

## C6 - Foreign Military Sales Case Implementation and Execution

Chapter 6, Foreign Military Sales (FMS) Case Implementation and Execution discusses how accepted Letters of Offer and Acceptance (LOAs) are implemented, executed, or cancelled.

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### C6.1. - Case Implementation

**C6.1.1. Routine Case Implementation.** The Implementing Agency (IA) takes action to implement a case once the purchaser has signed the case and provided the USG with any required initial deposit. The Foreign Military Sales (FMS) case must be implemented in all applicable data systems (e.g., the Defense Security Assistance Management System (DSAMS), the Defense Integrated Financial System (DIFS), the Case Performance Reporting System (CPRS), and military department (MILDEP) systems) before case execution occurs. The IA should issue detailed implementing instructions to activities that are involved in executing the FMS case. Instructions must state that implementation is subject to receipt of Obligational Authority (OA) issued by the IA.

**C6.1.2. Emergency Case Implementation.** On an exception basis, the DSCA (Office of Business Operations (OBO)) Country Finance Director (CFD)), with approval from the Division Chief, may process an emergency implementation (EI) of an FMS case. The EI action is taken only when the FMS purchaser has accepted the Letter of Offer and Acceptance (LOA) or Amendment and immediate case execution is required. In the event EI action is desired by the applicable IA, a written request from the FMS purchaser or applicable IA should be sent by e-mail to the DSCA CFD. The request should specify the case for which EI is requested, and the extenuating circumstances that explain its urgency; e.g., meeting a contract award deadline after which prices would increase. The DSCA CFD may confirm with the FMS purchaser as to when they expect to remit the initial deposit. The CFD notifies the IA and the Defense Finance and Accounting Service (DFAS) financial manager of the DSCA OBO decision. If approved, DSCA posts an EI authorization milestone in DSAMS, DFAS posts a financial implementation milestone in DSAMS, and the IA processes the OA in DSAMS and the MILDEP systems.

**C6.1.3. Delayed Case Implementation.** Delayed case implementation occurs when a case does not implement prior to the Offer Expiration Date (OED). One reason a case may not implement prior to OED is due to an FMS purchaser accepting the LOA or Amendment but not submitting the initial deposit by the OED. The FMS purchaser should submit the initial deposit promptly. Failure to do so will delay implementation of the LOA or Amendment. Delayed implementation could increase the cost of the LOA or Amendment, and risk adjustments to delivery and the period of performance. The IA, in coordination with Defense Finance and Accounting Services - Indianapolis (DFAS-IN) and DSCA (OBO), reserves the right to cancel the LOA or Amendment if case implementation is delayed.

**C6.1.3.1.** The FMS purchaser signs and accepts the LOA or Amendment, and the IA posts the acceptance milestone in DSAMS. If the initial deposit is not received by DFAS-IN, they will notify the DSCA CFD. Upon approval from the DSCA CFD, DFAS-IN notifies the Security Cooperation Organization (SCO), the FMS purchaser's paying office, and the IA that the initial deposit has not been received. The IA inquires as to when the purchaser expects to remit the initial deposit until the deposit is received. Upon receipt of the initial deposit, DFAS will post the financial implementation milestone in DSAMS. Once the case has financial implementation, the IA processes the OA in DSAMS and the MILDEP systems

### C6.2. - Case Execution - General Information

Case execution is the longest phase of the Foreign Military Sales (FMS) case life cycle. Case execution includes activities such as: logistics, acquisition, supply, transportation, maintenance, training, financial management, case management, oversight, coordination, case documentation, case amendment or modification, case reconciliation, case reporting, etc.

**C6.2.1.** Because rapid delivery of defense articles, services, and training purchased through the FMS process constitutes a tangible demonstration of U.S. commitment to the government-to-government relationship with the purchaser, every effort should be made to deliver the articles, services, or training in a timely manner in accordance with any timelines or standards included in the Letters of Offer and Acceptance (LOA).

**C6.2.2.** Case managers, in coordination with Security Cooperation Organizations (SCOs), are responsible for tracking FMS delivery status.

**C6.2.3. Informing Foreign Military Sales Customers of Negative Impacts.** If any situation arises that puts at risk the USG's ability to meet a commitment made to a partner nation, it is essential that the broader security cooperation (SC) enterprise be informed in advance so that the USG may provide a unified response. Any written or verbal communication to inform a partner nation of the USG's inability to deliver defense articles or services in the following situations must be coordinated in advance with DSCA (Office of International Operations (IOPS)) Country Portfolio Director (CPD)/DSCA (Office of Business Operations (OBO)) Country Finance Director (CFD):

- For any case that met the Congressional Notification (CN) thresholds of [Table C5.T13.](#):

- an increase in price of 10 percent of case value or \$25M; or
- a delay in delivery of more than 6 months of a defense article or service critical to the operational requirement.
- For any case, regardless of value, any delay of delivery of defense articles or services that may:
  - reasonably be expected to create political repercussions damaging to the bilateral relationship;
  - negatively affect the timing of planned operations; or
  - cause significant additional expense to the foreign customer, such as by accrual of unplanned storage charges.
- For any case, regardless of value, identification of serious concerns about the reliability, availability or serviceability of a major component (any assembled element that forms a portion of an end-item without which the end-item is inoperable).

**C6.2.3.1.** DSCA will coordinate a response with Department of State, Bureau of Political-Military Affairs (State (PM)), Office of the Under Secretary of Defense for Policy (OUSD (P)), and other offices in DoD if required, in the course of which it will be determined which office should communicate the response. If there is any doubt about whether the situation fits within these parameters, case managers are encouraged to act on the assumption that it does.

**C6.2.4. General Foreign Military Sales Case Files.** General FMS Case Files are maintained in accordance with [Financial Management Regulation \(DoD FMR\) 7000-14.R, Volume 15, Chapter 6](#). Execution of a typical FMS case may span several years. Case managers must ensure accessibility to retired files, source documents, invoices, bills of lading, other proof of shipments, and other applicable documents that provide the audit trail to account for USG and purchaser funds. The retention period is 10 years after the date of case closure. Cases with large volumes of transactions may have the documents stored electronically. Per [Chapter 8](#) of this Manual, delivery and inventory records for Enhanced End Use Monitoring (EEUM) articles must be maintained by the Implementing Agency (IA) and SCOs indefinitely, or until the USG has verifiable information that the recipient country has properly disposed of the EEUM items(s). The EEUM documents may be stored electronically or saved within the Security Cooperation Information Portal (SCIP) SCO/Toolbox, End Use Monitoring (EUM) Resource Tab.

**C6.2.5. Execution Records.** FMS records, such as case directives, production or repair schedules, international logistics supply delivery plans, requisitions, shipping documents, bills of lading, contract documents, billing and accounting documents, and work sheets, are normally unclassified. All case transactions, financial and logistical, must be recorded as part of the official case file. Cost statements and large accounting spreadsheets must be supported by source documents. In those rare instances when financial transactions are recorded and supporting documentation is not available, certified memoranda by those responsible must be retained. Case managers must make every effort to maintain the accuracy of their case files as complete, accurate, and accessible records are keys to case reconciliation and closure.

**C6.2.6. Disbursement Documentation.** For every disbursement transaction, the DoD components must include the appropriate documentation with their payment voucher. This includes authentic contracts and/or purchase orders, invoices, and receiving reports. This documentation shows the proper authorities' certification of receipt and payment for the articles or services. The disbursement documentation is available for inquiries or requests on particular FMS cases. Additionally, the documentation facilitates the FMS case reconciliation process.

### C6.3. - Case Execution - Acquisition

**C6.3.1. Compliance with Department of Defense Regulations and Procedures.** Acquisition for Foreign Military Sales (FMS) purchasers must be in accordance with DoD regulations and other applicable USG procedures. This affords the foreign purchaser the same benefits and protection that apply to DoD procurement and is one of the principal reasons why foreign governments and international organizations prefer to procure through FMS channels. FMS requirements may be consolidated with USG requirements or placed on separate contract whichever is more expedient and cost effective. [Federal Acquisition Regulation \(FAR\)](#) provisions applicable to the DoD also apply to FMS procurements. While all FAR and [Defense FAR Supplement \(DFARS\)](#) clauses apply to FMS procurements, [Table C6.T1](#), lists selected sections with unique application to FMS.

**C6.3.2. Submission of Certified Cost or Pricing Data.** When foreign governments conduct a competition for a weapon system and a U.S. system is selected, that competition should determine the price to be paid. This is true even if the sale is then processed through the FMS process and even if DoD is buying the same item sole source. If the contracting officer determines that adequate price competition has occurred, the contractor will not be required to submit certified cost or pricing data. This policy is incorporated into the [DFARS section 225.7303\(b\)](#).

**C6.3.3. Incentive Clauses.** USG contracts may include incentive clauses for early performance. The case manager and contracting officer work together to make sure the contract and the Letter of Offer and Acceptance (LOA) are consistent. A Technical Assistance Agreement (TAA) in support of an FMS LOA is not required during the period in which the FMS case and implementing USG FMS contracts and subcontracts are in effect if the LOA and the contract contain all of the information normally required by an export license; e.g. identification of exporter, specific service or information to be exported, intermediate consignees, end use, and end user. Under [22 CFR part 126.6](#), the LOA and the implementing contracts serve as the authorization for the transfers without a license, provided the transaction is fully documented.

**Table C6.T1. Selected Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement Sections Relevant to Foreign Military Sales Acquisition**

Topic	Federal Acquisition Regulation	Defense Federal Acquisition Regulation Supplement
Acquisitions for FMS		<a href="#">Subpart 225.73</a>

Contingent Fees (Agent Fees & Commissions)	<a href="#">Subpart 3.4</a>	<a href="#">225.7303-4</a>
Options FMS		<a href="#">Subpart 217.2</a>
Costs of Doing Business with a Foreign Government		<a href="#">225.7303-2</a>
Selling Costs/Expenses	<a href="#">31.205-38</a>	<a href="#">225.7303-2(a)(1)</a>
Other Than Full and Open Competition - International Agreement	<a href="#">6.302-4</a>	<a href="#">206.302-4</a>
Contract Type Risk - FMS		<a href="#">215.404.71-3(d)(1)(vii)</a>
FMS Customer Involvement		<a href="#">225.7304</a>
Source Selection		<a href="#">225.7304</a> <a href="#">215.3</a>
Limitation of Liability		<a href="#">225.7305</a>
Offset Arrangements		<a href="#">225.7306</a>
Contract Clauses		<a href="#">225.7307</a>
Identify Special Warranty Provisions		<a href="#">225.7304</a>
Pricing Acquisitions for FMS		<a href="#">225.7303</a>
Buy America Act	<a href="#">Part 25</a>	
Balance of Payments Program		<a href="#">225.75</a>
Item Unique Identification and Valuation		<a href="#">252.211-7003</a>
Government Furnished Property	<a href="#">52.245-1</a>	

**C6.3.4. Requests for Other than Full and Open Competition.** The competitive procurement process is used to the maximum extent possible when procuring articles or services. The [Competition in Contracting Act \(CICA\)](#) (10 U.S.C. 3204), however, provides certain limited circumstances in which the contracting activity can consider FMS purchaser requests for procurement using other than full and open competition (commonly referred to as “sole source”) when the contract to be awarded is expected to exceed the simplified acquisition threshold (and FAR Part 6). Contracts expected not to exceed that threshold are contracted for under [FAR Part 13](#). One of CICA’s exceptions to full and open competition at [10 U.S.C. 3204\(a\)\(4\)](#) is implemented as the “International Agreement” exception in [FAR 6.302-4](#) and the [DFARS Subpart 206.302-4](#). An authorized official of the purchasing government may submit a written request, generally through the Security Cooperation Organization (SCO), that the Implementing Agency (IA) with procurement responsibility for the required item and/or service procure a defense article(s) and/or service(s) from a specific organization or entity, or that competition be limited to specific organizations or entities. The Defense Attaché or comparable purchaser’s representative in the United States may also submit these requests to the IA. FMS customers need not provide a rationale for the request.

**C6.3.4.1. Legal Requirements.** The exception is available where either the terms of an international agreement or a treaty between the United States and a foreign government, or international organization or the written directions of a foreign government reimbursing the IA for the cost of the acquisition of the supplies or services (such as a signed LOA), require the use of other than competitive procedures ([FAR 6.302-4](#)). The use of other than competitive procedures for the acquisition must be documented in accordance with [10 U.S.C. 2304\(e\)\(4\)\(E\)](#); [DFARS 206.302-4\(c\)](#). The nature of this document may be described in IA regulations.

**C6.3.4.1.1.** The exception may be applied to LOAs funded with non-repayable Foreign Military Financing (FMF) or Military Assistance Program (MAP) funds when requested in writing by the foreign country. Purchaser requests for procurements from foreign sources of supply using other than full and open competition may be considered only with the concurrence of Defense Security Cooperation Agency (DSCA) (Office of Strategy, Plans, and Policy (SPP)), and DSCA (Front Office, Office Of the General Counsel (FO/OGC)). See [Section C4.4.1](#). An Offshore Procurement Determination is required for any proposed procurement from foreign sources of supply if the procurement will be funded with FMF. See [Section C9.7.2.7.3](#).

**C6.3.4.1.2.** This exception is not available for use with Building Partner Capacity (BPC) programs, which are funded with U.S. appropriations. [Figure C15.F1](#), [Section C15.2.15](#), [Figure C15-Legacy.F2](#), and [Section C15-Legacy.2.16](#). (for programs as identified in the [Chapter 15](#) introduction) for guidance to the BPC Requesting Authority on sole source procurement.

**C6.3.4.2. Timing of Requests.** Official written direction to use other than full and open competition should be submitted in the Letter of Request (LOR), or it can be submitted separately with a reference to the LOR. The designation of a procurement to be conducted using other than full and open competition for an LOA that has already been accepted by the partner nation and implemented would be an exception to policy subject to acceptance by the IA. If this situation occurs, the LOA may be amended to include the designation for other than full and open competition. A Modification may be used instead of an Amendment if the request for other than full and open competition is made by the official who requested the LOA, his or her replacement, or an official known to have equivalent or greater authority than the official who signed the LOA.

**C6.3.4.3. Policy Requirements.** Requests for other than full and open competition using the authority of [10 U.S.C. 3204\(a\)\(4\)](#) should be to meet the objective requirements of the purchaser and not for improper or unethical considerations. USG representatives must remain objective in providing options or recommendations to the partner and may not solicit requests for other than full and open competition. In general, the USG does not investigate the circumstances behind a foreign purchaser's request to use other than full and open competition, and DoD contracting agencies are encouraged to defer to a foreign purchaser's requests under the International Agreement exception to the extent that they are not aware of any indication that such requests violate U.S. law or ethical business practices. The IA must consult with its counsel on cases where facts indicate that granting a request to use other than full and open competition may violate U.S. law or ethical business practices. If the IA determines that a request to use other than full and open competition should not be approved, the memorandum informing the purchaser must be coordinated with DSCA (Office of International Operations (IOPS)) and DSCA (SPP).

**C6.3.4.4. Subcontracts.** The FMS customer may also request that a subcontract be placed with a particular firm. The contracting officer should honor subcontract placement requests from the FMS customer regarding a subcontract only if the LOA or other written direction sufficiently fulfills the requirements of [FAR Subpart 6.3 \( See DFARS 225.7304\(a\) \)](#). Risks associated with the designation of subcontractors should be conveyed to the FMS purchaser. If problems occur in the performance or integration of the component, the FMS purchaser must bear the increased costs of correcting the problem. The purchaser should be advised of this potential expense when the sole source designation is requested.

**C6.3.4.5. Letter of Offer and Acceptance Note for Other than Full and Open Competition.** The applicable LOA document must identify the designated source. See [Appendix 6](#) for the LOA note wording.

**C6.3.4.6. Coordination with Contracting Offices.** The IA sends the request for other than full and open competition to the contracting office for information and advice. The IA also sends a copy of the implemented LOA document (containing the source designation) to the contracting officer. This is especially important when the contracting activity is separate from the activity responsible for the LOA (e.g., LOAs prepared by a military department (MILDEP) that contain items procured by the Defense Logistics Agency (DLA)).

**C6.3.5. Foreign Military Sales Purchaser Involvement.** Discussions are held with the purchaser during the development of the LOA and prior to actual implementation to ensure requirements are clear and understood. Once the LOA is signed, the purchasing activities of defense components and prime contractors implement FMS requirements using normal procurement and contract management procedures in accordance with the [FAR](#) and other directives and contractual provisions. The IA should ensure that sufficient details are included in the LOA to allow the U.S. contracting officer to negotiate and award a contract without requiring foreign country representation or direct involvement in the formal negotiation process. If the foreign purchaser wants to participate in the negotiation process, the following policies apply.

**C6.3.5.1. Source Selection.** The DoD Components do not accept directions from the FMS purchaser as to source selection decisions or contract terms (other than the special contract provisions and warranties referred to in condition 6.1 of the LOA), nor is the FMS purchaser permitted to interfere with a prime contractor's placement of its subcontracts. However, to the extent permitted in [Section C6.3.4.](#), the DoD Components may honor an FMS purchaser's sole source request for the designation of a particular prime or subcontract source for defense articles or defense services.

**C6.3.5.2. Negotiations.** During the contracting process between the contractor and the DoD, the contracting officer should consult with the FMS purchaser about major contractual matters, especially any matter that could be perceived as inconsistent with or significantly different from the LOA. As specified in the [DFARS 225.7304\(b\)](#), FMS purchasers should be encouraged to participate with USG acquisition personnel in discussions with industry to develop technical specifications, to establish delivery schedules, identify any special warranty provisions or other requirements unique to the FMS purchaser, and review prices of varying alternatives, quantities, and options needed to make price-performance tradeoffs. The degree of participation of the FMS purchaser during contract negotiations is left to the discretion of the contracting officer after consultation with the contractor. USG personnel should not release any contractor proprietary data, except in those limited cases where the contractor authorizes release of specific data. The U.S. contracting officer may, upon the purchaser's request and at his or her discretion, provide the purchaser a version of the Statement of Work (SOW) that redacts any information companies deem proprietary, and any information that cannot be released under technology security and foreign disclosure policy as information only and not for general comment. International customers may have 30 days to comment on areas where they can demonstrate that there is a significant deviation from the LOA. Requests by the FMS purchaser for rejection of any bid or proposal will not be honored. Any questions regarding these provisions are forwarded to the Director, DSCA.

#### **C6.3.6. Requests for Contractual Data.**

**C6.3.6.1. Price Information.** If the purchaser requests additional information concerning FMS contract prices, the contracting officer should, after consultation with the contractor, provide sufficient information to demonstrate the reasonableness of the price and reasonable responses to relevant questions concerning contract price. This may include tailored responses, top level pricing summaries, historical prices, or an explanation of any significant differences between the actual contract prices and the estimated contract price included in the initial LOA price.

**C6.3.6.2. Contractual Documents.** Since all pertinent information and contractual obligations between the DoD and the purchaser are identified in the LOA, there is no need to provide a copy of the contract to the purchaser. If the contract is unclassified and only includes requirements for the requesting country, release can be considered subject to restrictions on release of contractor proprietary information. Releasable information does not include internal documentation such as negotiation or pricing memoranda. If the contract is classified, contains USG requirements, or contains other purchaser requirements, release is not authorized. Any questions or requests for exceptions to these provisions must be forwarded to DSCA (FO/OGC).

**C6.3.7. Contingent Fees.** Purchasers must approve contingent fees (to include agents' fees and sales commissions) prior to contract award. See [DFARS 225.7303-4](#). The contracting officer or head of the procuring activity uses criteria contained in the FAR to determine if an agent(s) is bona fide. If the agent is bona fide, the following policies apply to the inclusion of these fees in FMS cases.

**C6.3.7.1. Prior Notification of Fees to Purchaser.** Purchasers must be advised of all contingent fees (including agents' fees and sales commissions) associated with an FMS case prior to or in conjunction with LOA submission to the purchaser unless the purchaser has indicated otherwise. For agents' fees and sales commissions, such notices include: the name and address of the agent(s); the estimated amount of the proposed fee, and the percentage of the sale price; and a statement indicating one of the following: appropriate officials of DoD consider the fee to be fair and reasonable; or, a portion of the proposed fee is considered to be fair and reasonable (provide rationale); or the USG cannot determine the reasonableness of the proposed fee. This statement is normally included as an LOA note, see [Appendix 6](#). The note may include the contractor's justification for the proposed fee and other data requested by the purchaser. The note also includes a statement that purchaser acceptance of the LOA constitutes the purchaser's approval of the sales commissions and fees involved.

#### C6.3.7.2. Purchaser Approval Thresholds.

**C6.3.7.2.1.** The following countries must approve all contingent fees (regardless of dollar value) before they can be considered allowable FMS contract costs: Australia, Egypt, Greece, Israel, Japan, Jordan, Korea (Republic of), Kuwait, Pakistan, Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, and Venezuela. Any LOA offered to these countries or entities that include contingent fees must include the applicable contingent note identified in [Appendix 6](#).

**C6.3.7.2.2.** Sales commissions and fees applicable to FMS contracts for other countries cannot exceed \$50,000 per contract (including all modifications and subcontracts thereto), per country, unless these fees have been identified and approved in writing by the purchaser before contract award. All such contingent fees must be justified and supported based on the criteria cited in the [FAR](#) and DFARS.

**C6.3.7.3. Post-Letter of Offer and Acceptance Notification to Purchaser.** If contingent fees (including agents' fees and sales commissions) are not identified prior to sending the LOA to the purchaser for signature, the purchaser should be notified as soon as the fees are known. To be allowable costs under the contract, the purchaser must approve the payments in writing before contract award. Contract award may be delayed pending a written response from the purchaser. If written approval is not obtained, the contract can be awarded but must include a provision that the unapproved contingent fees are not allowable costs.

**C6.3.7.4.** For LOAs that include contingent fees (regardless of dollar value of the case), all correspondence with a purchaser on the subject of contingent fees relative to Price and Availability (P&A) data or an LOA, and all post-LOA notifications about contingent fees must be coordinated with DSCA (SPP). For agents' fees and sales commissions, the written submission must contain a certification that the agent is bona fide in accordance with FAR criteria, and must include the rationale for reasonableness of the fee or an explanation if the reasonableness of the fee cannot be determined.

**C6.3.7.5. Disallowance of Contingent Fees.** The contracting officer cannot approve as allowable costs any contingent fees not approved by the purchaser. If the contracting officer or procurement activity determines the agent is not bona fide for reasons other than fee reasonableness, an LOA cannot be offered until the unallowable costs are deleted by the contractor.

**C6.3.7.6. Proprietary Information.** Inclusion of an LOA note with respect to contingent fees (including agents' fees and sales commissions) should not be deemed, with respect to distribution and availability of LOAs, as altering the proprietary nature, if any, of such data for the purpose of [18 U.S.C. 1905](#).

**C6.3.7.7. Contingent Fees for Commercial Contracts.** Contingent fees may not be funded with FMF funds.

**C6.3.7.7.1. Foreign Military Financing Credit Non-Repayable.** In a certification to DSCA (Office of International Operations, Regional Execution Directorate (IOPS/REX)) (Direct Commercial Contracts (DCS)), the contractor must disclose contingent fees for contracts financed with FMF Credit Non-Repayable funds. It is the responsibility of the contractor to prove that payments of any contingent fees are not financed with FMF Credit Non-Repayable funds.

**C6.3.7.7.2. Foreign Military Financing Credit Repayable.** In a certification to DSCA (IOPS/REX) (DCS), the contractor must disclose contingent fees for contracts financed with FMF Credit Repayable funds. Contingent fees in direct commercial contracts financed with FMF Credit Repayable funds must be limited to \$50,000 per contract for countries other than those specifically listed in the [DFARS](#). It is the responsibility of the contractor to prove that payments of any contingent fees are not financed with FMF Credit Repayable funds.

**C6.3.7.8. Appointment of an Agent.** For FMS, it is USG policy to deal directly with purchasers. An agent may be designated by the purchaser to act as an agent for the receipt of FMS Government Furnished items, Spares, and/or Support items that are required by that agent to enable the manufacture and/or assembly or repair and/or rehabilitation of defense items procured on a direct basis by the foreign purchaser. Questions regarding agency relationships for any other purposes should be directed to DSCA (FO/OGC) and DSCA (SPP). [Figure C6.F1](#), should be used to designate an agent.

Figure C6.F1. Form Letter - Appointment of an Agent

Figure C6.F1. Form Letter - Appointment of an Agent

Director  
Office of International Operations  
201 17<sup>th</sup> St South, Suite 200  
Arlington VA 22203-1408

Dear Sir:

The Government of [Insert country] (Insert name) appoints [Insert name] whose address is [Insert address] as its Agent for the purpose of receiving delivery of the following items on Letter of Offer and Acceptance (LOA) (Insert name) identified [Insert name] of [Insert name]. [Insert name] shall be used for the [Insert name] (Insert name) of the [Insert name].

Said Agent is hereby authorized to sign in the name of the Government of [Insert country] in the Agent for the receipt of these items as indicated by the [Insert name] contained in the LOA. The Government of [Insert country] understands that [Insert name] as its Agent to maintain possession of the above specified items in accordance with the LOA and to be used by the Agent of the Government of [Insert country].

Sincerely,

(Signed by Director or Deputy Director of Defense)

Such agency is acknowledged

(Signature of Agent)

\*Insert words describing the Agent's function

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**C6.3.8. Warranties.** The DoD obtains the same warranties for FMS as it does for itself. These warranties are exercised within the Supply Discrepancy Report (SDR) process. The purchaser may request performance warranties, which are provided and paid for on the LOA as a defense service. Any warranty in addition to the LOA Standard Terms and Conditions, Section 6, is described in a note on the LOA. See [Appendix 6](#). The IA must inform the purchaser, either in the LOA note or by documentation such as a technical bulletin accompanying the item when shipped, of any steps necessary to maintain or exercise rights under these additional warranties. The purchaser must submit an SDR within the time limitations of a warranty applicable to an item.



**C6.3.9. Offsets.** DFARS 225.7303-2(a)(3) allows U.S. contractors to recover, under FMS contracts based on LOAs financed wholly by purchaser cash or repayable FMF credits, costs of any offsets that are associated with those contracts. USG agencies may not enter into or commit U.S. firms to any offset agreement. Any purchaser requesting offset arrangements in conjunction with FMS should be informed that the responsibility for negotiating offset arrangements and satisfying all related commitments resides with the U.S. firm involved. It is the responsibility of the IA to specify to DSCA, in the transmittal of any Congressional Notification (CN), whether offset costs have been or will be included, and the amount if known. Non-repayable FMF credits may not be used to pay any costs associated with offset agreements.

**C6.3.9.1. Offset Costs.** Offset costs, provided by industry, should be included as part of the line item(s) unit cost in P&A data and in estimated prices quoted in the LOAs.

**C6.3.9.2. Procurements.** The USG position is stated in Section 2.8 of the Standard Terms and Conditions. It is the contractor's responsibility to inform the IA when estimated offset costs are included in the FMS pricing information that the contractor has provided. The contractor must disclose the amount of the estimated offset costs included in the price to the USG contracting officer. The costs should be included before transmittal of the LOA for acceptance. Requests to include costs after LOA acceptance and subsequent implementation require an LOA Modification or Amendment. An offset note is included in the LOA.

**C6.3.9.3. Disclosure of Offset Information.** It is inappropriate for USG personnel to discuss with the purchaser the nature or details of an offset arrangement. However, if known, the fact that offset costs have been included in the P&A or LOA price estimate may be confirmed, should the purchaser inquire. The purchaser should be directed to the U.S. contractor for answers to all questions associated with offset agreements, including questions regarding their costs. IA involvement in any discussion of offset costs (beyond confirmation of the inclusion of these costs in price estimates) must be avoided.

**C6.3.9.4. Reference Guide on Offset Implementation.** A Supplemental reference guide has been provided in the [Common Access Card \(CAC\)-Enabled SAMM](#). The supplemental guidance includes clarity of stakeholder roles, best practices, frequently asked questions, and points of contacts within the IAs. Please reach out to DSCA (Office of International Operations, Weapons Directorate (IOPS/WPN)) at [dscan.cr.iops.list.wpns-all-members@mail.mil](mailto:dscan.cr.iops.list.wpns-all-members@mail.mil) for more information on policy inquiries and to [dscan.cr.ogc.mbx.fo-admin@mail.mil](mailto:dscan.cr.ogc.mbx.fo-admin@mail.mil) for legal inquiries.

**C6.3.10. End Use Certificates.** For policy regarding vendor requests for USG signature on End Use Certificates (EUCs), refer to [Department of Defense Instruction \(DoDI\) 2040.03 End Use Certificates \(EUCs\)](#).

**C6.3.11. Acquisition Planning Activities.** IAs may perform certain acquisition planning activities prior to implementing an LOA if an acquisition planning activity is already funded by the FMS Administrative Surcharge per [Table C9.T2a](#) of this manual and the IA has high confidence that the LOA will be accepted by the customer and subsequently implemented. No acquisition planning activity may, in any way, commit the USG or obligate funds in advance of case implementation. When choosing to exercise this authority, IAs must ensure early execution of acquisition planning activities does not delay LOA offer and implementation. Acquisition activities occurring after requirements definition, such as Request for Proposal (RFP) release, may not commence until after case implementation.

**C6.3.11.1. Allowable Activities.** Allowable acquisition planning activities under this policy include: acquisition strategy formulation; acquisition planning document development, such as drafting the performance work statement/statement of work and detailed item description; cost, schedule, and performance objectives definition; funding document preparation; and other efforts to develop applicable acquisition planning documentation.

**C6.3.11.2. Reporting.** The DSCA (Office of Administration, Performance, Improvement, and Effectiveness Directorate (ADM/PIE)) will monitor IA use of the authority in order to measure effects on overall case performance. To that end, IAs must submit to DSCA (ADM/PIE) a quarterly report identifying the types of acquisition planning activities performed under this paragraph and the amount of time spent on each activity. Reports are due on the first Tuesday of the month following the end of a quarter. The reporting template is provided in [Figure C6.F2](#).

**Figure C6.F2. Quarterly Acquisition Planning Activities Reporting Template**

Quarterly Acquisition Planning Activities Data Call								
Case Identifier	Case Offer Expiration Date (OED)*	Acquisition Planning Activities	Fiscal Year (FY) and Quarter Acquisition Planning Activities Occurred	Estimated Business Days Applied to Acquisition Planning Activities**	Case Offered Date*	Case Implemented Date*	Contract Number	Acquisition Requirements Package (ARP) Complete
BN-B-AAA	25-Dec-17	Draft SOW	FY18 Q1	2.5	4-Oct-17	20-Dec-17	N000241235D2	02-Jun-18
BN-P-BBB	20-Jan-18	Draft SOW and CLIN Structure	FY18 Q2	6	4-Dec-17	TBD	TBD	TBD
...								
...								
<p>* DSCA Data Entry; Implementing Agency leave blank</p> <p>** Number of data multiplied by number of personnel working activities. For example: two (2) Full Business day x three (3) Program office personnel = six (6) days</p>								

## C6.4. - Case Execution - Logistics

Letter of Offer and Acceptance (LOA) requirements are fulfilled within existing U.S. military logistics systems. An exception to this policy is the use of the Defense Transportation System (DTS) discussed in [Chapter 7](#). With the exception of Excess Defense Articles (EDA) or obsolete equipment, items are furnished only when the DoD plans to ensure logistics support for the expected item service life. This includes follow-on spares support. If an item will not be supported through its remaining service life, including excess and obsolete defense articles, a note in the LOA should explain any limitations on that support. See [Appendix 6](#).

**C6.4.1. Priority.** Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 4110.01F, [Joint Material Priorities and Allocation](#), establishes priorities for filling requisitions based on the purchaser's Force/Activity Designator (F/AD) (established by the Chairman of the Joint Chiefs of Staff (CJCS)) and on the Urgency of Need Designator (UND), assigned on the requisition. F/ADs are ranked with F/AD "I" being the highest and F/AD "V" being the lowest priority. Per Enclosure (D) of CJCSI 4110.01F, the Joint Materiel Priority Allocation Board (JMPAB) is chartered to act on the Chairman's behalf to review and act upon requests for changes to a F/AD. Upon assignment, upgrade, or cancellation of a foreign country F/AD by the JMPAB, the Defense Security Cooperation Agency (Strategy, Plans, and Policy Directorate (SPP)) ensures proper dissemination of F/AD decisions to the Security Cooperation (SC) community.

**C6.4.1.1. Force Activity Designator Changes.** Requests to change a foreign country F/AD should be made by the Combatant Commander (CCDR). The CCDR's request to increase a foreign country F/AD must be in accordance with Appendix A to Enclosure A of [CJCSI 4110.01F](#) and must address the CCDR's plan to alleviate the situation or condition influencing the upgrade request.

**C6.4.1.2. Coordination of Force Activity Designator Change.** Normal day-to-day foreign country F/AD change requests will be staffed using standard procedures by the CJCS. The CJCS will review and provide a decision on all CCDR operational, crisis, or emergency foreign F/AD upgrade requests within 24 hours.

**C6.4.1.3. Security Guidance for Force Activity Designators.** F/AD assignment to a specific country or foreign force, unit, or activity may be released only to the recipient country and to U.S. forces or agencies with the need to know and on an unclassified Controlled Unclassified Information (CUI) basis. F/AD assignments to a specific country are not released to other foreign countries. Compilations of foreign F/AD assignments, combining two or more foreign countries or territories, are classified SECRET.

**C6.4.2. Project Codes.** Project codes assigned by the CJCS provide precedence for requisition processing and visibility within the transportation process. For processing purposes, requisitions with a CJCS 9-series project code will be ranked above all other requisitions with the same F/AD and UND. CJCS project codes assigned to the SC community are the "9-alpha-alpha" and "3-juliet-alpha" series. The "9-alpha-alpha" series identify a project, operation, program, force, or activity sanctioned by the CJCS that requires heightened logistic infrastructure visibility and support. The "3-juliet-alpha" series identifies a unique military project or operation when a CJCS project code is warranted for tracking purposes, but normal materiel allocation is to remain unaffected.

**C6.4.3. Requisitions.** The Implementing Agency (IA) or the purchaser may initiate Military Standard Requisitioning and Issue Procedures (MILSTRIP) requisitions under implemented LOAs. [Table C6.T2](#), identifies service points of contact for requisition entry.

**Table C6.T2. Points of Contact for Requisition Entry**

MILDEP	Address
Army	<p>U.S. Army Security Assistance Command 54 M Avenue, Suite 1 New Cumberland, PA 17070-5096</p> <p>For Infrastructure and Engineering LOAs: Headquarters, U.S. Army Corps of Engineers ATTN: Security Cooperation Branch (CEMP) 441 G Street, NW Washington, DC 20314-1000</p>
Navy	<p>Naval Supply Systems Command Weapon Systems Support Philadelphia, PA 19111-5095</p>
Air Force	<p>Air Force Security Assistance Center Wright-Patterson AFB, Ohio 45433-5000</p>

**C6.4.3.1. Standard Requisitions.** For standard requisitions (requisitions that are not associated with Cooperative Logistics Supply Support Arrangements (CLSSAs)), the Inventory Control Point (ICP) processing the requisition generally issues the assets down to the item's reorder point level. To the extent authorized by the Type of Assistance (TA) and Source of Supply (SOS) codes assigned to the LOA line item, requirements that cannot be satisfied at reorder level may be filled by one of the following methods (the following may not be inclusive of all appropriate support options).

**C6.4.3.1.1.** The ICP director or designee may authorize issuance below the reorder point if the item can be readily procured; assets are due in from contract; and/or U.S. Forces' support is not jeopardized.

**C6.4.3.1.2.** The item manager may place the requirement on backorder. Once the procurement lead-time elapses, the backorder is eligible for release.

**C6.4.3.1.3.** The item manager may initiate an immediate procurement action.

**C6.4.3.1.4.** If an item is supported by direct vendor delivery, prime vendor, or contractor custody inventory, the requisition may be processed without delay, as long as the contract allows security assistance (SA) orders and U.S. Forces' support is not jeopardized.

**C6.4.3.2. Cooperative Logistics Supply Support Arrangements.** CLSSA requirements are satisfied on the same basis as U.S. Force requirements in accordance with the country's F/AD and Uniform Material Movement and Issue Priority System (UMMIPS). The F/AD identifies the priority that is given to a purchaser's request. For information on what items can be provided on CLSSA cases see [Section C5.4.3.3](#).

**C6.4.3.2.1.** The Foreign Military Sales Order (FMSO) I case provides for the purchase and sustainment of equity in the DoD inventory and pipeline. Following the receipt of adequate stocks to sustain the fill of incoming requisitions, which is referred to as FMSO I maturity, the FMSO I provides for 5 months of on hand stock (FMSO I Part A) and 12 months of on order stock (FMSO I Part B). The DoD Components use this equity investment

(capitalization) to procure additional stocks of secondary items, in preparation for purchaser stock withdrawals.

**C6.4.3.2.2.** The FMSO II case is used by the purchaser to requisition spare and repair parts that are needed to replenish in-country stocks.

**C6.4.3.2.3.** Terms and Conditions unique to the CLSSA program are provided with each FMSO I LOA in addition to the LOA Standard Terms and Conditions.

**C6.4.3.2.4.** The purchaser withdraws stocks from DoD inventories and deposits funds for routine FMSO I replenishment using the FMSO II case. Unless item stock levels are adequate to support all purchasers, FMSO II case requisitions received prior to receipt of augmentation stock are placed on backorder pending maturity of the FMSO I. As augmentation stocks become available, requisitions received under the FMSO II can be filled from stock.

**C6.4.3.2.5.** For items supplied by the Defense Logistics Agency (DLA), the IA submits requirements to DLA. The IA accepts and manages the FMSO I deposits submitted by the purchaser on DLA's behalf.

**C6.4.3.2.6.** When items subject to CLSSA augmentation are transferred from one DoD Component to another, CLSSA program data and funds are provided to the receiving DoD Component during the transfer process.

**C6.4.3.2.7.** The DoD Components, including DLA, maintain performance standards and measurement records to show effectiveness and timeliness of CLSSA support.

**C6.4.3.2.8.** When there is an excess quantity of an item in DoD stock, demand records are reviewed before excess materiel is transferred or declared surplus. If CLSSA requirements caused the excess condition, IA notifies the purchasers of their liability and asks for disposition instructions.

**C6.4.3.2.9.** If it is necessary to reduce the level of a purchaser's investment in the U.S. supply system or to terminate part or all of a CLSSA, closeout should minimize impact on the DoD Working Capital Fund (WCF) and the purchaser. CLSSA and other FMS purchasers pay their share of depreciation and other WCF operating costs during the life of each LOA. When a purchaser builds an initial FMSO I, then terminates the CLSSA before substantial orders are placed, and no other purchaser exists, liability may apply for assets on hand and due-in. When liability is determined, countries are required to pay for the items via the CLSSA. Purchasers have the option of receiving the items or sending them to DLA Disposition Services. The purchaser is responsible for all disposal costs. If proceeds exceed disposal costs, the net proceeds are credited to the purchaser's FMS trust fund account.

**C6.4.4. Commercial Buying Service.** The International Logistics Control Office (ILCO) is authorized to use a Commercial Buying Service (CBS) to support FMS purchaser requirements for nonstandard and difficult to support standard items when DoD organic capability or contractual supportability is not available or timely. Existing CBS options include Parts and Repair Ordering System (PROS) and Simplified Non-Standard Acquisition Process (SNAP).

**C6.4.5. Foreign Military Sales Tailored Vendor Logistics.** The ILCO is authorized to use DLA's FMS Tailored Vendor Logistics (TVL) to support FMS purchaser requirements. An expansion of the existing DoD TVL support program FMS TVL is a supply support option that augments existing USG support. By accessing the TVL's electronic catalog, the FMS purchaser can identify the item, price and supply lead-time with the added flexibility of being able to define special requirements and delivery needs, before submitting the requisition. In addition to providing support for standard items, this program also supports requirements for non-standard items.

**C6.4.6. Diversions and Withdrawals of Materiel.** Materiel procured or stocked for FMS may be diverted to meet higher priority requirements with the prior concurrence of the Director, DSCA. The following policies implement the Arms Export Control Act (AECA), section 21(i) (22 U.S.C. 2761), (10 U.S.C. 138a) and (10 U.S.C. 2390).

**C6.4.6.1. Operational Readiness Impact.** Under normal circumstances, IAs fill FMS requirements from production on a first-in, first-out basis. National security considerations and foreign policy objectives may require deviation from this DoD policy in order to expedite equipment delivery to a purchaser. Items may be diverted from production or from U.S. Forces to meet high priority FMS requirements. While the language of 22 U.S.C. 2390 pertains only to shipments from stocks, impacts can occur when DoD diverts materiel from production. The diversion or withdrawal must not significantly lower the operational readiness of U.S. Forces as determined by the DoD Component.

**C6.4.6.1.1.** If the military departments (MILDEPs) or the Office of the Secretary of Defense (OSD) staff identify an undesirable effect on U.S. Forces' combat readiness, the Under Secretary of Defense for Policy (USD (P)) through DSCA will request a written MILDEP assessment. The MILDEP Secretary verifies the assessment and submits it to USD(P) and the Under Secretary of Defense for Acquisition and Sustainment (USD (A&S)) for review. USD(P) refers the coordinated recommendation to the Secretary of Defense for review and decision.

**C6.4.6.1.2.** Any diversion or withdrawal that would impact U.S. National Guard or Reserve Forces is coordinated with DSCA, who coordinates the proposal with the Assistant Secretary of Defense for Reserve Affairs (ASD(RA)), pursuant to Department of Defense Instruction (DoDI) 1225.06. If the proposed diversion or withdrawal includes tanks, a determination that the proposed sale will not increase the shortage of tanks in the U.S. National Guard or Reserve during the current 5-year defense plan is included in the Congressional Notification (CN) and Congress is advised of the plan to replace the tanks.

**C6.4.6.1.3. Report to Congress - Diversions.** The AECA requires a report by the President to Congress when a sale could have significant adverse effect on the combat readiness of the U.S. Armed Forces. There may be instances when the MILDEP Secretary determines that a proposed supply action warrants Secretary of Defense's review but does not constitute a significant adverse impact on DoD requiring a Presidential report to Congress. When the MILDEP Secretary refers a potential impact case to USD(P) and USD(A&S), the referral includes the purchaser, sale value, item description, and an assessment. The assessment must state whether the supply action affects the Service's readiness or has other impacts that warrant Secretary of Defense's review or constitutes a significant adverse impact requiring either alteration or termination of the supply action, or a Presidential report to Congress.

**C6.4.6.1.4.** The Secretary of Defense determines whether DoD provides items on an expedited basis and whether the impact of doing so is significant within the meaning of AECA, section 21(i) (22 U.S.C. 2761).

**C6.4.6.1.5.** When the Secretary of Defense advises the President of the requirement for a report to Congress, the Secretary provides the analysis relevant to the justification and certification called for in AECA, section 21(i)(1)(E) (10 U.S.C. 2761). No Presidential report is required if the decision is not to make a sale. AECA, section 21(i) (10 U.S.C. 2761) also applies when the significant adverse effect becomes apparent after a sales contract is concluded. However, no Presidential report is required with respect to supply action under a sales contract where the supply action is altered in order to avoid a significant adverse effect on U.S. combat readiness that would otherwise occur.

**C6.4.7. System Support Buyout.** For weapons systems soon to be obsolete to U.S. Forces and not supported under a CLSSA, the responsible MILDEP must identify the unique and common items associated with the system to DLA and provide the close out date for U.S. use of the item. The MILDEP and DLA identify purchasers that have this system and associated unique spare parts and advise them of the system phase out. The purchaser should have a minimum of two years to place a final order for secondary items to support the system for its remaining useful life. After this time period, the following are authorized:



**C6.4.7.1.** Items with no demand for four years, including the system support buyout period, may be processed for disposal.

**C6.4.7.2.** Items with demand during the four-year period may be retained and managed in support of SA requirements.

**C6.4.8. Repair Programs.**

**C6.4.8.1. Direct Exchange.** A repairable item may be exchanged for the same type serviceable item in DoD stocks under certain conditions.

**C6.4.8.1.1.** The repairable item must have been obtained under the AECA, must not be an end item, and the DoD must have requirements for the repairable item. Programs may be executed under defined line, blanket order, or CLSSA cases.

**C6.4.8.1.2.** Purchaser funds must be available for the cost of the serviceable replacement. The requisition for the replacement is generally filled according to normal supply procedures.

**C6.4.8.2. Repair and Return.** Repair and Return (R&R) is used when a serviceable replacement is not available from stock on hand or due in within a reasonable time, if the FMS purchaser requests R&R of a specific item, or if the item cannot be repaired in the host country. Repair of a purchaser-owned article requires the repairable article be returned in accordance with the terms and conditions listed on the LOA. The FMS purchaser must wait for repair of the article. Supply Discrepancy Reports (SDRs) for non-receipt of R&R items must be submitted in accordance with [Section C6.4.10.1.1](#).

**C6.4.8.2.1.** A concurrent modification is allowable in instances where a FMS purchaser directs the movement of R&R funds between two or more of their LOAs. See [Section C6.7.2.3](#) and [Section C9.11.6](#). There may be instances where the FMS purchaser needs to utilize R&R funds on one of their LOAs to support the R&R of materiel from another of their LOAs. This is allowable when directed or approved by the FMS purchaser's designated representative, there is available R&R funding to support the additional requirement, and the scope of the R&R line being used is not exceeded. Transportation Plans will be updated as applicable.

**C6.4.9. Returns.** Returns may be accepted if the defense article was previously provided under the AECA, is not Significant Military Equipment (SME), and is in fully functioning condition without need of repair or rehabilitation. In addition, there must be either a DoD or FMS funded requirement for the defense article. For FMS-funded requirements, sensitive defense articles that require export controls and release determinations are not provided to other FMS partners through the return process. See [Appendix 8 Section 21\(m\)](#) on the Return of Defense Articles for additional guidance.

**C6.4.10. Supply Discrepancies.** The USG makes every effort to provide the correct defense article or service in the quantity and quality shown in the LOA. In the event of a discrepancy, the purchaser submits an SDR using [Standard Form \(SF\) 364](#). Instructions for SF 364 completion, DoD processing timeframes, and responsibilities are located in the [Defense Logistics Management \(DLM\) 4000.25, Defense Logistics Management Standards \(DLMS\), Volume 2, Chapter 17](#). The SDR process is not applicable to Building Partner Capacity (BPC) cases.

**C6.4.10.1. Timeframes for Submission.** SDRs are more easily resolved when they are submitted promptly. The longer the time between when the discrepancy occurs and when the SDR is submitted, the more difficult it is to find supporting documentation and informed personnel. The purchaser agrees to submit an SDR no later than one year after delivery or after passage of title to the defense articles, whichever comes first. For defense services, the purchaser agrees to submit an SDR no later than one year after the end of the scheduled period of performance of the defense service. SDRs submitted beyond these timeframes will be disallowed by the USG unless the USG determines that unusual and compelling circumstances involving latent defects justify consideration of the claim. SDRs for non-shipment or non-receipt will be disallowed by the USG if such claims are received more than one year after the scheduled delivery date or initial billing, whichever is later. Consideration may be given to receiving claims for non-shipment or non-receipt made more than one year after the scheduled delivery date to the extent that the actual delivery date is later.

**C6.4.10.1.1.** The Purchaser agrees to report misdirected or unordered shipments. The Purchaser further agrees to report such shipments containing items that are identified as classified/sensitive materiel, and/or arms, arms parts, or explosives, within 24 hours of discovery, regardless of dollar value, for disposition instructions from the USG. The Purchaser agrees to ship such classified/sensitive materiel, and/or arms, arms parts, or explosives within 30 days of USG direction for such return. For all other items, the Purchaser agrees to ship discrepant articles within 180 days of receiving USG direction for such return. When appropriate, the USG may direct the Purchaser to expedite the return of the discrepant articles so the source of supply (SOS) can inspect and evaluate the items prior to issuing further direction.

**C6.4.10.2.** Time limits for reporting discrepancies relating to contractor warranties are prescribed in the individual warranty clauses and/or contracts. SDRs must be submitted by the purchaser within the contractor warranty timeframe, even when the warranty timeframe is less than one year after delivery or passage of title to the defense articles or less than one year after the scheduled period of performance of the defense service. SDRs are processed only when the estimated value is \$200 or greater regardless of the type of discrepancy except for misdirected or unordered shipments as described in [Section C6.4.10.1.1](#). This minimum value includes the value of the item plus any transportation and handling costs. Purchasers may submit SDRs regardless of the dollar value so that problems can be documented, but only those over the minimum dollar value are reviewed for possible compensation.

**C6.4.10.3. Causes of Discrepancies.** Supply discrepancies result from shortages or overages, improper packing or marking, duplicate shipments, incorrect items, and condition or quality discrepancies, including damage, prior to release to the carrier by the originating shipper. Supply discrepancies also result from documentation and/or billing errors, deficiencies in the performance of services, and instances where no evidence of shipment (signed carrier receipt and shipping document) can be produced by the shipper. The LOA Standard Terms and Conditions, [Figure C5.F4](#), set forth assumptions of risk for the purchaser.

**C6.4.10.4. Supply Discrepancy Report Responses.** The IA, in conjunction with the DoD or commercial supply source, resolves SDRs and determines financial responsibility. The IA designates a single point of contact for SDR corrective action. Only this point of contact and DSCA are authorized to accept and convey USG liability or originate a commitment for corrective action. Commitments to the purchaser for U.S. financing of discrepancies are not made until all reviews are complete. SDR responses should be provided by the IA within timeframes established by [DLM DLMS 4000.25 - Vol 2 Ch 17](#). The IA SDR point of contact approves extensions.

**C6.4.10.5. Supply Discrepancy Report Documentation.** A complete document package prepared by the IA is key to effective SDR resolution. [Table C6.T3](#) lists the required items. DSCA will return a deficient document package for corrective action.

**Table C6.T3. Supply Discrepancy Report Documentation Requirements**

#	Document	Requirement
1	<a href="#">SF 364</a>	Copy of the SDR, <a href="#">SF 364</a> , and supporting data from the purchaser.

2	LOA Documents	Copy of the LOA and any Amendment or Modification bearing on the discrepancy.
3	Chronology of Events	The following statement should be included - it covers pertinent events for most SDRs:  The SDR was filed within the time period allowed by the LOA, which in this instance is [time period on the LOA] from [the date of shipment/the date of furnishing of services or the date of billing]. Date of [shipment/completion of services] was [date]. Date of billing was [date]. The SDR was received by [organization] on [date] with document origination date of [date signed by initiator].
4	Key Actions	Principal SDR processing actions and dates, present status of any assets, and other information pertinent to the SDR background.
5	General Counsel Position	An IA General Counsel position regarding USG liability, to include:  This office was furnished relevant documents pertaining to SDR [number]. The determination of USG liability for this SDR is supported by [list LOA General Terms and Conditions paragraph(s), footnotes, attachments, legal principle, legal precedent, or other bases for the determination].  Where relevant, the General Counsel opinion must discuss USG claims against the contractor that supplied the allegedly discrepant defense article(s).
6	Options	A list of options, with costs, to remedy the SDR. In addition to this list, the IA should address the following items as applicable:  1. article or service received vice what was stipulated in the LOA; 2. whether the supply source repurchases the item(s), hold the item(s) for DoD/FMS sale, repair, or replace the item; 3. detailed cost estimates, including transportation, temporary duty (TDY), and other associated charges for each remedy; and, 4. if rework or repair is indicated, include source documents from the office responsible for correcting the SDR upon receipt of authority.
7	Preventive Action	Discuss policy, procedure, or systems change; education; or other actions to reduce probability of recurrence.
8	Retention of Records	Show status of records required for resolution, including present and anticipated preservation.

**C6.4.10.6. Shipment Documentation.** Any movement document or receipt, signed by a carrier representative, showing that the United States shipped or released materiel to a carrier for shipment to the country's designated representative, constitutes evidence of shipment. Such documents generally show the quantity; National Stock Number (NSN); mode of transport; date; Transportation Control Number (TCN); notice of availability number; bill of lading, parcel post insured, or registered number; addressee; vessel, voyage, or flight number (to the extent possible); and names of the shipper and carrier. This information is essential for adjudication of SDRs. If proof of delivery to a carrier is requested and the freight forwarder has not received the consignee copy of the bill of lading, then a duplicate of the appropriate documents establishing evidence of shipment is provided to the purchaser's representative.

**C6.4.10.7. Defense Security Cooperation Agency Supply Discrepancy Report Review.** DSCA reviews and approves or disapproves SDRs when the IA determines the USG is liable for correction and recommends use of FMS funds in excess of \$50,000; or the SDR involves an issue likely to be raised to DSCA. When either of these criteria are met, the IA must submit a complete SDR package through its Headquarters which meets all documentary and analysis requirements in accordance with [Table C6.T3](#). After Headquarters endorsement of the SDR package, the SDR package will be submitted to DSCA (Office of Business Operations, Financial Policy and Regional Execution Directorate, Financial Policy Division (OBO/FPRE/FP)). DSCA will make a final decision on the SDR within 60 days of receipt of the SDR package.

**C6.4.10.8. Supply Discrepancy Report Financial Guidelines.** AECA, [section 21 \(22 U.S.C. 2761\)](#) and [AECA, section 22 \(22 U.S.C. 2762\)](#) require that the USG recover full costs. This requirement applies to SDRs. When purchasers re-requisition items, the current price is paid even if the item was initially released at a lower price. Purchaser problems involving Government Furnished Equipment (GFE) and Government Furnished Materiel (GFM) obtained under [AECA, section 30 \(22 U.S.C. 2770\)](#) (See Appendix 8, [Section 30 Sales](#)) should be addressed to the U.S. contractor possessing the GFE/GFM. FMS funding and FMS SDR processing do not apply to these sales. GFE/GFM items purchased under the auspices of an FMS case are processed under normal SDR guidelines.

**C6.4.10.9. Financing Approved Supply Discrepancy Reports.** [Table C6.T4](#), shows the most common SDRs and methods of financing when an IA or DSCA determines an SDR should be approved. Corrections are financed.

**C6.4.10.9.1.** Within contract costs for Defense Working Capital Fund (DWCF), Operations and Maintenance (O&M), Procurement Appropriation (PA), and Research, Development, Test and Evaluation (RDT&E) items obtained from procurement.

**C6.4.10.9.2.** Within the surcharge for DWCF items or services supplied from stock.

**C6.4.10.9.3.** From the O&M, PA, or RDT&E account for O&M, PA, or RDT&E items supplied from stock.

**C6.4.10.9.4.** From the FMS (Administrative, Transportation, or Packing, Crating, and Handling (PC&H)) fund accounts when sources above do not apply. These SDRs are financed from current year FMS Administrative or Logistics Support Funds budget obligation authority, or reissuance of past unused budget authority. The DSCA FMS Administrative Budget Call, issued on an annual basis to MILDEPs and Defense Agencies, provides procedural guidance for the inclusion of estimated SDR costs that are financed from FMS administrative funds.

**Table C6.T4. Methods of Financing Approved Supply Discrepancy Reports**

Nature of Discrepancy	Source of Supply (SoS)	Foreign Military Sales (FMS) Funds <sup>1</sup> (Admin, Packing Crating & Handling, Transportation)	United States Government Funds/Appropriations (Defense Working Capital Fund, Procurement Appropriation, Operation & Maintenance, Research, Development, Test & Evaluation)
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Damage, Defect, or Other Deficiency	Procurement <sup>2</sup>	Generally not applicable except where U.S. action or inaction caused inability of USG to obtain satisfaction from contractor for purchaser.	Generally not applicable. Usually corrected by contractor within existing contract terms.
	Stock	Peripheral costs of correction (e.g., testing, transportation, TDY)	Replacement, refund to purchaser account, or rework of defective items for costs not listed under FMS Fund heading.
Non-receipt or Shortage	Procurement <sup>2</sup>	Generally not applicable except where U.S. action or inaction caused inability of the USG to obtain satisfaction from contractor for purchaser.	Generally not applicable. Usually corrected by contractor within existing contract terms.
	Stock	Not applicable except where item shipped DTS and U.S. action or inaction caused inability to obtain satisfaction from carrier. See next column.	(Shortage/misdirection at origin based on no evidence of shipment). Credit to purchaser account, charged to USG fund or appropriation initially credited. Lost items are absorbed as inventory losses.
Overage	Procurement <sup>2</sup>	Generally not applicable	Generally not applicable
	Stock	Generally not applicable. See next column.	If billed and purchaser does not want item - amount charged is refunded to purchaser account and USG appropriation fund charged. If USG directs no return, absorb as inventory loss.
Incorrect Item	Procurement <sup>2</sup>	Generally not applicable. See next column.	Generally not applicable. Normally corrected by contractor within contract terms.
	Stock	Generally not applicable. See next column.	Unless the item manager chooses to reissue, refund to the purchaser account, charged against appropriation or fund initially credited. If USG directs no return, absorb as inventory loss.
Missing or Improper Documentation	Procurement <sup>2</sup>	Generally not applicable. See next column.	Generally not applicable. Normally corrected by contractor.
	Stock	Generally not applicable. See next column.	Issue documentation and/or proper items without additional charge to FMS purchaser. If not available for issue, refund against USG appropriation/fund initially credited. If USG directs no return, absorbed as inventory loss.
Duplicate or Erroneous Billings	From procurement <sup>2</sup> or stock	Generally not applicable. See next column.	Refund or adjustment to purchaser account. Adjustments charged against appropriate USG or purchaser account.
Loss of Purchaser Item (provided for repair, etc.)		Reimburse purchaser when item is nonstandard (no longer maintained in USG inventory).	Reimburse purchaser when item is DoD standard (currently maintained in USG inventory) and the loss is bookkeeping or inventory control only.

<sup>1</sup> : In some instances, Administrative, Transportation, or PC&H funds may complement other financing for SDR resolution. For example, it could be appropriate to reimburse PC&H or transportation costs for initial delivery of an overage when this is the sole means for resolution.

<sup>2</sup> : Procurement includes defense articles and services acquired to fill the FMS requirement and therefore not supplied from on-hand DoD assets. Both stock and procurement guidance may apply in some instances (e.g., item on hand in DoD inventory reworked through a commercial contract prior to shipment).

## C6.5. - Case Reviews

The USG security cooperation (SC) community goal is to provide consistent, incomparable support to our purchasers. Towards this goal, thorough reviews are conducted periodically to ensure accurate and timely status of customer's programs. There are several categories of reviews: USG Annual Case Reviews/Reconciliations, which are discussed in [Chapter 16](#); financial management reviews (FMRs) outlined in [Chapter 9](#); and general Foreign Military Sales (FMS) case reviews that are detailed in the following sections.

**C6.5.1. General Case Reviews.** Reviews, including those with the customer, are an excellent opportunity for ensuring prompt issue resolution, data integrity, and accurate accountability. General case review types are outlined in [Table C6.T6](#).

**C6.5.2. Reasons for Case Review.** The following items influence a decision about the need for a case review: USG resources, desires or requirements of the FMS purchaser, political visibility or sensitivity, political-military changes in a region, and the size and complexity of the program. Review objectives must be clearly identified, including why the FMS review is being conducted, as well as post-review deliverables and desired outcomes. A purchaser nation's internal policy or legislation may require periodic information about the status of country accounts, issues, cases, and programs. The preferences and desires of the purchaser regarding the conduct of reviews should be accommodated to the greatest extent possible. See [Section C6.5.7](#), for guidance about appropriate funding for these reviews. The number and type of reviews should be documented in the Letter of Offer and Acceptance (LOA) as explained in the manpower matrix in [Table C9.T2a](#).

**C6.5.3. Cultural Days as part of Foreign Military Sales Case Reviews.** A cultural day is a day included in the agenda of an FMS case review for the purpose of providing U.S. personnel an appreciation of a host nation's culture. Cultural days may be touring an area in the host country, attending cultural events, or participating in various activities intended to provide an awareness of the host nation's culture. Cultural days for USG security cooperation community personnel must include attendance by both the USG and the partner nation. Before a cultural day can be included in the agenda of an FMS case review, it must be approved by both the Implementing Agency (IA) and the partner nation. A day with no scheduled activities (that is not a travel day as permitted by the [Joint Travel Regulations \(JTR\)](#)) is not authorized. Personnel may take leave in conjunction with authorized travel.

**C6.5.4. Frequency and Timing of Case Reviews.** The frequency and timing of reviews depend on the urgency of the review, the meeting purpose, purchaser funding, budget timelines, and program events. FMS case reviews should be conducted at least once per calendar year, but they can be done more frequently if needed. For external reviews (those that involve the purchaser), the frequency and timing are coordinated with the purchaser. Table C6.T5. shows the normal frequency and timing of each review. When scheduling a review, purchaser and USG holidays, weekends, and personnel changes (e.g., Security Cooperation Organization (SCO), purchaser leadership) should be considered. Because FMS reviews for a specific purchaser or program often involve many of the same people, reviews should be consolidated whenever practical.

**Table C6.T5. Frequency and Timing of Reviews Matrix**

Review Type	United States Government Representation	Frequency	Timing
Policy-level	<ul style="list-style-type: none"> <li>Office of the Under Secretary of Defense for Policy (OSD (P)) (USG chair)</li> <li>Department of State (State)</li> <li>Joint Chiefs of Staff</li> <li>DSCA (may chair a subcommittee or working group)</li> <li>Military departments (MILDEPs)/IAs (if requested)</li> <li>Under Secretary of Defense for Acquisition and Sustainment USD(A&amp;S), Office of the Under Secretary of Defense (Comptroller) OUSD (C) (if requested)</li> <li>Others as needed</li> </ul>	Varies - some reviews are held on a regular basis, usually annually.	Based on determination by policy-level officials.
Country-level	<ul style="list-style-type: none"> <li>DSCA (USG chair)</li> <li>MILDEPs/IAs (if required)</li> <li>SCOs</li> <li>Defense Finance &amp; Accounting Service (DFAS) (if required)</li> <li>Other interagency departments (e.g., State, Commerce, Homeland Security) (if required)</li> </ul>	Usually Annually	May be driven by purchaser funding and budgeting timelines.
Service-level	<ul style="list-style-type: none"> <li>MILDEPs/IAs (USG chair)</li> <li>SCOs (if required/requested)</li> <li>DSCA (if required)</li> <li>DFAS (if required)</li> <li>Contractors (if required)</li> </ul>	Usually Annually	May be driven by purchaser funding and budgeting timelines.
Program-level	<ul style="list-style-type: none"> <li>IAs and Program Management/Executive Offices (USG chair)</li> <li>DFAS (if required)</li> <li>DSCA (if required)</li> <li>SCOs (if required)</li> <li>Contractors (if required)</li> <li>Others as needed</li> </ul>	Based on milestone plan established during case development as referenced in the LOA (and refined over time).	Event-driven based on established milestones.
Internal (USG only)	<ul style="list-style-type: none"> <li>Varies, depending on review purpose</li> </ul>	Varies - although some internal reconciliation reviews may be held annually.	Varies

**C6.5.5. Scope of Reviews.** Each review type has a corresponding scope of what is typically covered (Refer to Table C6.T6.). This is to ensure that an appropriate level of detail is addressed, that the best suited USG personnel attend and that expectations are clear to all attendees.

**Table C6.T6. Scope of Foreign Military Sales Reviews**

Review Type	Scope
Country-Level (e.g., FMR, Tri-Service Security Assistance Management Review (SAMR))	<ol style="list-style-type: none"> <li>1. DSCA-chaired</li> <li>2. Programmatic/financial and/or logistical orientation</li> <li>3. Higher-level representation</li> <li>4. Purchaser: Flag officer or civilian equivalent co-chair</li> <li>5. Summary case-level visibility               <ol style="list-style-type: none"> <li>1. Case closure</li> <li>2. Standardized format</li> <li>3. Delivery status</li> <li>4. Excess funds</li> <li>5. Discrepancy resolution</li> </ol> </li> <li>6. Forum to address FMS policies/procedures and security assistance (SA)/SC issues</li> </ol>
Service-Level (e.g., Security Assistance Review (SAR), Case Reconciliation Review (CRR))	<ol style="list-style-type: none"> <li>1. IA lead component chairs</li> <li>2. Can be oriented by purchaser In-Country Service (ICS) or IA</li> <li>3. General status briefings: major weapon systems, etc.</li> <li>4. Driven by magnitude of purchaser and/or IA issues</li> <li>5. Forum to address FMS policies and procedures</li> <li>6. Purchaser and IA representation driven by agenda topics</li> <li>7. May involve contractor personnel</li> <li>8. Line/contract-level detailed review</li> </ol>

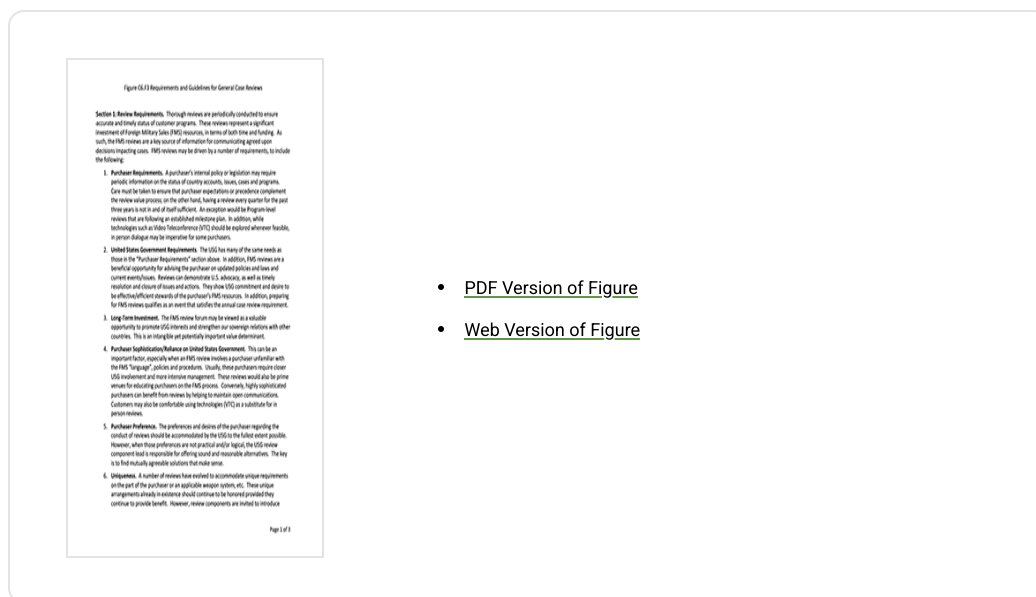
Program-Level (e.g., Program Management Review (PMR))	<ol style="list-style-type: none"> <li>1. IA/Program Management Office (PMO)-chaired</li> <li>2. Covers all aspects of a specific weapon system/program/case/cadre of cases</li> <li>3. Line/contract-level detailed review addressing: <ol style="list-style-type: none"> <li>1. Obligations/contract awards</li> <li>2. Expenditures</li> <li>3. Deliveries</li> <li>4. Unused funds</li> <li>5. Programming of current and future requirements</li> <li>6. Discrepancy resolution</li> </ol> </li> <li>4. Purchaser represented by head of its PMO</li> <li>5. Driven by key milestones in program life cycle</li> <li>6. Often involves contractor personnel</li> </ol>
Case-Level	<ol style="list-style-type: none"> <li>1. IA prepares this annually</li> <li>2. Provide financial, acquisition, and logistical status for each line on the case</li> <li>3. Review the payment schedule for changes as necessary</li> <li>4. Provide in an electronic or paper format</li> <li>5. There is no in-person meeting associated with this review</li> </ol>

**C6.5.6. Representation at Case Reviews.** Senior officials can co-chair case reviews, but detailed discussions require the participation of the managers who are responsible for the day-to-day operations of the program or weapon system under review. The rank of the lead USG review participant should be equivalent to that of the lead purchaser participant. Controlling the number of participants at each review is important, but it is also important to include subject matter experts who can adequately cover anticipated topics or issues. The USG meeting chair ensures each participant has a distinct, active role in the review. If topics beyond participants' expertise are discussed or issues are raised that cannot be resolved during the review, participants should research answers/solutions after the review and follow-up appropriately to all within a week. For FMS purchaser-hosted reviews, SCOs coordinate the administrative arrangements, including lodging and transportation, and they help the visiting team as appropriate and necessary.

**C6.5.7. Standardized Review Formats.** Standard formats, meeting procedures, and terminology help participants clearly understand the review processes. [Figure C9.F7.](#) provides the standard format for use in all DSCA FMRs. Standard formats are preferred, but changes and deviations are acceptable when other critical program or financial information must be discussed. Submit requests for changes and deviations to this format to DSCA (Office of Business Operations (OBO)).

**C6.5.8. Requirements and Guidelines for General Case Reviews.** Guidelines and requirements for general case reviews are provided in [Figure C6.F3.](#)

**Figure C6.F3. Requirements and Guidelines for General Case Reviews**



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

## C6.6. - Suspension And Cancellation Of Security Assistance

**C6.6.1. Suspension.** If the Department of State (State) determines that it is necessary to suspend security cooperation (SC) to a particular country, it issues guidance for execution. Upon receipt of this guidance, the DSCA (Office of International Operations (IOPS)) issues appropriate instructions to the Implementing Agency (IA) informing the geographic Combatant Commands (CCMDs) and the Security Cooperation Organization (SCO). Suspension of delivery is not the same as Foreign Military Sales (FMS) case cancellation or contract termination action. See [Section C6.8.](#) DSCA (IOPS) notifies the IA when suspensions are lifted. The following procedures apply to suspensions that impact all aspects of case execution.

**C6.6.1.1.** State may direct that all deliveries of defense articles to the suspended country be stopped immediately. Materiel is not released to the country's freight forwarder or to the country. In the absence of such direction, pipeline delivery cases implemented prior to the effective date of sanctions are allowed to continue regardless of term. New Letters of Offer and Acceptance (LOAs) are not signed.

**C6.6.1.2.** If procurements have started, but contracts have not been awarded, the IA provides details to DSCA (IOPS) and requests guidance.

**C6.6.1.3.** Contracts that have been awarded should continue. However, when items are ready for delivery, DSCA (IOPS) issues guidance on possible diversion of the materiel to another country, to the DoD Component, or to storage consistent with State guidance.



**C6.6.1.4.** If State so directs, shipments of defense articles, where the materiel is under USG control, are not loaded at the ports of embarkation. Materiel already in route to the country is not delivered; it is retained under USG control. These articles are stored by the appropriate DoD Component until DSCA issues further direction.

**C6.6.1.5.** Materiel ready for shipment from a contractor may be shipped to a DoD facility for segregated storage to await DSCA (IOPS) disposition instructions. If economical, the materiel may be stored at the contractor's facility. The purchaser is responsible for any storage fees if title has passed.

**C6.6.1.6.** Any requisitions submitted against either a Cooperative Logistics Supply Support Arrangement (CLSSA) or a blanket order FMS case may be required to be held by the IA and not be filled. The Brooke Amendment is an annual provision in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, which states "No part of any appropriation contained in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act." See [Section C9.7.2.9.4.5.](#) for more details on Brooke Amendment.

**C6.6.1.6.1.** The following applies under Brooke Amendment sanctions, FMS LOAs financed with Foreign Military Financing (FMF) funds that were or may be accepted by a country on or after the effective date of the sanction will not be implemented.

**C6.6.1.6.2.** New or pending FMF-financed LOAs will not be countersigned or issued to the partner nation for acceptance. FMF-funded cases implemented prior to effective date of sanctions remain in force and will be executed. Modifications or Amendments to existing FMF-funded FMS cases are allowed if they do not involve new obligation of funds.

**C6.6.1.7.** See [Section EDA.2.5.3.](#) for information on restriction on the Excess Defense Articles (EDA) program when partners are under sanctions.

**C6.6.1.8.** For training funded through an FMS case or under International Military Education and Training (IMET), students in training before the suspension date may complete their course and Mobile Training Teams (MTTs) and Language Training Detachments (LTDs) may complete training unless State directs otherwise. This includes sequential training (proceeding to the next scheduled course). Sequential training for which funds have not been obligated shall be reviewed by DSCA (Office of Strategy, Plans, and Policy (SPP)), DSCA (Office of International Operations, Global Execution Directorate, Security Cooperation Division (IOPS/GEX/SCD)) on a case-by-case basis. If course costs have been obligated before the effective date of the suspension, the student is permitted to begin training, and the MTTs or LTDs are allowed to begin. If course costs have not been obligated before the effective date of the suspension, students are not permitted to begin a course, and MTTs and LTDs are not allowed to commence. DSCA provides instructions for students from suspended countries. See [Chapter 10.](#)

**C6.6.1.9.** Within ten days of a suspension notification, the IA advises DSCA, the Combatant Commander (CCDR) and the SCO of the impact of the suspension. This includes identification of major items and significant secondary items that are scheduled for release to the suspended country within 30 days, and those items that are on order but have not been shipped. Not later than 21 days after the suspension, the IA must advise DSCA of all other materiel that is either in route, scheduled for shipment within 30 days, or on order but unshipped. This report also identifies the total unused dollar value on blanket order and CLSSA (Foreign Military Sales Order (FMSO) II) cases.

**C6.6.2.** State may extend a suspension to become a cancellation in accordance with [Arms Export Control Act \(AECA\), section 2\(b\) \(22 U.S.C. 2752\)](#) and [AECA, section 42\(e\) \(22 U.S.C. 2791\)](#). DSCA directs case cancellation and appropriate contract actions to include termination. DSCA provides guidance on the disposition of items, funding, etc., after a case-by-case review.

## C6.7. - Amendments And Modifications

**C6.7.1. Overview.** Foreign Military Sales (FMS) cases may be amended or modified to accommodate certain changes. The Defense Security Assistance Management System (DSAMS) must be used to prepare all Amendments and Modifications [Note: Any portion of a Letter of Offer and Acceptance (LOA) document that is classified cannot be entered into DSAMS and must be prepared using an appropriate classified system/process.] See [Section C15.6.](#) for guidance on Amendments and [Section C15-Legacy.6.](#) (for programs as identified in the [Chapter 15](#) introduction) for guidance on Amendments and Modifications to Building Partner Capacity (BPC) cases.

**C6.7.1.1. Scope.** The scope of an FMS case is the key factor in determining whether to prepare an Amendment, Modification, or new LOA to accomplish a particular LOA change. [Section C5.4.3.](#) defines scope for Defined Order, Blanket Order, and Cooperative Logistics Supply Support Arrangement (CLSSA) cases. When the change would alter the purpose of the LOA (e.g. adding UH-60s to a F-35 case, or adding a frigate to a blanket order training case), the existing LOA should not be amended or modified. Rather, a new LOA for the new requirements should be developed.

**C6.7.1.2. Case Description.** The Implementing Agency (IA) must identify the purpose of the Amendment or Modification on the applicable LOA document in the case description, including the reason for the change. Reviewers of the LOA document, including the FMS purchaser, must have sufficient information about the reasons for the LOA change in order to evaluate whether such changes constitute a change in scope. Examples include: "This Amendment increases the estimated costs for additional requirements as requested by the purchaser" or "This Modification increases the estimated costs to cover price increases based on within-scope changes to the contractual requirements." Specifically for LOA Modifications, the IAs must write a clear explanation why there are no changes in scope. See the [LOA Standardization Guide](#) for additional guidance. For Exception to Policy requests, see [Section C6.7.4.](#)

### C6.7.2. Amendments.

**C6.7.2.1. Use of a Foreign Military Sales Case Amendment.** All changes on an FMS case can be accomplished on an Amendment, including within-scope changes. An FMS case must be amended when there is a change in scope to a case line or note. Such changes require the FMS purchaser's acceptance. For limited changes in scope that can be accomplished through Concurrent Modifications, see [Section C6.7.3.2.](#)

**C6.7.2.1.1. Lines on Amendments Subject to a Previous FMS Administrative Rate.** On FMS case Amendments, the IA must review lines with a previous FMS administrative rate applied to confirm if there are changes in scope. For lines with a change in scope and a previous FMS administrative rate applied, the IA must include the added scope on a new case line. For lines with no change in scope and a previous FMS administrative rate, required changes may be made on the existing line unless there is a change in price. In such instance, if the line is providing contracted defense articles or services, then the IA coordinates with the contracting officer or Contracting Officer's Representative to verify the price change is not related to a change in scope.

**C6.7.2.2. Follow-on Support Services.** In order to prevent a lapse in follow-on support services that are required by the FMS purchaser and that has been provided under an existing LOA, the IA may initiate a follow-on support services LOA or Amendment without a formal Letter of Request (LOR). The IA must notify the FMS purchaser that an LOA or Amendment is being developed, which will be included in the case package and in DSAMS as the "based on" reference in the LOR field. FMS purchaser concurrence occurs upon LOA or Amendment acceptance. As the additional follow-on support services is a change in scope, a Modification cannot be initiated.

### C6.7.2.3. Financial Information for Amendments.

**C6.7.2.3.1. \$50,000 Break Point.** The DSCA database records Amendments reflecting net increases of more than \$50,000 in the fiscal year the Amendment is accepted. Amendments that reflect net increases of \$50,000 or less are recorded in the year of the basic LOA.

**C6.7.2.3.2. Amendment Financial Requirements.** Payments are included on the Amendment, see [Chapter 9](#) when the existing payment schedule does not include sufficient amounts to cover costs from the expiration date of the Amendment until the next billing cycle. For under-collected cases, the amount due with Amendment acceptance also includes payments to cover current financial requirements, including termination liability, if applicable.

**C6.7.2.4. Restatements.** There may be times when major changes need to be made to an amendment after it has been countersigned and offered to the Purchaser. If the Purchaser wants to retain the existing amendment number (instead of canceling the offer and issuing a new case amendment), the offered amendment may be restated. Restatements can be made as long as the document is in "OFFERED" status, the purchaser has not yet signed the Amendment, the Offer Expiration Date (OED) has not been expired for more than six months, and all changes are consistent with FMS policies and procedures. Expiration of the OED on the offered Amendment officially notifies the Purchaser that the original offer is no longer valid. 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. A copy of the previous version(s) of the amendment must accompany the coordination request. 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 Amendment; or the case should be cancelled and a new LOA amendment (new offer) prepared.

**C6.7.2.5. Reactivating Cancelled Offers.** Once an offered LOA document has been cancelled, it will remain cancelled in most instances. When a DSAMS data fix is used to reactive an LOA document that has been cancelled, the data history of the LOA document will be destroyed since all DSAMS milestones associated with the LOA document will be deleted. LOAs that are not yet offered can be cancelled/reactivated at the IA's discretion. Once an LOA Amendment is offered, cancellation in DSAMS should happen when it is determined that the document is no longer needed (e.g., the country stipulates they do not want it). Cancellation cannot be used to place a document on hold. The Hold and Suspend milestones are used for that purpose. A request for a reactivation/data fix should be submitted through the DSCA Data Fix Tracker Tool available in SharePoint and identify what actions are required along with sufficient justification warranting the changes. DSCA (Office of Business Operations (OBO)) will then either post the Reactivation Authorized Milestone (DREACT) in DSAMS, along with an explanatory remark, or notify the DSCA (Office of Business Operations, Information Management and Technology Directorate, Enterprise Application Development and Support Division (OBO/IMT/EADS)) Helpdesk, with a copy to the IA, to initiate a data fix against the document, and indicate the decision in DSAMS Case Remarks listing all deleted milestones once the data fix has been accomplished.

**C6.7.2.5.1.** A cancelled LOA document is reactivated by either placing the LOA document back in development status or by performing a data fix which is the deletion of DSAMS milestones. Performing a data fix places the LOA document in Offered status.

**C6.7.2.5.1.1.** If reactivation is approved, DSCA (Office of Business Operations, Financial Policy & Regional Execution Directorate, Financial Policy Division (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 military department (MILDEP) Reactivation (MILREACT) milestone in the DSAMS Case Milestone List Window and bring other systems that may have these cases loaded up to date. This takes the case back to Development status.

**C6.7.2.6.** 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 systemically deleted). DSCA (OBO/FPRE/FP) will post the Reactivation Authorized Milestone (DREACT) in DSAMS and notify DSCA (OBO/IMT/EADS) (info the IA) to data fix 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 these cases loaded up to date.

**C6.7.2.7. Pen and Ink Changes to Amendments.** There may be times when changes need to be made to an Amendment, with both purchaser and IA agreement, after it has been countersigned and offered to the purchaser. OED changes can be made per [Section C6.7.2.7.1](#). Minor changes can be made if the Amendment is in "OFFERED" status, the purchaser has not yet signed the Amendment, the OED has not yet expired, and all changes are consistent with FMS policies and procedures (see [Section C6.7.2.7.2](#)). With prior DSCA (OBO/FPRE/FP) and DSCA (SPP) concurrence, major (see [Section C6.7.2.7.3](#)) changes can be made if the Amendment is in "OFFERED" status, the purchaser has not yet signed the Amendment, the OED has not yet expired, and all changes are consistent with FMS policies and procedures. The purchaser must be authorized by the IA via email or memorandum to make any Pen and Ink changes. Provide a copy of the email or memorandum to Defense Finance and Accounting Services - Indianapolis (DFAS-IN) for awareness. All changes, including Pen and Ink, must be updated in DSAMS, with the updated copy of the Amendment provided to purchaser. Pen and Ink changes should be kept to a minimum, with processing as follows:

**C6.7.2.7.1. Offer Expiration Date Changes to Amendments.** Normally, the greater the period of time between Offer and Acceptance, the greater the likelihood of decreased accuracy of the LOA data. Requests by the FMS purchaser to extend the OED may be honored after a review by the IA. The OED may be extended, without a requirement for case restatement, only if requested no later than 6 months after the current valid OED, the document has not been cancelled (see [Section C6.7.2.5](#)), and completion of IA review, ensuring data are still valid for the extended period. All concerned should be advised of any consequences associated with the extension. Minor (see [Section C6.7.2.7.2](#)) and Months (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 C6.7.2.7.3](#)). The USG reserves the right to cancel the case.

**C6.7.2.7.2. Minor Changes to Amendments.** Minor changes may include insignificant technical corrections such as a small arithmetic change that does not increase total value and administrative changes such as an address correction or minor changes to note wording. The IA can review and approve these changes.

**C6.7.2.7.3. Major Changes to Amendments.** More significant changes, such as an increase or decrease in program scope, such as revising quantities, revising unit prices or adding or deleting case lines, require a new or restated Amendment. Pen and Ink changes for significant changes to Amendments may only be done in exceptional circumstances and with DSCA (OBO/FPRE/FP) and DSCA (Office of Strategy, Plans, and Policy (SPP)) concurrence. Pen and Ink changes to the initial deposit or payment schedule adjustments must be approved by DSCA (OBO/FPRE/CFD) and require an IA level evaluation of the requested changes to the payment schedule for feasibility. Changes initiated after the purchaser has signed the Amendment are accomplished through a corrective Amendment or Modification.

**C6.7.2.7.4. Unauthorized Pen and Ink Changes to Amendments.** When an Amendment is signed by the purchaser and returned to the IA with unauthorized pen and ink changes, it is processed as a counteroffer. The Amendment should be restated and reoffered, or cancelled and a new Amendment prepared. If the Amendment is restated, the Amendment number remains the same. If the Amendment is cancelled, a new Amendment is prepared with a new number.

**C6.7.2.8. Amendment Implementation.** Amendments are implemented when an authorized representative of the partner nation signs the Amendment, any required deposit due with amendment acceptance is received by DFAS and deposited, and any required data system implementing transactions have occurred. When this occurs, the case manager posts the Amendment implementation milestone in DSAMS.

### C6.7.3. Modifications.

**C6.7.3.1. Use of a Foreign Military Sales Case Modification.** An FMS case Modification is used on an FMS case to make administrative changes that do not alter the scope of a case, case line, or case note. These changes may be accomplished unilaterally by the USG and do not require the FMS purchaser's acceptance. For FMS case Modification requests, DSCA and/or IA correspondence can serve as the document of record. DSCA confirms within-scope changes for USG-provided articles and services during DSCA's case review process, with the IA providing any documentation and/or data necessary to validate the change. [Table C6.T7](#) identifies examples of allowable changes that can be accomplished on a Modification. The exceptions for changes in scope on FMS case Modifications are for Concurrent Modifications, as explained in [Section C6.7.3.2](#).

**C6.7.3.1.1. Lines on Modifications Subject to a Previous FMS Administrative Rate.** On FMS case Modifications, the IA must review lines with a previous FMS administrative rate applied to confirm there are no changes in scope. Within-scope changes may be made to existing lines with a previous FMS administrative rate applied; however, if the line is contracted and the price changes, then the IA coordinates with the contracting officer or Contracting Officer's Representative to verify the price change is not related to a change in scope.

**Table C6.T7. Modification for FMS Cases**

#	Allowable Changes
1	Increasing or decreasing funding on a defined order line based on: <ul style="list-style-type: none"> <li>actual or projected billing due to over commitments,</li> <li>actual or projected billing due to under commitments, or</li> <li>supply services complete reconciliation in preparation for case closure.</li> </ul>
2	Deleting case lines only after the full case is supply services complete and is ready for closure.
3	For non-Major Defense Equipment (MDE) and non-Significant Military Equipment (SME) materiel provided in units - adding, updating, or deleting the amount per unit in the line description or case note to conform with updated unit requirements. (e.g. ammunition boxes).
4	Increasing or decreasing price on a Blanket Order line based on actual billing (e.g., an order was placed for a certain quantity based on price estimate and there was sufficient funding at the time, but price increased over the original line value at a point in time when the quantity could not be reduced). The IA must provide a statement in case remarks to reflect the original price and increased price. When a line price is decreased, the final scope of requisitions must be determined, and must not be reduced below estimated final billing.
5	The MOS can be changed to accommodate adverse actions to include acts of nature (e.g., pandemics), contracting delays, production delays, or conflict in country as these reasons do not constitute a change in scope.
6	Adjusting an item description in the line, case note, or Military Articles and Services List (MASL) description due to an updated version (e.g., software updates) when there is no change in the end item's capability.
7	Revising Source Code, Line Manager, Offer Release Code (ORC), or Type of Assistance (TA) Code.
8	Correcting accessorial charges, revising payment schedules, and correcting pricing due to policy changes such as FMS administrative rate changes.
9	Including charges for Value Added Tax (VAT) and other international requirements levied on the U.S. when required to be funded by the nationally-funded FMS case.
10	Adding charges for storage and other U.S. requirements already received that must be funded on the FMS case.
11	Making minor administrative changes such as typographical errors.
12	For Concurrent Modifications, see <a href="#">Section C6.7.3.2</a> .
13	Subject to IA acceptance, updating a line from full and open competition to sole source if the request for other than full and open competition is made by the official (or the replacement) who requested the LOA or an official known to have equivalent or greater authority than the official who signed the LOA.

**C6.7.3.1.1. Monitoring Funds.** Costs charged under an FMS case line must not exceed the funds available on that line. Program management responsibility includes analysis and tracking to ensure funding is adequate to avoid program disruption. If tracking shows that costs incurred on the line are deviating from those estimated to the degree that later deviations are unlikely to bring overall costs into balance, or Obligational Authority (OA) above line value is required at some point in the program, a Modification should be processed. A Modification should also be provided for relatively minor cost adjustments when all items are on order and prices are reasonably firm. Price increase Modifications must be provided by the IA before the actual accrued costs reported to the purchaser exceed those estimated on the case unless the case is in the closure process.

**C6.7.3.1.2. Price Increases During Case Closure.** Price increases discovered during case closure (i.e., after the case becomes supply/services complete (SSC)) will be validated during final reconciliation. For FMS cases that are in the closure process, the following rules apply:

**C6.7.3.1.2.1.** If expenditures exceed FMS case ordered values, a Modification or Amendment is required. The majority of actions related to expenditures reconciled prior to closure are addressed on a Modification. Contact DSCA (SPP) for questions regarding Amendment or Modification usage.

**C6.7.3.1.2.2.** If the case is anticipated to close and expenditures do not exceed ordered value, the case may be closed without doing an Amendment or Modification.

**C6.7.3.1.2.3.** Refer to [Chapter 16](#) for comprehensive policy and the [Appendix 7, Case Reconciliation and Closure Guide \(RCG\)](#), for process and procedural information related to reconciliation and closure.

**C6.7.3.1.3. Purchaser Acknowledgement.** Acknowledgement of receipt of the Modification, although not required for implementation, confirms that a purchaser's authorized representative has received the Modification.

**C6.7.3.2. Concurrent Modifications.** DoD may utilize Concurrent Modifications to transfer funding between two or more FMS cases. Concurrent Modifications are prepared in DSAMS and identified using the DSAMS Concurrent Funding Tab under Case Detail to record the cases and amounts being modified. DSAMS automatically relates the case documents and prints the accurate statements in accordance with [Section C6.7.3.2.6](#). This process ensures that all the case documents are implemented at the same time. Likewise, all Concurrent Modifications must be linked in the Case Tracking System (CTS) by the IA prior to sending to DSCA. For FMS cases, the following conditions must be met in order to execute a Concurrent Modification request:

**C6.7.3.2.1.** The FMS country official who requests the shift in value has the authority to accept LOAs in accordance with [Section C5.4.20](#), and a copy of the LOR which states the requested value shifts must be attached to each Modification. Any shift that results in a scope increase or decrease must be as requested in the LOR, and the case package must include a statement that Modifications are requested or confirmed by the FMS purchaser for the affected cases.

**C6.7.3.2.2.** The cases, when considered together, must not include a significant scope change (e.g. adding or deleting SME). New Terms of Sale or types of grant assistance cannot be added on Concurrent Modifications (e.g. adding an FMF financing Terms of Sale, or new Excess Defense Article (EDA) grant or EDA sales lines). However, existing FMF funds can be transferred from one FMS case to another FMS case through Concurrent Modifications.

**C6.7.3.2.2.1. Lines on Concurrent Modifications Subject to a Previous FMS Administrative Rate.** On Concurrent Modifications, the IA must review lines with a previous FMS administrative rate applied to ensure those lines are developed in compliance with the SAMM. For Concurrent Modifications involving case lines with a previous FMS administrative rate applied that include a change in scope (see [Section C6.7.3.2.2](#) for guidance on permissible changes in scope under Concurrent Modifications), the IA must include the added scope on a new case line. For Concurrent Modifications involving case lines with a previous FMS administrative rate that do not include a change in scope, the requested changes may be made on the existing line unless there is a change in price. In such instance, if the line is providing contracted defense articles or defense services, then the IA coordinates with the contracting officer or Contracting Officer's Representative to verify the price change is not related to a change in scope.

**C6.7.3.2.3.** Total amount(s) increased are no more than the total amount(s) decreased. If addition(s) to the LOA(s) being increased generate a requirement for an initial deposit, an Amendment must be used.

**C6.7.3.2.4.** LOA(s) decreased have adequate funds available to cover remaining obligations.

**C6.7.3.2.5.** All cases being modified must be in "implemented" status. Closed cases are not identified in concurrent Modification packages.

**C6.7.3.2.6.** All Modifications are provided to DSCA as a package for countersignature and cross-reference each other in the "This Modification is for:" section of the Modification as follows:

On decreased LOA:
"Value of \$___ is hereby transferred to FMS Case ___-___ (reference Modification___)."
On increased LOA:
"Value of \$___ is hereby transferred from FMS Case ___-___ (reference Modification___)."

**C6.7.3.3. Pen and Ink Changes to Modifications.** Pen and ink changes to Modifications are NOT authorized. After a Modification has been signed and countersigned by the USG, any further changes must be accomplished by using a new Modification (or Amendment if applicable).

**C6.7.3.4. Modification Implementation.** Modifications do not require purchaser signature and are implemented upon countersignature. If countersignature is not required for a particular Modification, the Modification is implemented upon USG signature.

**C6.7.4. Amendment and/or Modification Formats.** Amendment and Modification formats, including sample data and document-unique instructions for preparation, are provided in [Figures C6.F4.](#), [Figure C6.F5.](#), and [Table C6.T8](#).

**Figure C6.F4. Amendment Format**

Figure C6.F5. Amendment Format

Line and data are included for illustration purposes only.

United States of America  
Amendment to Letter of Offer and Acceptance (LOA)  
B6-Q-001

Based on B6-Q-001 dated 10/01/2008

Made by Embassy of Romania, Office of the Air Attache, 1200 Massachusetts Ave, NW Washington, DC 20005

Pursuant to the Arms Export Control Act, the Government of the United States (USG) offers to amend the Letter of Offer and Acceptance (LOA) identified above for the purchase of defense articles, defense services, or both. Other provisions, terms, and conditions of the original LOA remain unchanged.

This Amendment provides for additional test equipment for the B6-Q-001 program.

Item LOA account: B6-Q-001  
 Estimated cost: \$175,000  
 Item LOA account: B6-Q-001  
 Estimated cost: \$175,000

Terms of Sale:  
 Cash for delivery  
 Insurance covering

This offer expires on 17 January 2009. Unless a request for extension is made by the Purchaser and granted by the USG, the offer will terminate on the expiration date.

The Amendment consists of page 1 through page 1.

The undersigned are duly authorized representatives of their Governments and hereby respectively offer and accept this Amendment.

U.S. Signature: [Signature] Date: 10/01/2008  
 Romanian Signature: [Signature] Date: 10/01/2008

U.S. Name and Title: [Name] Title: [Title]  
 Romanian Name and Title: [Name] Title: [Title]

U.S. Government/Contract: [Contract Number]  
 Romanian Government/Contract: [Contract Number]

This Amendment consists of changes as follows:

B6-Q-001-002  
 Page 1 of 1

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

Figure C6.F5. Modification Format

Figure C6.F6. Modification Format

Line and data are included for illustration purposes only.

United States of America  
Modification to Letter of Offer and Acceptance  
B6-Q-001

Based on B6-Q-001 dated 10/01/2008

Made by Embassy of Romania, Office of the Air Attache, 1200 Massachusetts Ave, NW Washington, DC 20005

Pursuant to the Arms Export Control Act, the Government of the United States (USG) offers to amend the Letter of Offer and Acceptance (LOA) identified above for the purchase of defense articles, defense services, or both. All other terms and conditions of the LOA remain unchanged.

This Modification changes the title of the item being procured under Line 001 to correct an administrative error. It also changes the lead time on Line 001 to reflect latest delivery projections.

Item LOA account: B6-Q-001  
 Estimated cost: \$175,000  
 Item LOA account: B6-Q-001  
 Estimated cost: \$175,000

Terms of Sale:  
 Cash for delivery  
 Insurance covering

This Modification consists of page 1 through page 1.

The undersigned are duly authorized representatives of their Governments and hereby respectively furnish and acknowledge receipt of this Modification.

U.S. Signature: [Signature] Date: 10/01/2008  
 Romanian Signature: [Signature] Date: 10/01/2008

U.S. Name and Title: [Name] Title: [Title]  
 Romanian Name and Title: [Name] Title: [Title]

U.S. Government/Contract: [Contract Number]  
 Romanian Government/Contract: [Contract Number]

This Modification consists of changes as follows:

B6-Q-001-002  
 Page 1 of 1

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

Table C6.T8. Instructions for Preparing an Amendment or Modification

#	Instruction
1	<b>"Based On."</b> Each Amendment or Modification includes a reference to the document, meeting, review, etc. that prompted the change.
2	<p><b>Description.</b> The "This Amendment (or Modification):" includes a concise and clear purpose of the Amendment or Modification, using the following guidelines:</p> <ul style="list-style-type: none"> <li>a. Program. Identify the major program involved (e.g., "Apache Program").</li> <li>b. Overview. Provide an overview of the Amendment or Modification. Identify the changes in the document by showing if the action is an addition, modification, deletion, increase, or decrease.</li> <li>c. Reason. Provide an explanation for the changes (e.g. per the purchaser's request, due to scope, price changes, etc.)</li> <li>d. Previous Unaccepted Amendments. If a previous Amendment offer has expired, note that Amendment (number) was not accepted. The unaccepted Amendment number should not be reused.</li> <li>e. Identification of Restatement. If a previous version of the document was offered to the customer but requires changes before the customer will accept the offer, note that this document is restated (e.g. "This Amendment is a Restated document.")</li> </ul> <p>Example: "This Amendment provides updates for the AH-64D Helicopter program, which reduces the quantity of items and extends the Period of Performance (POP) for several line items per the customer's request. Amendment 3 was cancelled without acceptance."</p>
3	<b>Source Code/MOS/TA or Notes.</b> This column includes the source code (also referred to as the Source of Supply (SOS) code), the availability (estimated number of months FROM IMPLEMENTATION OF THE BASIC LOA to when items are available), TA code, and training notes.
4	<b>Term(s) of Sale.</b> The Term(s) of Sale must be recorded on the first page of the Amendment or Modification. Cases that include multiple sources of funding must list all sources. The Amendment or Modification includes a dollar breakout for each credit term used.



5	<u>DSCA Congressional Notification Transmittal Number</u> . Include the DSCA transmittal number used in the statutory Congressional Notification (CN) (e.g., CN 92-15) when applicable. When multiple notification numbers apply, they must all be listed.
6	<u>Expiration Date</u> . The Amendment expiration date follows the same rules as for an LOA. <a href="#">See Figure C5.F6</a> for current country level timeframes.
7	<u>Other Fields</u> . Quantity, notes, codes, and financial fields should be changed to reflect the previous and revised values. The payment schedule should be adjusted accordingly.

**C6.7.5. Request for Exceptions to Policy.** IA policy offices must send all Exception to Policy (ETP) for case modification and amendment requests through the ETP tracker on SharePoint. Requests for financial policy exception related to prior year adjustment should be sent to [dsca.ncr.dbo.mbx.prior-year-requests@mail.mil](mailto:dsca.ncr.dbo.mbx.prior-year-requests@mail.mil), and case closure sent to [dsca.ncr.dbo.mbx.case-closure-requests@mail.mil](mailto:dsca.ncr.dbo.mbx.case-closure-requests@mail.mil). DSCA (Office of Strategy, Plans, and Policy, Execution Policy and Analysis Directorate (SPP/EPA)) will coordinate ETP requests with the appropriate DSCA stakeholders and reply to ETP requests submitted via the ETP tracker within 10 business days for routine requests and 15 business days for special requests, as prescribed in the ETP tracker, of receiving a complete ETP request. DSCA (SPP/EPA) will provide ETP determinations to the IA by automated email from the ETP tracker and enter a DSAMS case remark. Approved ETPs will expire six months from date of approval unless otherwise requested and approved. General Officer/Flag Officer/Senior Executive Service (SES)-level requests or ETP appeals submitted via formal correspondence are staffed with the DSCA Director, who will respond accordingly to the requester. ETP appeals must be submitted fifteen business days after receipt of denial notification. DSCA will consider ETPs on a case-by-case basis, in accordance with legal requirements, when SAMM guidance is not established.

**C6.7.5.1.** An ETP request must include a justification for the request and a written endorsement (i.e., email) from the IA policy office and may include any of the following documents:

- a. LOR, meeting minutes, or email from the foreign purchaser requesting the ETP; and,
- b. An official request from the IA Weapon System Program Office (if applicable).

**C6.7.5.2.** IAs must include all ETP approvals in the LOA package submitted to the DSCA (Office of International Operations, Global Execution Directorate, Case Writing and Development Division (IOPS/GEX/CWD)).

**C6.7.6. Reduction of Value on Unused Foreign Military Sales and Building Partner Capacity Cases.** Amendments or Modifications (to include concurrent modifications) should not be used to reduce an unused case to zero-dollar value or any other amount. This prohibition includes deleting all lines on a case using an Amendment or Modification for the purpose of reducing an unused case. For this purpose, "unused" is defined as a \$0 net sum of all financial activity, other than the pre-paid FMS Administrative Surcharge.

**C6.7.6.1. Closure of Unused Foreign Military Sales and Building Partner Capacity Cases.** The IA should use the case closure process to return case value or funds on unused cases to the customer. See [Section C16.4.7](#).

**C6.7.6.2. Minimal-Dollar Value Lines on Letters of Offer and Acceptance.** Minimal-dollar value (or any other non-executable dollar value (i.e., \$0, \$1, \$2, or \$10)) lines created on a case for the sole purpose of serving as a placeholder for requirements or tracking purposes is not authorized. An ETP must be requested for any lines that must remain on a case at minimal-dollar value (or any other non-executable dollar value (i.e., \$0, \$1, \$2, or \$10)) due to audit or other transactional requirements. If the minimal-dollar value line is the only line on the case, the case should go to closure. When a case is closing at minimal-dollar value, an ETP is required to ensure the appropriate amount of FMS Administrative funds is collected or the case is approved for zero FMS Administrative funds collected.

**C6.7.6.3. Request for Foreign Military Sales and Building Partner Capacity Exceptions.** There are several exceptions to the general prohibition on the use of minimal-dollar value lines (or any other non-executable dollar value (i.e., \$0, \$1, \$2, or \$10)). IAs are not required to submit an ETP if one of the situations listed below applies to the relevant FMS or BPC case. Otherwise, the IA must request and receive an approved ETP for any lines that must remain on a case at minimal-dollar value (or any other non-executable dollar value (i.e., \$0, \$1, \$2, or \$10)) due to audit or other transactional requirements. Requests for an ETP should be submitted through the ETP mailbox and will be provided to DSCA (OBO/FPRE/FP) for decision.

- a. The line is associated with the Euro-North Atlantic Treaty Organization (NATO) Joint Jet Pilot Training Program (ENJJPT).
- b. The line is associated with the Electronic Combat International Security Assistance Program (ECISAP) Electronic Warfare (EW) classified and unclassified software and hardware.
- c. The line is for EDA grants under the [Foreign Assistance Act \(FAA\) of 1961](#).
- d. The line is for classified software when the development costs are on other lines.
- e. The minimal-dollar value line remains on a BPC case where unused funds were reprogrammed for other BPC program priorities.
- f. The line includes defense articles or defense services redirected from and funded under another BPC case.  
  
For a case line that includes defense articles or services redirected from another BPC case, the line value should reflect \$1 and the line note should include the original case and line, quantity, item description, and location where these items are being redirected.

g. Minimal-dollar value training lines for BPC or FMS cases for the purpose of student accounting in Defense Security Assistance Management System - Training Module (DSAMS-TM) for student management and congressional reporting purposes. The two most common situations for creating minimal-dollar value training lines are 1) when the training is funded on a separate line on the same case (i.e., for regional BPC programs where training is funded through a separate BPC case or another line on the same regional BPC case) and 2) when a case that includes the provision of equipment has training costs embedded on the case line for such equipment.

## C6.8. - Case Cancellation

**C6.8.1. Purchaser-Requested Case Cancellations.** Purchasers may request that their Foreign Military Sales (FMS) cases be cancelled. After a case has been implemented, cancellations are processed as a closure of the case. The purchaser is responsible for any termination costs as well as any estimated administrative costs associated with the case. The minimum, non-refundable amount of administrative costs will be: the value when combining the existing Small Case Management Line (SCML) value and the estimated FMS administrative surcharge value not to exceed \$15,000; or one-half of the FMS administrative surcharge estimated on the case; or the standard FMS administrative surcharge percentage of the expended value whichever is greater. An Implementing Agency's (IA's) recommendation to charge other than these amounts must be submitted to the DSCA (Office of Business Operations, Financial Policy & Regional Execution Directorate, Financial Policy Division (OBO/FPRE/FP)) for approval. See Section C16.4.7. for information on closing cases with \$0 delivered value. For cases closing with a case value greater than or equal to \$25 million the IA will submit a recommended non-refundable FMS administrative surcharge amount to DSCA (OBO/FPRE/FP) for approval. DSCA countersignature of a Letter of Offer and Acceptance (LOA) Modification does not constitute DSCA approval of the recommended non-refundable FMS administrative surcharge amount. Requests submitted to DSCA must include the SCML LOA note found in [Appendix 6](#).

**C6.8.1.1.** Brief description of the case to include the basic LOA acceptance date and the terms of sale used.

**C6.8.1.2.** Copy of the purchaser's request for case cancellation or a written explanation why the case was cancelled.

**C6.8.1.3.** Statement whether costs to implement, execute, and cancel the case will be recouped by the administrative charge assessed on the actual delivered value.

**C6.8.1.4.** Minimum amount of FMS administrative charge that would normally be charged in accordance with current policy and a statement whether costs to implement, execute, and cancel the case will be recouped by that amount. If a different amount is recommended, include the proposed amount and justification.

**C6.8.2. United States Government-Requested Case Cancellations.** In accordance with the LOA Standard Terms and Conditions (see [Figure C5.F4.](#)) the USG may cancel a case (or any part of a case) when U.S. national interest requires. The amount of administrative charges assessed against cases cancelled by the USG must be approved by DSCA (OBO/FPRE/FP) even if the proposed amount is \$0.