 CD.
4. Formatting: Times New Roman, 12 point font, 1 inch margins, no spaces between sentences.

Writing guidelines: Write out all acronyms upon first usage if they will be repeated in the document, except if they are commonly understood within working hours on a CD. If "Valid performing system (SPS)", and then subsequently use the acronym instead of writing out SPS for the rest of the page. Do not use the phrase "The system is a part of the system" and use "The system and an array (SPS)" instead. Writing notes that have been written into notes on forms and documents.

Delete this section (including the bracket) before submitting.

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Tendering No. (M002)

Notice of Proposed Issuance of Letter of Offer  
 Request to Tender (M002)  
 of the Acquisition Control Act, as provided

3.1.1 Prospective Tenderer: (Insert name of Prospective Tenderer)

3.1.1.1 Bid Identification Number

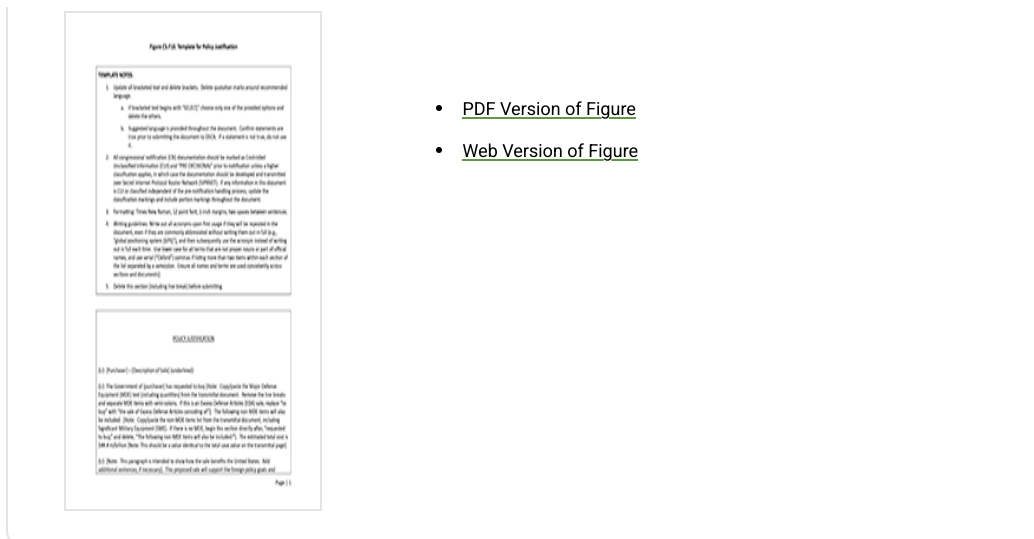
3.1.1.1.1 Bid Identification Number

- [illegible]

[illegible]

- [illegible]

**C5.5.5.6. Policy Justification.** The IA must submit a separate Policy Justification attachment for 36(b)(1) notifications. The Policy Justification will be delivered to Congress as part of the formal notification package. [Figure C5.F10.](#) provides a template detailing all required information, the proper format, and suggested language and tips. A separate Policy Justification document is not required for Section 36(b)(5)(A) and 36(b)(5)(C) CNs. Instead, a brief summary of the justification should be included in the transmittal document justifying what is being included in the CN amendment (see [Figure C5.F9.](#)).

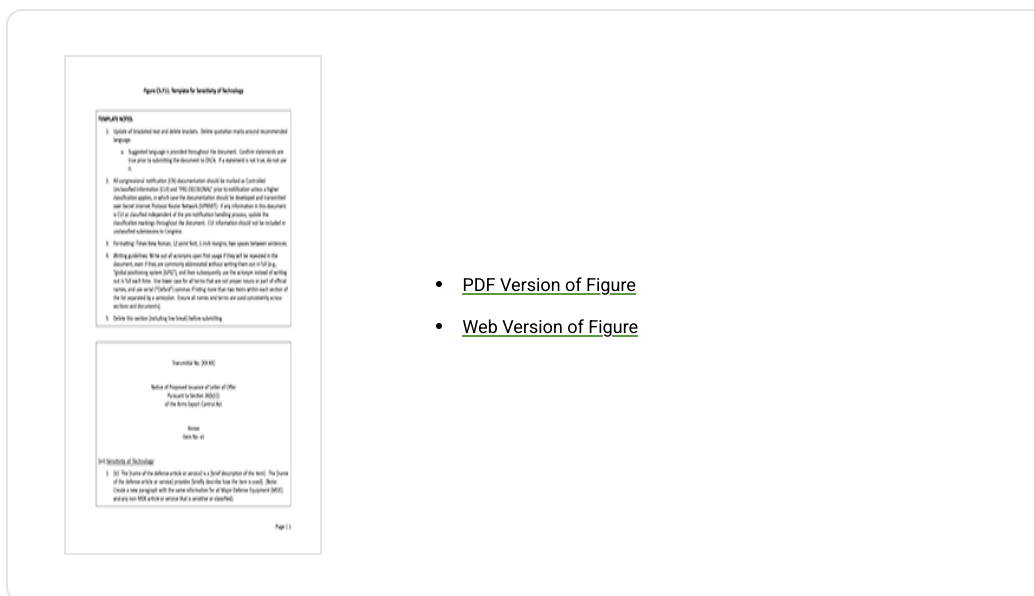


- [PDF Version of Figure](#)
- [Web Version of Figure](#)

**C5.5.5.7. Sensitivity of Technology.** The IA must submit a Sensitivity of Technology annex for Section 36(b)(1) CNs for all MDE and any non-MDE articles, services, or both that are sensitive or classified. The Sensitivity of Technology statement will be delivered to Congress as part of the formal notification package. The Sensitivity of Technology annex describes the capability of the sensitive technology, the overall highest level of classification associated with all articles, services, or both included in a potential sale, the potential impact if an adversary were to obtain knowledge of the sensitive technology, the degree of protection the purchaser can offer, and whether or not the sale is necessary from a policy perspective, given the sensitivity of the technology. The Sensitivity of Technology annex should not address National Disclosure Policy (NDP) procedures or the foreign policy implications of unauthorized use by the proposed recipient. [Figure C5.F11](#), provides a template detailing all required information, the proper format, and suggested language and tips. A separate Sensitivity of Technology annex is not required for 36(b)(5)(A)s and 36(b)(5)(C)s. Instead, a brief summary of any changes to the Sensitivity of Technology caused by the enhancement or upgrade requiring notification should be included in the transmittal document (see [Figure C5.F9](#)).

NOTE: Per [Section C5.5.5.1.1](#), to the greatest extent possible, all CN documents, including the Sensitivity of Technology statement, should be unclassified unless a higher classification applies. The full texts of unclassified CNs are published to the Congressional Record and the full text of unclassified 36(b)(1) and 36(b)(5)(C) CNs are published to the Federal Register per Section 36(f). Therefore, Sensitivity of Technology statements cannot contain CUI or classified information. Sensitivity of Technology statements containing classified information should be appropriately classified for separate handling.

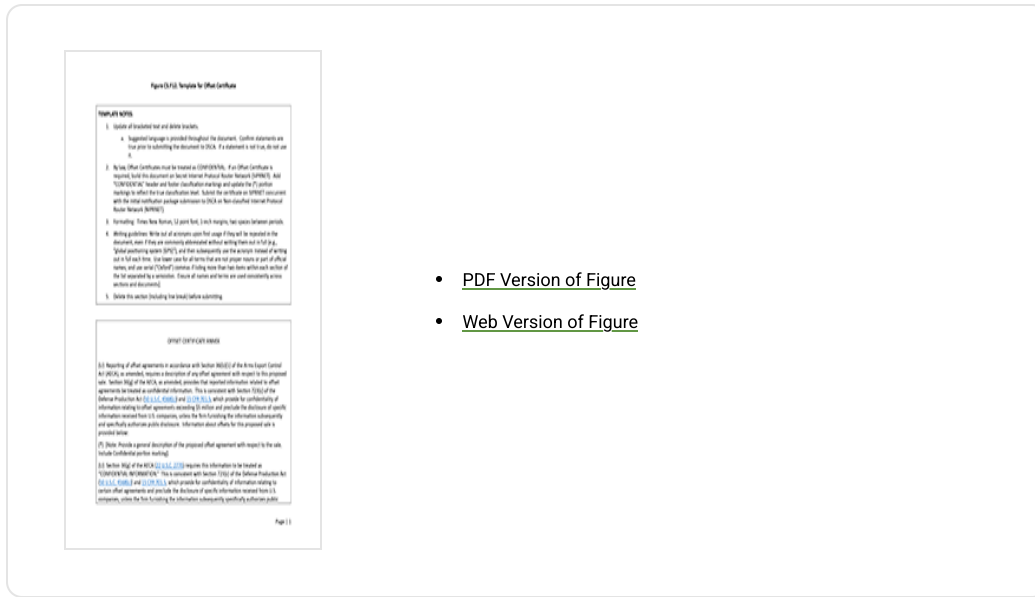
**Figure C5.F11. Template for Sensitivity of Technology**



- [PDF Version of Figure](#)
- [Web Version of Figure](#)

**C5.5.5.8. Offsets.** In the Policy Justification, the IA must identify, if known, whether an offset agreement is proposed in connection with the sale. If the details of a proposed offset agreement are known, then the IA should submit an Offset Certificate. An Offset Certificate is treated as classified confidential information, pursuant to AECA, Section 36(g), ([22 U.S.C. 2776\(g\)](#)). This is consistent with Section 723(c) of the Defense Production Act ([50 U.S.C. 4568\(c\)](#)) and [15 CFR 701.5](#), which provide for confidentiality of information relating to offset agreements exceeding \$5 million, and preclude the disclosure of specific information received from U.S. companies, unless the firm furnishing the information subsequently and specifically authorizes public disclosure. The Offset Certificate should be marked "CONFIDENTIAL" and remain classified even after the statutory notification is made. [Figure C5.F12](#), provides a sample format for this information.

Figure C5.F12. Template for Offset Certificate



- [PDF Version of Figure](#)
- [Web Version of Figure](#)

**C5.5.5.9. Other Required Information (Implementing Agency Responsibility).** In addition to the information required above, Congress may from time to time request further information, as described in AECA, Section 36(b). Although this information may not be required in the initial notification package, the IA should be prepared to address these areas or provide more detailed information if requested:

Table C5.T15. Other Required Information

Area	Description
1	An evaluation, prepared by the SECSTATE in consultation with the SECDEF and the Director of Central Intelligence Agency (CIA), of the manner, if any, in which the proposed sale would: Contribute to an arms race, support international terrorism, increase the possibility of an outbreak or escalation of conflict, prejudice the negotiation of any arms controls, or adversely affect the arms control policy of the United States;
2	An analysis by the President of the impact of the sale on the military stocks and the military preparedness of the United States;
3	An analysis by the President of the impact of the sale on the military capabilities of the foreign country or international organization;
4	An analysis by the President of how the sale would affect the relative military strengths of countries in the region and whether other countries in the region have comparable kinds and amounts of defense articles or services, or design and construction services;
5	An estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization which are needed and available to effectively utilize the defense articles or services, or design and construction services;
6	An analysis of the extent to which comparable kinds and amounts of defense articles or services, or design and construction services are available from other countries;
7	An analysis of the impact of the sale on U.S. relations with other countries in the same region;
8	For any agreement proposed to be entered into by the United States for the purchase by the United States of equipment or services of the foreign country or international organization in connection with, or as consideration for, such LOA, a detailed description of the agreement including an analysis of the impact upon U.S. business concerns which might otherwise have provided such equipment to the United States, an estimate of the costs to be incurred by the United States compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result, and an analysis of whether such costs and domestic economic impact justify entering into the agreement;
9	A detailed description of weapons and levels of munitions that may be required as support for the sale; and
10	An analysis of the relationship of the proposed sale to projected procurements of the same item.

**C5.5.5.10. Other Required Information (State Responsibility).** In addition to the information required by the IA, some Section 36(b) CNs require additional documentation that is prepared by State.

**C5.5.5.10.1. Qualitative Military Edge Determination.** AECA Section 36(h) requires that the sale of defense articles, services, or both "to any country in the Middle East other than Israel shall include a determination that the sale or export of the defense articles or defense services will not adversely affect Israel's qualitative military edge over military threats to Israel." This requirement applies to all FMS-eligible countries participating in the Middle East Peace Initiative (MEPI): Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Tunisia, United Arab Emirates, and Yemen. State is responsible for preparing the QME determinations.



**C5.5.5.10.2. Foreign Assistance Act, Section 620C Determination.** The FAA, Section 620C(d) requires the President certify that security assistance to Greece and Republic of Türkiye (including arms sales) is consistent with U.S. policy regarding Cyprus, Greece, and Republic of Türkiye as articulated in Section 620C(b). State is responsible for preparing this determination.

**C5.5.6. 36(b) Congressional Notification Process.** This section describes the process for all Section 36(b) CNs. When differences exist between Section 36(b)(1), 36(b)(5)(A), and 36(b)(5)(C) CNs, these differences are noted in the text.

**C5.5.6.1. Implementing Agencies Prepare and Submit Initial 36(b) Congressional Notification Package to the Defense Security Cooperation Agency.** The IA prepares and submits the data required for a CN to DSCA (IOPS/GEX). See [Section C5.5.5.](#) for required information and templates. The IA should concurrently process required TSFD approvals while preparing the initial Section 36(b) CN package. See [Section C3.7.3.4.2.2.](#), CNs for containing COMSEC. Targeting Infrastructure Policy (TIP) concerns and deficiencies must be resolved before the CN can be processed by DSCA. See [Section C4.4.18.](#) for more information on TIP.

**C5.5.6.1.1. Timelines.** CNs can be a lengthy process due to the informal and statutory review times, as well as the coordination required between the IA, DSCA, other DoD offices, State, the NSC, and other non-DoD organizations. The total processing time varies by the type of CN, the purchaser involved, and the articles, services, or both being offered. DSCA recommends CNs be submitted well in advance of the anticipated offer date to ensure LOA offer is not delayed. Even when submitted well in advance of the offer date, delays can occur if appropriate technology releases are not complete, and/or if extensive interagency coordination is required.

**C5.5.6.1.2. Priority Processing.** If priority processing of a notification is required (e.g., because of a need to exercise contract options by a specific date, termination of a current production program), the IA must provide justification in the IA cover memorandum to DSCA (see [Section C5.5.5.2.](#) for information on IA cover memos). If DSCA determines a priority situation exists, DSCA will work with State and Congress to attempt to expedite review. Note: The Formal Notification period can be waived only if an emergency declaration is made (see [Section C5.5.6.4.5.](#)).

**C5.5.6.2. The Defense Security Cooperation Agency Reviews, Coordinates, and Submits the Draft Notification to State.** Upon receipt of the data, DSCA (IOPS/GEX) reviews the notification package and coordinates the package within DoD. Once DoD coordination is complete, DSCA (IOPS/GEX) officially submits the notification package to State for review and approval.

**C5.5.6.3. State Informal Notification Process (“Tiered Review”).** State reviews and coordinates the package with the NSC (if applicable). State then submits the package to Congress for the informal Tiered Review period. During the Tiered Review period, Congress has the opportunity to review CNs prior to formal submittal and to request further information. Although State and Congress have agreed to notional timelines for Tiered Review (See [Table C5.T16.](#)), these timelines are not binding and Tiered Review is complete only when State has completed its consultations with Congress, which is normally, but not always, defined as clearances from HFAC and SFRC Chairpersons and Ranking Members (four clearances total from State committees of jurisdiction). If all clearances are received, State may authorize DSCA to submit formal notification to Congress before the Tiered Review period is complete.

**Table C5.T16. Tiered Review Periods**

Tiers	Applicability	Days
Tier 1 - NATO +5	Applies to NATO Countries and Australia, Israel, Japan, the Republic of Korea, and New Zealand (unless Tier 3 circumstances apply)	20 Days
Tier 2 - Other	Applies to all other countries, NATO Organizations, and all other international organizations (unless Tier 3 circumstances apply)	30 Days
Tier 3 - Sensitive	Applies to notifications including Missile Technology Control Regime (MTCR) Category I articles or requiring a QME determination (see <a href="#">Section C5.5.5.10.1.</a> ). May also include, at the discretion of State PM or Congress, notifications containing other sensitive technology or notifications for the first introduction of a technology to a country or region (which may include Tier 1 countries on a case-by-case basis).	40 Days

**C5.5.6.4. Formal Notification.** Once Tiered Review is complete (all four clearances received), State Bureau of Political Military Affairs, Office of Regional Security and Arms Transfers (PM/RSAT) provides authorization and DSCA (IOPS/GEX) submits the formal notification to Congress. Congress has a prescribed period ([Table C5.T17.](#)) to formally review the notification and object or not object to the proposed sale.

**Table C5.T17. Formal Review Periods**

Purchaser	Days
NATO Countries and Organizations, Australia, Israel, Japan, the Republic of Korea, and New Zealand	15 Days
All Other Countries and International Organizations	30 Days

**C5.5.6.4.1. Rules for Offering Letters of Offer and Acceptance Following Notification.** For Section 36(b)(1) and 36(b)(5)(C) notifications, the final LOA cannot be offered until the congressional statutory review period elapses; however, the IA can provide a draft LOA to the purchaser once DSCA confirms the CN has been formally notified. Section 36(b)(5)(A)s may be offered immediately upon formal notification, as no statutory review period exists; however, items may not be delivered until 45 days after notification.

**C5.5.6.4.2. If Congress Does Not Adopt a Joint Resolution of Disapproval During Formal Review.** If Congress does not adopt a joint resolution of disapproval, the LOA document may be offered to the purchaser upon expiration of the statutory 15- or 30-day review period (for Section 36(b)(1) and 36(b)(5)(C) CNs).

**C5.5.6.4.3. If Congress Adopts a Joint Resolution of Disapproval During Formal Review.** If Congress adopts a joint resolution of disapproval objecting to a proposed sale (for Section 36(b)(1) and 36(b)(5)(C) CNs), the President will accept the joint resolution or veto it and allow the Senate the opportunity to override the veto. The LOA cannot be offered to the prospective purchaser until this process is complete. If the President does not veto the joint

resolution of disapproval, or if Congress overrides the veto, the LOA may not be offered. DSCA (IOPS/GEX) is responsible for notifying the IA of any objections.

**C5.5.6.4.4. Transmittal Numbers.** DSCA assigns a transmittal number to each CN, which identifies the fiscal year and sequential number of the transmittal (e.g., 24-30). When the notification is submitted to Congress, DSCA provides the transmittal number and a copy of the CN to the IA. The transmittal number must be referenced on the LOA and in all subsequent Amendments and Modifications.

**C5.5.6.4.5. Emergency Circumstances.** If the President states in the CN that an emergency exists that requires the proposed sale in support of U.S. national security interests, the formal review period is waived, and the LOA may be offered immediately upon notification. The SECSTATE (under authority delegated from the President) must provide a detailed justification for his or her determination, a description of the emergency circumstances that necessitate the immediate issuance of the LOA, and the national security interests involved.

**C5.5.6.5. Federal Register.** Following notification, DSCA submits the full text of unclassified Section 36(b)(1) and 36(b)(5)(C) notifications to the Federal Register for publication, as required by AECA, Section 36(f). A Federal Register submittal is not required for Section 36(b)(5)(A) CNs.

**C5.5.6.6. Major Arms Sales.** Following notification, DSCA posts a news release for each unclassified Section 36(b)(1) CN on the Major Arms Sales page on the [DSCA website](#). The news release is developed primarily from the Policy Justification section of the CN.

**C5.5.6.7. Period of Validity.** A CN that has not resulted in any accepted LOA(s) by a foreign government remains a valid notification against which LOAs may be accepted and implemented for a period of time not to exceed five years. Once a case has been implemented against a CN, the five-year validity period does not apply. In this case, the CN remains a valid notification that can be drawn against, provided there are sufficient notified articles and dollar value remaining.

#### C5.5.7. Programs with Long Lead-time Items.

**C5.5.7.1.** An LOA can be used for long lead-time items of a program without CN of the initial LOA, provided the value of the initial LOA for long lead-time items falls below CN thresholds.

**C5.5.7.2.** If the remainder of the program meets the threshold for notification, a CN should be submitted prior to amending the long lead-time item LOA for the remainder of the program. The notification must include a reference to the long lead-time item LOA under "Prior Related Programs." If the notification is disapproved, the Amendment will not be offered and the existing long lead-time item LOA will cover only costs already incurred. See [Appendix 6, LOA Notes](#), for the applicable note that must be included in the LOA.

### C5.6. - Multinational Foreign Military Sales

Multinational Foreign Military Sales (FMS) cases are designed to assist multilateral procurement and support efforts in Europe. Multinational sales models result in ultimate delivery to participating countries for national use. The guidance in this section therefore does not apply to sales to North Atlantic Treaty Organization (NATO) agencies for use by NATO. It is specific to two types of FMS sales models that involve ultimate delivery of defense articles or services to more than one FMS eligible country or International Organization (IO) (for ease of reference, "Lead Nation" which should be understood to include instances in which the lead is either a country or an IO). Lead Nation FMS cases involve a sale, principally of defense articles rather than services, to a single FMS-eligible Lead Nation or IO with the intent that the Lead Nation will transfer some or all of the defense articles on the case to a defined group of FMS-eligible recipient countries. Agent Sales involve sales directly to one or more FMS-eligible countries through a single case managed by one of two IOs authorized to act as an Agent. DSCA (Office of International Operations (IOPS)) Country Portfolio Directors (CPDs) and Implementing Agencies (IAs) should consult with DSCA (Office of Strategy, Plans, and Policy, Execution Policy and Analysis Directorate (SPP/EPA)) upon receipt of a Letter of Request (LOR) for either Lead Nation Procurement or an Agent Sale.

Table C5.T18. Table of Legislative References

Legislation	Description
Arms Export Control Act (AECA), 3(d)(1) ( <a href="#">22 U.S.C. 2753(d)(1)</a> )	Requirements for retransfer of defense articles and services sold through FMS.
AECA 3(d)(4)(C)(ii) ( <a href="#">22 U.S.C. 2753(d)(4)(C)(ii)</a> )	Waiver for Congressional Notification (CN) of retransfer from a Lead Nation to Participating NATO Nations.
AECA 36(b)(1) ( <a href="#">22 U.S.C. 2776(b)(1)</a> )	CN Criteria/Content/Classification
<a href="#">10 U.S.C. 2350(d)</a> .	Permits DoD to participate in and support NATO Support or Procurement Partnership (SP) Agreements provided that all conditions of the AECA are met.

#### C5.6.1. Lead Nation Sales

**C5.6.1.1. North Atlantic Treaty Organization Support or Procurement Partnerships.** [10 U.S.C. 2350\(d\)](#) permits DoD to participate in and support NATO SPs provided that all conditions of the AECA are met. Under NATO SPs, sales are made to the NATO Support and Procurement Agency (NSPA) for retransfer to members of the partnership. All multinational FMS cases will be either Lead Nation or Agent Sales until new policy guidance for NSPA Support Partnerships is established (see [DSCA Policy Memorandum 22-85](#) for more information). NATO SP Agreements may contain terms consistent with those of the AECA that permit retransfer of defense articles purchased through such arrangements among members of the partnership but that require separate retransfer authorizations for transfers outside the partnership. Prior to 2015, in order to comply with AECA Section 3, FMS sales to NATO SPs were generally limited to non-Significant Military Equipment (SME) spare and repair parts so that subsequent retransfers remained below AECA dollar thresholds otherwise requiring prior notification to Congress. In 2015 NSPA expanded its charter to include procurement and lifecycle support of major end items, necessitating development of new FMS sales models.

**C5.6.1.2. Lead Nation Procurement.** Lead Nation Procurements are sales to a NATO organization or to a Lead Nation with the intent that the defense articles sold will subsequently be retransferred to an identified group of Participating Nations, limited to European nations. Lead Nation Procurements require articles and services to be delivered directly to the Lead Nation identified in the Letter of Offer and Acceptance (LOA), and therefore would not be a

useful sale type for services requiring delivery directly to the Participating Nations. The sale will be supported by a blanket retransfer arrangement, contingent upon receipt of end use, retransfer assurances submitted to the third party transfer team at Department of State, Bureau of Political-Military Affairs, Office of Regional Security and Arms Transfers (State (PM/RSAT))(PM\_RSAT-TPT@state.gov), designed to permit flexible sharing among the identified group of Participating Nations with terms that maintain accountability and adherence to statutory reporting requirements. Although a separate supporting Memorandum of Understanding (MOU) among the Participating Nation governs their interactions with one another and the Lead Nation, only the LOA and retransfer terms and conditions govern the relationship between the United States and the Lead Nation and Participating Nations.

#### C5.6.1.3. Letters of Requests.

**C5.6.1.3.1. North Atlantic Treaty Organization Support Partnerships.** NSPA purchases for NATO SPs use Security Cooperation Customer Code (SCCC) N4 (see [DSCA Policy Memorandum 22-85](#)) (to differentiate other purposes of this SCCC, the case nickname field is used as follows: "NSPA Procurement for NSPA" and "NSPA Procurement for NATO"). Sales that involve spare and repair parts will normally not require a Country Team Assessment (CTA) or Combatant Command (CCMD) endorsement unless requested by DSCA per [Section C5.1.4](#). Sales in support of NATO SPs will generally take place through Lead Nation Procurement or Agent Sales.

**C5.6.1.3.2. Participating Nations and Source of Funds.** In addition to the normal requirements for LORs in [Section C5.1](#), the LOR submitted by the Lead Nation must identify all Participating Nations that are potential transferees. National funds are required unless an exception is approved. Any request for an exception should be provided to DSCA (for coordination with DSCA (IOPS), DSCA (SPP/EPA), DSCA (Office of Business Operations, Financial Policy & Regional Execution Directorate (OBO/FPRE)), and DSCA (Front Office, Office of the General Counsel (FO/OGC))), and Department of State (State), as appropriate, prior to submission of the LOR to both DSCA and the IA.

**C5.6.1.4. Country Team Assessment and Combatant Command Endorsement.** If the Lead Nation is NSPA, Office of Defense Cooperation (ODC) Brussels, acting on behalf of U.S. Mission to NATO (USNATO), will draft the initial CTA, when required and in accordance with [Section C5.1.4](#), and coordinate it with the Security Cooperation Organizations (SCOs) of the Participating Nations. If an individual country is the Lead Nation, the SCO of the Lead Nation will draft the CTA, when required and in accordance with [Section C5.1.4](#), and coordinate it with the SCOs of the other Participating Nations. The same offices will work with United States European Command (USEUCOM) to develop any necessary CCMD Endorsement required in the respective situations described.

#### C5.6.1.5. Congressional Notification.

**C5.6.1.5.1.** CN thresholds and notification periods for sales to NATO+5 members apply if the Lead Nation and all Participating Nations are eligible for them. If NSPA or a non-NATO Participating Nation is included, NSPA and/or non-NATO thresholds and notification periods apply as indicated in [Table C5.T19](#).

**Table C5.T19. Thresholds and Notification Periods**

Lead Nation and Participants	Congressional Notification Threshold	Notification period
NSPA with all NATO Participating Nations	\$14M MDE or \$50M Total Case Value (TCV)	15 days
NATO member with all NATO Participating Nations	\$25M MDE or \$100M TCV	15 days
Any Lead Nation with one or more non-NATO Participating Nations	\$14M MDE or \$50M TCV	30 days

**C5.6.1.5.2.** The AECA Section 36(b)(1) (22 U.S.C. 2776) transmittal to Congress must identify the Lead Nation as the purchaser and list all approved Participating Nations. This is required to exempt the first retransfer from the Lead Nation to Participating NATO Nations from the potential requirement of a further CN, as permitted by AECA Section 3(d)(4)(C)(ii) (22 U.S.C. 2753(d)(4)(C)(ii)). Non-NATO Participating Nations do not qualify for the exemption, and State may be required to submit a separate CN pursuant to the requirements of AECA Section 3(d)(1) ((22 U.S.C. 2753(d)(1))) prior to the first retransfer from the Lead Nation to any non-NATO Participating Nation.

#### C5.6.1.6. Case Development.

**C5.6.1.6.1.** LOAs in which NSPA purchases as the Lead Nation use SCCC N4. Sales in which a country serves as the Lead Nation are identified as national sales by that nation's SCCC. Pricing waivers are those available to the Lead Nation, which bears full responsibility for complying with all terms of that sale.

**C5.6.1.6.2.** Defense articles sold on a Lead Nation case must be releasable and provided in a configuration available to the Lead Nation and all Participating Nations listed on the case. Should there be any differences in requirements or releasability among the Participating Nations, either the level of technology sold on the case should be reduced to the lowest common denominator or separate cases should be developed for countries with like requirements.

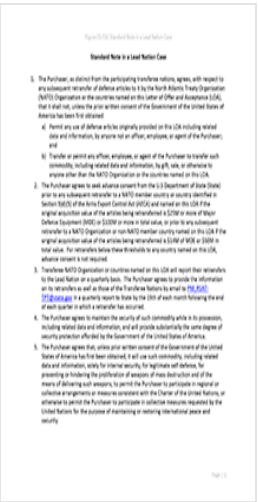
#### C5.6.1.7. Special Notes and Formatting.

**C5.6.1.7.1.** "Lead Nation Procurement" is entered in the nickname field beneath the case identifier. Case line descriptions will indicate which Participating Nation will be receiving the items. Each basic case and any amendments and modifications shall include a version of the note in [Figure C5.F16](#), developed by the IA and cleared by the DSCA (IOPS) CPD, DSCA (SPP/EPA), and DSCA (FO/OGC) within the Case Tracking System (CTS).

**C5.6.1.7.2.** Unsigned, completed copies of [Figure C5.F17](#), and [Figure C5.F18](#), shall be submitted with the case through the CTS. Upon LOA offer, the IA shall include the unsigned, completed copies as part of the LOA offer package. Signed copies of [Figure C5.F17](#), and [Figure C5.F18](#), shall be submitted with LOA acceptance and signature and for any subsequent case amendments in the CTS, and maintained with case files.

**C5.6.1.7.3.** If a Lead Nation Procurement is in support of a NATO Support Partnership, then [Figure C5.F19](#), must also be included in each new basic Lead Nation NATO Support Partnership case and all Lead Nation NATO Support Partnership case amendments. Prior to inclusion, the IA must certify that all countries and/or international organizations listed in [Figure C5.F19](#), are compliant with all requirements for receipt of any items (e.g., TIP, EEU), whether a country and/or international organization is the Lead Nation, a Participating Nation, or a NATO Support Partnership member.

**Figure C5.F16. Standard Note in a Lead Nation Case**



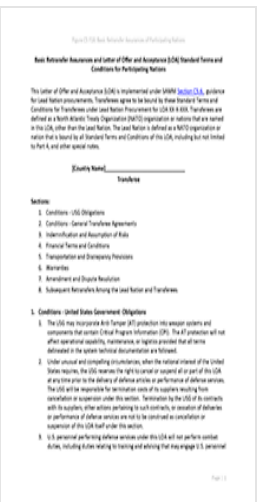
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Figure C5.F17. Basic Retransfer Assurances for Lead Nation



- [PDF Version of Figure](#)
- [Web Version of Figure](#)

Figure C5.F18. Basic Retransfer Assurances of Participating Nations



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Figure C5.F19. Note for Lead Nation North Atlantic Treaty Organization Support Partnership Cases

Click to view :

[Figure C5.F19. Note for Lead Nation North Atlantic Treaty Organization Support Partnership Cases](#)

**C5.6.1.8. Transportation and Delivery.** As the Lead Nation LOA involves sale to a single country or IO, the Lead Nation must export the defense articles and may retransfer them to Participating Nations only once they have left U.S. Customs territory. The Lead Nation should not transfer title to Participating Nations in the United States as they will not have an export authorization with which to clear U.S. Customs.

**C5.6.1.9. Retransfer authorization.**

**C5.6.1.9.1. Initial Retransfer.** Although State approves the first retransfer from the Lead Nation to Participating Nations as part of the FMS sale, the Lead Nation may not retransfer title or possession of the defense articles to a Participating Nation until the Participating Nation has provided the Lead Nation with a signed copy of the required end use and retransfer assurances, and the Lead Nation has subsequently forwarded to the third party transfer team at State (PM/RSAT) ([PM\\_RSAT-TPT@state.gov](mailto:PM_RSAT-TPT@state.gov)).

**C5.6.1.9.2. Subsequent Retransfers.** After State has advised through the Lead Nation that the blanket retransfer authorization has been approved, the Participating Nations may retransfer the defense articles sold on the case to one another in accordance with any special terms of the LOA and of the terms of their end use assurances. National stocks of defense articles procured separately by the Participating Nations are subject to the individual terms and conditions of the export authorities (i.e. FMS, MOU, Excess Defense Articles (EDA), Direct Commercial Sales (DCS), or other security assistance programs) under which they were sold or transferred, and they may not be commingled with any defense articles acquired through a Lead Nation case including those defense articles in the common configuration for retransfer among the Participating Nations.

**C5.6.1.9.2.1.** If the Original Acquisition Value (OAV) of the defense articles being retransferred to a particular Participating Nation does not exceed the CN values identified for it in [Table C5.T17](#), and in the end use assurances, the owning country may retransfer the defense articles and report the details of the retransfer to the Lead Nation for quarterly forwarding to State (PM/RSAT).

**C5.6.1.9.2.2.** If the OAV would exceed the NATO threshold for retransfers to NATO member countries, or the non-NATO threshold for retransfer to NSPA or a non-NATO country, the transferring country must seek prior consent from State (PM/RSAT) before making the retransfer. Such retransfer will require CN consistent with the notification periods identified in [Table C5.T17](#).

**C5.6.1.9.2.3.** Should any Participating Nation wish to change the end use of the defense articles or to permanently or temporarily retransfer any defense articles sold on the case to any entity outside of the identified and approved group of Participating Nations, it must seek prior USG consent from the State in accordance with the Transferee Terms and Conditions using the retransfer process described at <https://www.state.gov/third-party-transfer-process-and-documentation/>

**C5.6.1.10. Defense Articles Requiring Enhanced End Use Monitoring.** Defense articles requiring Enhanced End Use Monitoring (EEUM) may be purchased on Lead Nation FMS cases. EEUM accountability procedures and responsibilities appear in [Section C8.4](#). EEUM requirements specific to Lead Nation cases are detailed in this section.

**C5.6.1.10.1. Site Surveys/Certification of Storage Facilities.** If a Participating Nation does not already have storage facilities previously certified by the USG for storage of the EEUM-designated munitions being purchased, pre-delivery site surveys, as described in [Section C8.4.3](#), are required to be performed on national cases as they entail services provided directly to the Participating Nations. Neither the Lead Nation nor any Participating Nation will be permitted to retransfer EEUM-designated munitions until the USG has certified the receiving nation's storage facilities.

**C5.6.1.10.2. Reporting in the Security Cooperation Information Portal.** Reporting in the Security Cooperation Information Portal (SCIP) For Lead Nation sales of defense articles designated EEUM, copies of the Lead Nation's quarterly reports of transfers by it or other nations identified on the LOA must be provided with serial numbers to [dsc\\_a\\_eumhelpdesk@mail.mil](mailto:dsc_a_eumhelpdesk@mail.mil) for input into the SCIP-EUM database at the same time the information is provided to [PM\\_RSAT-TPT@state.gov](mailto:PM_RSAT-TPT@state.gov). DSCA EUM Helpdesk will manually edit the SCIP-EUM database to identify the receiving country when it receives notification from the Lead Nation. DSCA makes an exception to the monthly reporting requirement in [Table C8.T2](#) for retransfer reporting on Lead Nation cases to align with the State's quarterly reporting requirements.

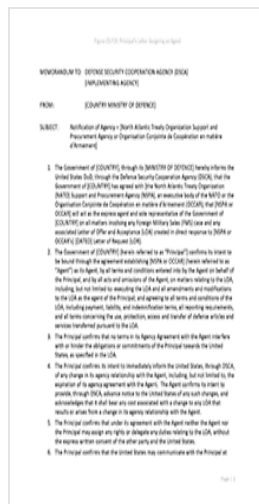
**C5.6.2. Agent Sales.**

**C5.6.2.1.** State permits NSPA and the [Organisation Conjointe de Coopération en matière d'Armement](#) (or Organization for Joint Armament Cooperation, known by its French acronym OCCAR) to act as Agents under section 3(a)(2) of the AECA ([22 U.S.C. 2753\(a\)\(2\)](#)), which allows an Agent to purchase defense articles and services through FMS on behalf of FMS-eligible countries (Principals). This means that NSPA or OCCAR may, under certain conditions, purchase "as" the country or countries (Principals) for which they act as an Agent. The Agent Sale is designed to facilitate multinational procurement and lifecycle support of services and high value defense articles to a greater degree than is possible through Lead Nation Procurement. Defense articles or services provided through such an FMS LOA identifying the Principal may be provided directly to that Principal. If they are provided indirectly through the Agent, no retransfer takes place as the Agent is legally and effectively acting as the Principal. It is possible in this arrangement for an Agent to act on behalf of multiple co-Principals, making individual national sales through a single LOA. This type of sale does not provide for subsequent blanket retransfers among the participants as is possible through Lead Nation.

**C5.6.2.2. Letters of Request.** In addition to the normal process for LOR acceptance, an LOR supplied by the Agent must be accompanied by a letter from the Principal(s), FMS-eligible NATO or European country(ies), signed at a level with authority to sign an LOA, indicating that NSPA or OCCAR will act on the behalf of the country(ies) as its/their agent. The letter from the Principal(s) (See [Figure C5.F20](#)) will describe and confirm the specific purchase the Agent is being empowered to make, and will recognize the commitment of the Principal(s) to abide by any terms and conditions of any LOA entered into by the Agent on its/their behalf, including full financial responsibility.

Figure C5.F20. Principal's Letter Assigning an Agent





- [PDF Version of Figure](#)
- [Web Version of Figure](#)

**C5.6.2.3. Country Team Assessment.** DSCA CPDs will provide the Agent's LORs to the Principals' SCOs. SCOs will provide a CTA and CCMD endorsement as required in accordance with [Section C5.1.4.](#) or in support of technology release requirements.

**C5.6.2.4. Congressional Notification.**

**C5.6.2.4.1.** As the Agent is not the actual purchaser, notification thresholds and periods are those that apply to the Principal(s). Thresholds and notification periods for NATO+5 members apply if all Principals are eligible for them. If non-NATO Principals are included, non-NATO thresholds and notification periods apply to the CN.

**C5.6.2.4.2.** The notification to Congress will identify the Agent and list the Principal(s) as the purchaser(s). If there are multiple co-Principals, separate sections of the transmittal will list the defense articles and services intended for each Principal and their values. Separate policy justifications will also be provided relevant to each Principal.

**C5.6.2.4.3.** Defense articles listed in the Sensitivity of Technology section should be listed by item and need not be broken out by country.

**C5.6.2.5. Case Development.**

**C5.6.2.5.1. Security Cooperation Customer Code.** NSPA purchases as an Agent using SCCC W7 exclusively for such sales. OCCAR, which may purchase on behalf of other countries only as an Agent, uses SCCC 7B.

**C5.6.2.5.2. Letter of Offer and Acceptance Special Notes and Formatting.** The term "Agent Sale Procurement" is entered in the case nickname field. In addition to the requirements in the [LOA Standardization Guide](#), the Case Description should include language derived from [Figure C5.F21](#).

**Figure C5.F21. Draft Agent Sales Case Description**

Pursuant to the Arms Export Control Act (AECA), the Government of the United States (USG) offers to sell to the Government(s) of [country name(s)] through [Agent's name and address], acting as its Agent, the defense articles or defense services (which may include defense design and construction services) collectively referred to as "items," set forth herein, subject to the provisions, terms, and conditions in this Letter of Offer and Acceptance (LOA).

**C5.6.2.5.2.1.** A note will be included in the case (See [Figure C5.F22](#).) to outline terms and conditions relating to the Agent.

**Figure C5.F22. Note Text Agent**

1. Pursuant to [22 U.S.C. 2753\(a\)](#), the parties certify that the Foreign Military Sales (FMS) Customer(s) has(have) provided DSCA or the Implementing Agency (IA) with documentation establishing [Agent's name] as its(their) Agent for purposes of this transaction, and the FMS Customer(s) further agree(s) that it(they) will abide by any terms and conditions entered into by the Agent on its(their) behalf.
2. Any defense articles or services under this Letter of Offer and Acceptance (LOA) may be provided directly to the Agent or to the Principal(s) for which they have been identified in this LOA. No defense article or service identified for one Principal in this LOA may be delivered or transferred to another Principal without prior USG consent.
3. [Agent's name] further agrees that it will abide by Conditions 2.3.- 2.7. of the Standard Terms and Conditions while the defense articles or services provided under this LOA are temporarily under its control or possession.



**C5.6.2.5.2.2.** Case lines will be organized in groups, first of defense articles, then defense services, and finally training. In each group, lines should be further grouped by Principal, with each Principal being identified in the line description.

**C5.6.2.5.2.3.** The IA will include a note in the case, [Appendix 6 - FMS Agent Sale](#), to outline terms and conditions relating to the Agent.

**C5.6.2.5.3. Transportation and Delivery.** Separate transportation plans and delivery instructions are required as necessary. Delivery Term Codes (DTCs) should be the same as in a single purchaser, non-Agent Sales or Lead Nation FMS case, and the case costs for transportation will apply below-the-line. Depending on the specific circumstances, DTC 4 or 5 should be used for freight forwarder moves, DTC 7 or 9 for movement by the Defense Transportation System (DTS), or DTC 8 for a "pilot pick-up" from a DoD-controlled facility. Further general guidance is in [Section C7.4](#).

**C5.6.2.6. Financial Terms and Conditions.**

**C5.6.2.6.1.** Only national funds may be used on Agent Sales. Neither Foreign Military Financing (FMF) nor any other U.S. grant or appropriated funds may be used for Agent cases.

**C5.6.2.6.2. Single Principal.** Financial terms in cases involving a single Principal are the terms available to the Principal.

**C5.6.2.6.3. Multiple co-Principals.**

**C5.6.2.6.3.1.** Contract Administration Services (CAS) is an above-the-line cost but is applied at the case level by Defense Security Assistance Management System (DSAMS). CAS waivers will apply only if all Principals are eligible for the same level of waiver. If there are differences, the lowest common denominator applicable to the Principals will be applied to the case. An Indirect Pricing Components (IPC) remark must be included in DSAMS that notes the common portions that can be waived.

**C5.6.2.6.3.2. Financial Responsibility.** Each Principal bears full financial responsibility for defense articles and services it purchases. Each line will be for a single Principal. Each Principal will be responsible for all accessorial charges for its defense articles and services.

**C5.6.2.6.3.3. Terms of Sale.** Dependable Undertaking (DU) status can be provided only if all Principals included in the LOA are eligible for DU; otherwise, the term of sale will be cash with acceptance.

**C5.6.2.6.3.4. Termination Liability Charges for Sales From Procurement.** Termination Liability (TL) will be included in the payment schedule for Agent sales with a DU term of sale. TL Reserve will be collected via cash and funds will be set aside in the NSPA W7 or OCCAR 7B TL reserve account.

**C5.6.2.6.3.5. Termination.** Each Principal pays its own termination liability costs. Should one or more Principals decide to terminate a line, an amendment or modification will be made to adjust the lines on the case and the change reported to the Agent. If there are corresponding price increases to the other countries, they are billed to each Principal in lines identified for them on the case just as a price increase would be billed on a standard country case. Any compensation of the other Principals by the withdrawing Principal arising as a result of its decision to withdraw would be addressed by agreement among the co-Principals and not through the LOA.

**C5.6.2.6.3.6. Nonrecurring Cost Waivers.** Nonrecurring Cost (NC) Waivers must be requested in the LOR and are applicable at the line level.

**C5.6.2.6.3.7. Case-funded Manpower.** Case-funded manpower will be specific to each Principal if applicable, but may need to be applied more generally to the effort involved in a case of this type. In the latter case, the Agent will assign the costs among the Principals. For example, a line for a site survey would be for the Principal involved. More general services such as dedicated case management support when requested may be on a single line assigned to the Agent, which will assign these costs among the Principals on the LOA.

**C5.6.2.6.3.8. Supply Discrepancy Reports.** Supply Discrepancy Reports (SDRs) may be submitted directly by the Principal or indirectly through the Agent (preferably the latter).

**C5.6.2.6.3.9. Payments.** Payment may be made to the NSPA W7 or OCCAR 7B account by individual Principals or by the Agent on their behalf. The Principal must inform the USG of which method it will use.

**C5.6.2.7. Transportation and Delivery.**

**C5.6.2.7.1. Freight Forwarding and Export.** Export authorization is to each of the participating Principals with the Agent able to act on behalf of each. Principals may use their own freight forwarders for their individual shipments. A Principal may not export defense articles identified on the case as being sold to another Principal even with the other Principal's consent. The Agent may use its freight forwarder to receive and export shipments on behalf of any Principal named in the LOA.

**C5.6.2.7.2. Transportation Plans.** Title 32 Code of Federal Regulations (CFR) Part 117 National Industrial Security Program Operating Manual (NISPOM), DoD 5100.76 "Physical Security of Sensitive Conventional Arms, Ammunition, & Explosives (AA&E)", and National Security Agency (NSA)/Central Security Service Manual 3-16 "Control of Communications Security (COMSEC) Material" (not for public release), require the development and maintenance of Transportation Plans for each LOA containing AA&E, classified materiel, and COMSEC. One Transportation Plan for each Principal, when required, will need to be maintained by the IA and the Principal, either directly or through the Agent as its authorized representative.

**C5.6.2.8. Amendments and Modifications.**

**C5.6.2.8.1. Amendments.** In a case with multiple co-Principals, each Principal, working through the Agent, may separately amend the lines relevant to it. The Agent will attempt to consolidate amendments by individual Principals to the extent possible. It will generally not be possible to add co-Principals through an amendment.

**C5.6.2.8.2. Modifications.** Principals will be informed of modifications through the Agent.

**C5.6.2.9. Other Standard Terms and Conditions.**

**C5.6.2.9.1.** All other LOA standard terms and conditions continue to apply to the Principal or multiple co-Principals as if each had entered into an LOA directly with the United States without an agent.