



**United States of America  
Letter of Offer and Acceptance (LOA)**

**S6-B-E02**

**Under the Foreign Assistance Act Section 607**

Based on State of Bahrain MOT LOR No. EMD/9/P/109.00-SA/029, (continued on page 2)

Pursuant to the Arms Export Control Act, the Government of the United States (USG) offers to sell to the Government of Bahrain State of Bahrain Ministry of Transportation, Civil Aviation Affairs Bahrain International Airport, P.O. Box 586 Bahrain, the defense articles or defense services (which may include defense design and construction services) collectively referred to as "items," set forth herein, subject to the provisions, terms, and conditions in this LOA.

This LOA is for services of USACE to begin provision of the requested support. This LOA may be amended as required to provide for additional support to (continued on page 2)

Estimated Cost: \$362,502

Initial Deposit: \$362,502

Terms of Sale:

Cash with Acceptance \$362,502.00

This offer expires on 5 August 2002. Unless a request for extension is made by the Purchaser and granted by the USG, the offer will terminate on the expiration date.

This LOA consists of page 1 through page 14.

The undersigned are authorized representatives of their Governments and hereby offer and accept, respectively, this LOA:

21 May 2002

_____ US Signature	_____ Date	_____ Purchaser Signature	_____ Date
MERDITH B. TEMPLE Commander			
_____ Typed Name and Title		_____ Typed Name and Title	
U.S. Army Corps of Engineers Trans Atlantic Division			
_____ Implementing Agency		_____ Agency	
_____ DSCA Reviewed/Approved	10 Jun 2002		
_____ DSCA	_____ Date		

Information to be provided by the Purchaser:

Mark For Code \_\_\_\_, Freight Forwarder Code \_\_\_\_, Purchaser Procuring Agency Code \_\_\_\_, Name and Address of the Purchaser's Paying Office: \_\_\_\_\_

\_\_\_\_\_

Customer reference continued: Subj: Study of Options For a Second Runway at Bahrain International Airport

Case description continued: Ministry of Transportation, Government of Bahrain.

**Items to be Supplied (costs and months for delivery are estimates):**

(1) Itm Nbr	(2) Description/Condition	(3) Qty, Unit of Issue	(4) Costs	(5) SC/MOS/ TA	(6) Ofr Rel Cde	(7) Del Trm Cde
	(a)Unit		(b) Total			
001	M1G 020500ENGTECA (N)		<u>\$353,660</u>			
2	ENGINEERING TECHNICAL ASSISTANCE		(Line Total)			
	The United States Army Corps of Engineers shall provide planning, engineering, design and related procurement services in order to accomplish the following specified requirements.					
	a. Survey and develop a strategic planning report with options for the addition of a second runway, including an order of magnitude construction cost estimate, associated bar schedule and programming recommendations. Delivery shall be within eight months from acceptance.		\$353,660	X(12) TA6	-	-
	b. Preparation of Engineering Designs and solicitation documents for the construction of a second runway at the Bahrain International Airport. (Not Priced)			X(-) TA6	-	-
	c. Construction management, supervision and turnover. (Not Priced)			X(-) TA6	-	-

**Estimated Cost Summary:**

(8) Net Estimated Cost	\$353,660
(9) Packing, Crating, and Handling	0
(10) Administrative Charge	8,842
(11) Transportation	0
(12) Other	0
(13) Total Estimated Cost	\$362,502

**To assist in fiscal planning, the USG provides the following anticipated costs of this LOA:**

**ESTIMATED PAYMENT SCHEDULE**

<u>Payment Date</u>	<u>Quarterly</u>	<u>Cumulative</u>
Initial Deposit	\$362,502	\$362,502

Explanation for acronyms and codes, and financial information, may be found in the "Letter of Offer and Acceptance Information."

**Signed Copy Distribution:**

1. Upon acceptance, the Purchaser should return one signed copy of this LOA to Defense Finance and Accounting Service - Denver, ATTN: DFAS-AY/DE, 6760 E. Irvington Place, Denver, CO 80279-2000 . Simultaneously, wire transfer of the initial deposit or amount due with acceptance of this LOA document (if required) should be made to financial institution identifier 021030004 TREAS NYC, Agency Location Code 00003801, showing "Payment from FAA, 607 Sales -Pay In Advance for S6-B-E02"; or a check for the initial deposit, made payable to the US Treasury, mailed to DFAS-ADCTA/DE, P.O.Box 173659, Denver, CO 80217-3659, showing "Payment from FAA, 607 Sales -Pay In Advance for S6-B-E02". Wire transfer is preferred.
2. One signed copy should be returned to Department of the Army, U.S. Army Corps of Engineers 20 Massachusetts Avenue NW Washington, DC 20314-1000.

**Note 1.**

The costs of this Letter of Offer and Acceptance include all known charges. If for any reason, U.S. Army Corps of Engineers personnel or contract personnel are made to pay any national or local taxes, tariffs, levies, or charges, these charges will be added to the costs of the Letter of Offer and Acceptance and the Government of Bahrain will reimburse the U.S. Army Corps of Engineers the full amount of these charges.

**Note 2. OFFSET COSTS.**

Offset costs may be included in this LOA if it is financed wholly by Purchaser cash or repayable credit. The DOD is not a party to any offset agreements/arrangements which may be required by the Purchaser in relation to the sales made in this LOA and assumes no obligation to administer or satisfy any offset requirements or bear any of the associated costs. (06)

**Note 3. Section 607(1).**

This sale is made under the authority of Section 607 of the U.S. Foreign Assistance Act of 1961 (22 U.S.C. 2357) and the Determination thereunder, a copy of which is attached to this Letter of Offer and Acceptance. Any reference in this Letter of

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Offer and Acceptance to the U.S. Arms Export Control Act, or to defense articles or defense services shall be construed instead to be a reference to the U.S. Foreign Assistance Act and the Determination thereunder, and to commodities and services, respectively. All other terms, conditions, and procedures under this Letter of Offer and Acceptance apply to this transaction.

**Note 4. Section 607(2).**

The Purchaser shall, except as may otherwise be mutually agreed in writing by the USG, use the items sold under this Letter of Offer and Acceptance, or direct their use by personnel and organizations under its auspices only for purposes authorized.

**Note 5. PRIVILEGES AND IMMUNITIES.**

Privileges and immunities for U.S. Army Corps of Engineers and contractor personnel entering Bahrain pursuant to this Agreement shall be the same as those provided to "members of the U.S. forces" in paragraph 5 of the Agreement Between the Government of the United States of America and the Government of the State of Bahrain Concerning the Deployment of United States Forces, January 13, 1991.

**Note 6. TAXES, DUTIES, AND CHARGES FOR DOING BUSINESS.**

The contract(s) implementing this LOA will include the clause entitled "Taxes-Foreign Fixed-Price Contracts (Jan 1991)" set forth in Federal Acquisition Section 52.229-6; therefore, price and delivery estimates within this LOA anticipate the following:

a. Property, material, equipment, household furniture, appliances, and supplies imported into Bahrain by contractor exclusively for use in support of the Contractor and its personnel and consigned and marked as required or approved by the USG will be exempt from import and export duties, taxes, licenses, excises, imposts, and any other identifiable charges. The Contractor will maintain any inventory control and accounting system adequate to reflect the usage and disposition of all contractor owned property which has entered Bahrain duty-free under this LOA.

b. The GOB, its agencies, and political subdivisions will levy no taxes or fees (including taxes on individual or corporate income or property, customs and import duties, or other taxes on employee personal household goods, supplies and personal effects imported into Bahrain for personal use) on the Contractor, its employees, or the dependents of such employees. Such tax exclusion shall not apply to Bahraini taxes levied on the purchase in Bahrain of household goods, automobiles and other items for personal use by the employees of the contractor or subcontractors. Such tax exclusion shall not apply to the income of Bahraini individuals [persons] contractors, or subcontractors.

c. Within the framework of the laws of the GOB, the Purchaser will provide to the Contractor such tax exemption certificates or other documents needed to assist the Contractor in obtaining relief from GOB taxes, duties, and charges which are excludable under this Note paragraph a or b.

d. If any charges under this Note paragraph a or b are imposed by the GOB, in contradiction of this agreement, such costs incurred by the Contractor may be reimbursed to the Contractor in whole or in part, including applicable overhead and General and Administrative costs, but excluding profit. The decision as to whether circumstances warrant reimbursement will be taken by the USG in accordance with the terms of the contract, and applicable U.S. laws and regulations. Any such reimbursement will be made from funds to be provided by the GOB under this LOA.

**Note 7. ADMINISTRATIVE CHARGES.**

An administrative surcharge of 2.5% has been applied to line 1. (A4Q)

**Note 8.**

By letter dated 9 March 2002 the Embassy of the United States of America endorses the

Government of Bahrain's (GOB) request for the services of the United States Army Corps of Engineers.

**Note 9. UNAUTHORIZED USE OF DEFENSE ARTICLES.**

Defense articles furnished under this LOA may be used only for those authorized purposes set forth in section 2.2 of the Standard Terms and Conditions, unless the written consent of the USG has been obtained for a different use. The USG retains the right to verify reports that such defense articles have been used for purposes not authorized or for uses not consented to by the USG. (U1)

**Note 10. TRANSLATION.**

Publications/documents supplied on this LOA are in the English language. The responsibility for the translation of any document rests with the purchaser. However, when information is translated, the English text is still the officially binding document. (T13.B)

**Note 11. PASSPORTS, VISAS, LICENSES, AND PERMITS.**

a. Cost and delivery estimates herein anticipate the Government of Bahrain (GOB) will, within the framework of the laws of GOB, ensure the timely issuance of work, entry, or exit visas; work, vehicle operator, residence, or in country travel permits; and any other appropriate licenses or permits required of the personnel, including dependents, to carry out this effort.

b. The U.S. contractor shall be responsible for timely and complete submittal of the necessary information and forms directly to the appropriate GOB agency for the required passports, visas, licenses, or permits. The contractor shall be responsible for the sponsorship of its employees and their dependents and shall process said permits directly with the appropriate GOB agency.

c. The Purchaser will receive, without regard to race, religion, sex, or ethnic or national origin, persons of other than Bahrainian nationality imported into Bahrain, under proper authority, to work exclusively on efforts covered by the provisions of this contract, who have USG issued passports, provided they are technically qualified for the work and meet the security requirements of the Purchaser, and will impose on such person no fee or charges for entry, exit, quarantine, nor will they require work or residence permits for personnel working under this contract.

d. Work forces of contractors and subcontractors may be of nationalities other than U.S. or Bahrainian and subject to individual security approval by the host government.

e. If, notwithstanding the above agreements, the Contractor(s) incurs costs arising out of any of the conditions described above, the price of the contract implementing this LOA shall be increased accordingly and the costs reimbursed to the Contractor(s) out of funds which will be provided by the Purchaser under this LOA, and the contract delivery schedule shall be appropriately adjusted. Reimbursement shall be limited to those costs incurred, including applicable overhead and General and Administrative (G and A) costs.

**Note 12. ACCESS.**

Cost and delivery schedules herein anticipate that U.S. personnel in Bahrain will be authorized, at no cost, reasonable access to all data, plans, reports, or other information and all existing and proposed offices, sites, and areas within Bahrain as required to accomplish this effort.

**Note 13. SECURITY.**

Price and delivery estimates anticipate that the Purchaser will provide adequate

security to protect personnel and property associated with this LOA and located on Purchaser military bases, installations, or other designated work sites.

#### **Note 14. LIMITATION OF CONTRACTOR(S) LIABILITY.**

##### **14.0 WAIVER OF CLAIMS:**

a. In addition and without prejudice to General Condition 3, the Purchaser agrees, with respect to the Contractor:

(1) To waive any or all claims which it has or may have against the Contractor, its agents, officers, and employees, for damage, loss or destruction of property of third persons, or for injury to or death of third persons, arising out of the Contractor's participation in this program in the absence of gross negligence or willful misconduct on the part of the Contractor, its agents or employees.

(2) To indemnify and hold harmless the Contractor(s), its agents, officers, and employees against all claims arising directly or indirectly by reason of injury to or death of persons or loss of or damage to property of third persons, out of the Contractor's participation in this program, in the absence of gross negligence or willful misconduct on the part of the Contractor, its agents or employees.

(3) In the event any other Contractor or party asserts any claim or commences any action in the Bahrainian courts or elsewhere against the Contractor(s) because of program efforts, the Purchaser agrees to cooperate fully in the defense of such claim or action including the furnishing of witnesses and evidence at Purchaser's expense. Except for claims or losses arising out of any breach of this contract or subcontracts thereunder or violations of any statute of the U.S. by the Contractor(s), the Purchaser agrees to indemnify the Contractor(s) against any judgments or losses which may result from claims or litigation and to reimburse the Contractor(s) for the expense resulting from any such action out of funds provided by the Purchaser under this LOA.

(4) To accept full responsibility for the security and safekeeping of Purchaser real and personal property located on its military bases or installations. The Contractor(s), its/their agents, officers, or employees shall not be liable for any damage arising directly out of a breach or failure of Purchaser security procedures, however caused.

(5) The term "agents" as used in this paragraph includes subcontractors.

b. If, notwithstanding the above agreements, the Contractor(s) incurs costs arising out of any of the conditions described above, the price of the contract implementing this LOA shall be increased accordingly and the costs reimbursed to the Contractor(s) out of funds which will be provided by the Purchaser under this LOA. Reimbursement shall be limited to those costs incurred, including applicable overhead and G and A costs, but excluding profit.

##### **14.1 SPECIAL CONTINGENCIES PROVISION:**

a. It is understood that no contingency pricing has been included in this LOA for items (1) through (4) set forth in paragraph b, below.

b. The Purchaser agrees, with respect to the Contractor(s), that in the event of the following situation(s) occurring as a result of effort performed in support of this LOA in Bahrain, an adjustment to the resulting contract(s) will be made for:

(1) Cost incurred due to actions brought against the Contractor(s) or subcontractor under Bahrainian Labor or Social Insurance Laws, provided such actions

were not caused by conduct prohibited by other laws or willful contravention of Bahrainian Labor or Social Laws.

(2) Additional costs incurred resulting from Purchaser's prevention of shipment of Contractor(s) or employee belongings in or out of Bahrain within 120 days of the date such property is made available for shipment where transportation is otherwise reasonably available.

(3) An increase or decrease in costs incurred by the Contractor(s) resulting from war, armed conflict, insurrection, nationalization, civil or military strife, or similar conditions, or acts of God where the safety of the Contractor(s) and subcontractors personnel is threatened, and where retention or replacement of such personnel is required and damage or loss as a result of conditions listed above to property owned by the Contractor(s), subcontractors, or employees. Whether to retain or replace such personnel shall be within the sole discretion of the USG.

(4) An increase or decrease in costs incurred by the Contractor(s) or its subcontractors resulting from the Purchaser changing any laws, regulations, or policy in effect on the acceptance date of this LOA.

c. It is understood that no adjustment shall be made due to the below situations:

(1) To the extent that performance would have been delayed or interrupted or that costs would have been incurred due to any circumstances not set forth in b, above; or

(2) to the extent that performance would have been delayed or interrupted or that costs would have been incurred due to the fault or negligence of the Contractor(s); or

(3) for which an adjustment is otherwise provided or excluded under any other provision of the resulting contract, such other provision shall be enforced in accordance with its terms.

d. The adjustments provided for in this provision may be made in the delivery or performance dates and any other provision of the contract implementing this LOA, affected by the above conditions. Upward or downward adjustments may also be made in the contract price, but shall be limited to actual costs, including overhead and G and A costs, but excluding profit. FAR Section XV, Cost Principles, shall be used in determining the amount of any price adjustment, and is not superseded by any provision herein. Costs reimbursed to the Contractor(s) under this provision shall be paid out of funds which will be provided by the Purchaser under this LOA.

LETTER OF OFFER AND ACCEPTANCE STANDARD TERMS AND CONDITIONS

Section

1 Conditions - United States Government (USG) Obligations

2 Conditions - General Purchaser Agreements

3 Indemnification and Assumption of Risks

4 Financial Terms and Conditions

5 Transportation and Discrepancy Provisions

6 Warranties

7 Dispute Resolution

1 Conditions - United States Government (USG) Obligations

1.1 Unless otherwise specified, items will be those which are standard to the US Department of Defense (DOD), without regard to make or model.

1.2 The USG will furnish the items from its stocks and resources, or will procure them under terms and conditions consistent with DOD regulations and procedures. When procuring for the Purchaser, DOD will, in general, employ the same contract clauses, the same contract administration, and the same quality and audit inspection procedures as would be used in procuring for itself, except as otherwise requested by the Purchaser and as agreed to by DOD and set forth in this LOA. Unless the Purchaser has requested, in writing, that a sole source contractor be designated, and this LOA reflects acceptance of such designation by DOD, the Purchaser understands that selection of the contractor source to fill requirements is the responsibility of the USG, which will select the contractor on the same basis used to select contractors for USG requirements. Further, the Purchaser agrees that the US DOD is solely responsible for negotiating the terms and conditions of contracts necessary to fulfill the requirements in this LOA.

1.3 The USG will use its best efforts to provide the items for the dollar amount and within the availability cited.

1.4 Under unusual and compelling circumstances, when the national interest of the US requires, the USG reserves the right to cancel or suspend all or part of this LOA at any time prior to the delivery of defense articles or performance of defense services. The USG shall be responsible for termination costs of its suppliers resulting from cancellation or suspension under this section. Termination by the USG of its contracts with its suppliers, other actions pertaining to such contracts, or cessation of deliveries or performance of defense services is not to be construed as cancellation or suspension of this LOA itself under this section.

1.5 US personnel performing defense services under this LOA will not perform duties of a combatant nature, including duties relating to training and advising that may engage US personnel in combat activities outside the US, in connection with the performance of these defense services.

1.6 The assignment or employment of US personnel for the performance of this LOA by the USG will not take into account race, religion, national origin, or sex.

1.7 Unless otherwise specified, this LOA may be made available for public inspection consistent with the national security of the United States.

2 Conditions - General Purchaser Agreements

2.1 The Purchaser may cancel this LOA or delete items at any time prior to delivery of defense articles or performance of defense services. The Purchaser is responsible for all costs resulting from cancellation under this section.

2.2 The Purchaser agrees, except as may otherwise be mutually agreed in writing, to use the defense articles sold hereunder only:

2.2.1 For purposes specified in any Mutual Defense Assistance Agreement between the USG and the Purchaser;

2.2.2 For purposes specified in any bilateral or regional defense treaty to which the USG and the Purchaser are both parties, if section 2.2.1 is inapplicable; or,

2.2.3 For internal security, individual self-defense, or civic action, if sections 2.2.1 and 2.2.2 are inapplicable.

2.3 The Purchaser will not transfer title to, or possession of, the defense articles, components and associated support material, related training or other defense services (including plans, specifications, or information), or technology furnished under this LOA to anyone who is not an officer, employee, or agent of the Purchaser (excluding transportation agencies), and shall not use or permit their use for purposes other than those authorized, unless the written consent of the USG has first been obtained. The Purchaser will ensure, by all means available to it, respect for proprietary rights in any items and any plans, specifications, or information furnished, whether patented or not. The Purchaser also agrees that the defense articles offered will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus, and recognizes that the US Congress is required to be notified of any substantial evidence that the defense articles sold in this LOA have been used in a manner which is inconsistent with this provision.

2.4. To the extent that items, including plans, designs, specifications, technical data, or information, furnished in connection with this LOA may be classified by the USG for security purposes, the Purchaser certifies that it will maintain a similar classification and employ measures necessary to preserve such security, equivalent to those employed by the USG and commensurate with security agreements between the USG and the Purchaser. If such security agreements do not exist, the Purchaser certifies that classified items will be provided only to those individuals having an adequate security clearance and a specific need to know in order to carry out the LOA program and that it will promptly and fully inform the USG of any compromise, or possible compromise, of US classified material or information furnished pursuant to this LOA. The Purchaser further certifies that if a US classified item is to be furnished to its contractor pursuant to this LOA: (a) items will be exchanged through official government channels, (b) the specified contractor has been granted a facility security clearance by the Purchaser at a level at least equal to the classification level of the US information involved, (c) all contractor personnel requiring access to such items have been cleared to the appropriate level by the Purchaser, and (d) the Purchaser will assume responsibility for administering security measures while in the contractor's possession. If a commercial transportation agent is to be used for shipment, the Purchaser certifies that such agent has been cleared at the appropriate level for handling classified items. These measures will be maintained throughout the period during which the USG may maintain such classification. The USG will use its best efforts to notify the Purchaser if the classification is changed.

3 Indemnification and Assumption of Risks



3.1 The Purchaser recognizes that the USG will procure and furnish the items described in this LOA on a non-profit basis for the benefit of the Purchaser. The Purchaser therefore undertakes to indemnify and hold the USG, its agents, officers, and employees harmless from any and all loss or liability (whether in tort or in contract) which might arise in connection with this LOA because of:

3.1.1 Injury to or death of personnel of Purchaser or third parties, or

3.1.2 Damage to or destruction of (a) property of DOD furnished to Purchaser or suppliers specifically to implement this LOA, (b) property of Purchaser (including the items ordered by Purchaser pursuant to this LOA, before or after passage of title to Purchaser), or (3) property of third parties, or

3.1.3 Infringement or other violations of intellectual property or technical data rights.

3.2 Subject to express, special contractual warranties obtained for the Purchaser, the Purchaser agrees to relieve the contractors and subcontractors of the USG from liability for, and will assume the risk of, loss or damage to:

3.2.1 Purchaser's property (including items procured pursuant to this LOA, before or after passage of title to Purchaser), and

3.2.2 Property of DOD furnished to suppliers to implement this LOA, to the same extent that the USG would assume for its property if it were procuring for itself the items being procured.

4 Financial Terms and Conditions

4.1 The prices of items to be procured will be billed at their total cost to the USG. Unless otherwise specified, the cost of items to be procured, availability determination, payment schedule, and delivery projections quoted are estimates based on the best available data. The USG will use its best efforts to advise the Purchaser or its authorized representatives of:

4.1.1 Identifiable cost increases that might result in an overall increase in the estimated costs in excess of ten percent of the total value of this LOA,

4.1.2 Changes in the payment schedule, and

4.1.3 Delays which might significantly affect estimated delivery dates. USG failure to advise of the above will not change the Purchaser's obligation under all subsections of section 4.4.

4.2 The USG will refund any payments received for this LOA which prove to be in excess of the final total cost of delivery and performance and which are not required to cover arrearages on other LOAs of the Purchaser.

4.3 Purchaser failure to make timely payments in the amounts due may result in delays in contract performance by DOD contractors, claims by contractors for increased costs, claims by contractors for termination liability for breach of contract, claims by USG or DOD contractors for storage costs, or termination of contracts by the USG under this or other open Letters of Offer and Acceptance of the Purchaser at the Purchaser's expense.

4.4 The Purchaser agrees:

4.4.1 To pay to the USG the total cost to the USG of the items even if costs exceed the amounts estimated in this LOA.

4.4.2 To make payment(s) by check or wire transfer payable in US dollars to the Treasurer of the United States.

4.4.3 If Terms of Sale specify "Cash with acceptance", to forward with this LOA a check or wire transfer in the full amount shown as the estimated Total cost, and agrees to make additional payment(s) upon notification of cost increase(s) and request(s) for funds to cover such increase(s).

4.4.4 If Terms of Sale specify payment to be "Cash prior to delivery", to pay to the USG such amounts at such times as may be specified by the USG (including initial deposit) in order to meet payment requirements for items to be furnished from the resources of DOD. USG requests for funds may be based on estimated costs to cover forecasted deliveries of items. Payments are required 90 days in advance of the time DOD plans such deliveries or incurs such expenses on behalf of the Purchaser.

4.4.5 If Terms of Sale specify payment by "Dependable Undertaking", to pay to the USG such amounts at such times as may be specified by the USG (including initial deposit) in order to meet payments required by contracts under which items are being procured, and any damages and costs that may accrue from termination of contracts by the USG because of Purchaser's cancellation of this LOA. USG requests for funds may be based upon estimated requirements for advance and progress payments to suppliers, estimated termination liability, delivery forecasts, or evidence of constructive delivery, as the case may be. Payments are required 90 days in advance of the time USG makes payments on behalf of the Purchaser.

4.4.6 If Terms of Sale specify "Payment on delivery", that bills may be dated as of the date(s) of delivery of the items, or upon forecasts of the date(s) thereof.

4.4.7 That requests for funds or billings are due and payable in full on presentation or, if a payment date is specified in the request for funds or bill, on the payment date so specified, even if such payment date is not in accord with the estimated payment schedule, if any, contained in this LOA. Without affecting Purchaser's obligation to make such payment(s) when due, documentation concerning advance and progress payments, estimated termination liability, or evidence of constructive delivery or shipment in support of requests for funds or bills will be made available to the Purchaser by DOD upon request. When appropriate, the Purchaser may request adjustment of any questioned billed items by subsequent submission of a discrepancy report.

4.4.8 To pay interest on any net amount by which it is in arrears on payments, determined by considering collectively all of the Purchaser's open LOAs with DOD. Interest will be calculated on a daily basis. The principal amount of the arrearage will be computed as the excess of cumulative financial requirements of the Purchaser over total cumulative payments after quarterly billing payment due dates. The rate of interest paid will be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the USG as of the last day of the month preceding the net arrearage and shall be computed from the date of net arrearage.

4.4.9 To designate the Procuring Agency and responsible Paying Office and address thereof to which the USG will submit requests for funds and bills under this LOA.

5 Transportation and Discrepancy Provisions

5.1 The USG agrees to deliver and pass title to the Purchaser at the initial point of shipment unless otherwise specified in this LOA. With respect to items procured for sale to the Purchaser, this will normally be at the manufacturer's loading facility; with respect to items furnished from USG stocks, this will normally be at the US depot. Articles will be packed, crated, or otherwise prepared for shipment prior to the time title passes. If "Point of Delivery" is specified other than the initial point of shipment, the supplying US Department or Agency will arrange movement of the articles to the authorized delivery point as a reimbursable service but will pass title at the initial point of shipment. The USG disclaims any liability for damage or loss to the items incurred after passage of title irrespective of whether transportation is by common carrier or by the US Defense Transportation System.

5.2 The Purchaser agrees to furnish shipping instructions which include Mark For and Freight Forwarder Codes based on the Offer/Release Code.

5.3 The Purchaser is responsible for obtaining insurance coverage and customs clearances. Except for articles exported by the USG, the Purchaser is responsible for ensuring that export licenses are obtained prior to export of US defense articles. The USG incurs no liability if export licenses are not granted or they are withdrawn before items are exported.

5.4 The Purchaser agrees to accept DD Forms 645 or other delivery documents as evidence that title has passed and items have been delivered. Title to defense articles transported by parcel post passes to the Purchaser at the time of parcel post shipment. Standard Form 364 will be used in submitting claims to the USG for overage, shortage, damage, duplicate billing, item deficiency, improper identification, improper documentation, or non-shipment of defense articles and non-performance of defense services and will be submitted promptly by the Purchaser. DOD will not accept claims related to items of \$200 or less for overages, shortages, damages, non-shipment, or non-performance. Any claim, including a claim for shortage (but excluding a claim for nonshipment/nonreceipt of an entire lot), received after one year from passage of title to the article or from scheduled performance of the service will be disallowed by the USG unless the USG determines that unusual and compelling circumstances involving latent defects justify consideration of the claim. Claims, received after one year from date of passage of title or initial billing, whichever is later, for nonshipment/nonreceipt of an entire lot will be disallowed by the USG. The Purchaser agrees to return discrepant articles to USG custody within 180 days from the date of USG approval of such return.

6 Warranties

6.1 The USG does not warrant or guarantee any of the items sold pursuant to this LOA except as provided in section 6.1.1. DOD contracts include warranty clauses only on an exception basis. If requested by the Purchaser, the USG will, with respect to items being procured, and upon timely notice, attempt to obtain contract provisions to provide the requested warranties. The USG further agrees to exercise, upon the Purchaser's request, rights (including those arising under any warranties) the USG may have under contracts connected with the procurement of these items. Additional costs resulting from obtaining special contract provisions or warranties, or the exercise of rights under such provisions or warranties, will be charged to the Purchaser.

6.1.1 The USG warrants the title of items sold to the Purchaser hereunder but makes no warranties other than those set forth herein. In particular the USG disclaims liability resulting from infringement or other violation of intellectual property or technical data rights occasioned by the use or manufacture outside the US by or for the Purchaser of items supplied hereunder.

6.1.2 The USG agrees to exercise warranties on behalf of the Purchaser to assure, to the extent provided by the warranty, replacement or correction of such items found to be defective, when such materiel is procured for the Purchaser.

6.2 Unless the condition of defense articles is identified to be other than serviceable (for example, "As-is"), DOD will repair or replace at no extra cost defense articles supplied from DOD stocks which are damaged or found to be defective in respect to material or workmanship when it is established that these deficiencies existed prior to passage of title, or found to be defective in design to such a degree that the items cannot be used for the purpose for which they were designed. Qualified representatives of the USG and of the Purchaser will agree on the liability hereunder and the corrective steps to be taken.

7 Dispute Resolution

7.1 This LOA is subject to US Federal procurement law.

7.2 The USG and the Purchaser agree to resolve any disagreement regarding this LOA by consultations between the USG and the Purchaser and not to refer any such disagreement to any international tribunal or third party for settlement.

LETTER OF OFFER AND ACCEPTANCE INFORMATION

1. GENERAL. This provides basic information pertaining to the LOA for US and Purchaser use. Additional information may be obtained from the Security Assistance Management Manual, DOD 5105.38-M, the in-country Security Assistance Office, the DSCA Country Director, or from the implementing agency.

2. INFORMATION ENTERED BY THE USG.

a. Terms of Sale, and Purchaser responsibilities under those Terms, are described on the LOA. A list of all Terms of Sale, with explanations for each, are shown in DOD 5105.38-M.

b. Description/Condition. The item description consists of coding for use in US management of the LOA (starting with Generic/MASL and MDE "(Y)" or non-MDE "(N)" data such as that in DOD 5105.38-M, Appendix D) plus a short description of what is to be provided. When items are serviceable, Code "A" (new, repaired, or reconditioned material which meets US Armed Forces standards of serviceability) may be used; otherwise, Code "B" (unserviceable or mixed condition without repair, restoration, or rehabilitation which may be required) may be used. In some instances, reference to a note in the Terms and Conditions may complement or replace these codes.

c. The Unit of Issue is normally "EA" (each, or one; for example, 40 EA) or blank (unit of issue not applicable; for example, services or several less significant items consolidated under one LOA Item Number). When blank, a quantity or Unit Cost is not shown.

d. The Source Code (SC) in the Articles or Services to be Supplied Section is one or more of the following:

S - Shipment from DOD stocks or performance by DOD personnel

P - From new procurement

R - From rebuild, repair, or modification by the USG

X - Mixed source, such as stock and procurement, or undetermined

E - Excess items, as-is

F - Special Defense Acquisition Fund (SDAF) items

e. Availability leadtime cited is the number of months (MOS) estimated for complete delivery of defense articles or performance of defense services. The leadtime starts with Acceptance of this Offer, including the conclusion of appropriate financial arrangements, and ends when items are made available to transportation.

f. Type of Assistance (TA) Codes are as follows:

3 - Source Code S, R, or E; based on Arms Export Control Act (AECA) Section 21(b).

4 - Source Code X; AECA Sections 21(b), 22(a), 29, or source undetermined.

5 - Source Code P; AECA Section 22(a).

6 - Source Code S, R, or E, payment on delivery; AECA Section 21(d).

7 - Source Code P, dependable undertaking with 120 days payment after delivery; AECA Section 22(b).

8 - Source Code S, R, or E, stock sales with 120 days payment after delivery; AECA Section 21(d).

M - MAP Merger; Foreign Assistance Act (FAA) Section 503(a)(3).

N - FMS Credit (Nonrepayable); AECA Sections 23 or 24.

U - Source Code P; Cooperative Logistics Supply Support Arrangement (CLSSA) Foreign Military Sales Order (FMSO) I.

V - Source Code S; CLSSA FMSO II stocks acquired under FMSO I.

Z - FMS Credit; AECA Sections 23 or 24.

g. Training notes: AP - Annual training program; SP - Special training designed to support purchases of US equipment; NC - This offer does not constitute a commitment to provide US training; SC - US training concurrently being addressed in separate LOA; NR - No US training is required in support of this purchase.

h. Offer Release Codes (Ofr Rel Cde) and Delivery Term Codes (Del Trm Cde) below may also be found in DOD 4500.32-R, MILSTAMP, Appendix M, Figure M-1. The following Offer Release Codes also pertain to release of items for shipment back to Purchaser on repair LOAs:

A - Freight and parcel post shipments will be released automatically by the shipping activity without advance notice of availability.

Y - Advance notice is required before release of shipment, but shipment can be released automatically if release instructions are not received by shipping activity within 15 calendar days. Parcel post shipments will be automatically released.

Z - Advance notice is required, before release of shipment. Shipping activity will follow-up on the notice of availability until release instructions are furnished. Parcel post shipments will be automatically released.

X - The Implementing Agency (IA) and country representative have agreed that the:

-- IA will sponsor the shipment to a country address. Under this agreement, the Freight Forwarder Code must also contain X and a Customer-within-Country (CC) Code must be entered in the Mark For Code on the front page of the LOA. The MAPAD must contain the CC Code and addresses for each type of shipment (parcel post or freight).

-- Shipments are to be made to an assembly point or staging area as indicated by clear instructions on exception requisitions. Under this agreement, the Freight Forwarder Code must contain W. A Mark For Code may be entered in the Mark For Code space on the front page of the LOA and the MAPAD must contain the Mark For Code if the Mark For Address is to be used on the shipment to the assembly point or staging area.

i. For the following Delivery Term Codes, DOD delivers:

2 - To a CONUS inland point (or overseas inland point when the origin and destination are both in the same geographic area)

3 - At the CONUS POE alongside the vessel or aircraft

4 - Not applicable (Purchaser has full responsibility at the point of origin. Often forwarded collect to country freight forwarder.)

5 - At the CONUS POE on the inland carrier's equipment

6 - At the overseas POD on board the vessel or aircraft

7 - At the overseas inland destination on board the inland carrier's equipment

- 8 - At the CONUS POE on board the vessel or aircraft
- 9 - At the overseas POD alongside the vessel or aircraft

Delivery Term Codes showing DOD transportation responsibility for repair LOAs are shown below. The LOA will provide a CONUS address for each item identified for repair. The customer must assure this address is shown on all containers and documentation when materiel is returned.

- A - From overseas POE through CONUS destination to overseas POD on board the vessel or aircraft
- B - From overseas POE through CONUS destination to CONUS POE on board the vessel or aircraft
- C - From CONUS POD on board the vessel or aircraft through CONUS destination to CONUS POE on board the vessel or aircraft
- D - From CONUS POD on board the vessel or aircraft through the CONUS destination to overseas POD on board the vessel or aircraft
- E - Not applicable (Purchaser has complete responsibility.)
- F - From overseas inland point through CONUS destination to overseas inland destination
- G - From overseas POE through CONUS destination to overseas POD alongside vessel or aircraft
- H - (For classified items) From CONUS inland point to CONUS POE alongside vessel or aircraft
- J - (For classified cryptographic items) From CONUS inland point to overseas inland destination

3. INFORMATION TO BE ENTERED BY THE PURCHASER. Mark For and Freight Forwarder Codes are maintained in the Military Assistance Program Address Directory (MAPAD), DOD 4000.25-8. The Purchaser Procuring Agency should show the code for the Purchaser's Army, Navy, Air Force, or other agency which is purchasing the item(s). The Name and Address of the Purchaser's Paying Office is also required.

a. Mark For Code. This Code should be entered for use in identifying the address of the organization in the Purchaser country which is to receive the items. This includes return of items repaired under an LOA.

(1) This address will be added by the US DOD to the Ship To address on all freight containers. It will also appear on items forwarded by small parcel delivery service, including parcel post. The address should include the port of discharge name and designator (water or air); country name, country service name, street, city, state or province, and (if applicable) in-country zip or similar address code.

(2) Shippers are not authorized to apply shipment markings. If codes and addresses are not published, containers will be received at the freight forwarder or US military representative in-country unmarked for onward shipment with resultant losses, delays, and added costs. The USG will sponsor shipment of this materiel to FOB US point of origin.

b. Freight Forwarder Code. When Offer Release Code X applies, Code X or W, discussed under Offer Release Code X above, must be entered.

#### 4. FINANCIAL.

a. The method of financing is shown in the LOA, Amendment, or Modification. The initial deposit required with Purchaser signature of the LOA is an integral part of the acceptance.

b. LOA payment schedules are estimates, for planning purposes. DFAS-AWC/DE will request payment in accordance with the payment schedule unless DOD costs, including 90-day forecasted requirements, exceed amounts required by the payment schedule. When this occurs, the US will use its best efforts to provide a new schedule via LOA Modification at least 45 days prior to the next payment due date. The Purchaser is required to make payments in accordance with quarterly DD Forms 645 issued by DFAS-AWC/DE regardless of the existing payment schedule.

c. The DD Form 645 serves as the bill and statement of account. An FMS Delivery Listing, identifying items physically or constructively delivered and services performed during the billing period, will be attached to the DD Form 645. DFAS-AWC/DE forwards these forms to the Purchaser within 45 days before payments are due and Purchasers must forward payments in US dollars to the USG in time to meet prescribed due dates. Costs in excess of amounts funded by FMF agreements must be paid by the Purchaser. Questions concerning the content of DD Forms 645 and requests for billing adjustments should be submitted to the Defense Finance and Accounting Service, ATTN: DFAS-AWC/DE, 6760 E. Irvington Place, Denver, CO 80279-2000.

d. The preferred method for forwarding cash payments is by bank wire transfer to the Department of the Treasury account at the Federal Reserve Bank of New York using the standard federal reserve funds transfer format. Wire transfers will be accepted by the Federal Reserve System (FRS) only from banks that are members of the FRS, therefore, non-US banks must go through a US correspondent FRS member bank. The following information is applicable to cash payments:

Wire transfer--  
United States Treasury   
New York, New York   
021030004   
DFAS-AWC/DE   
Agency Code 3801   
Payment from (country or international organization) for   
Letter of Offer and Acceptance (Identifier at   
the top of the first page of the LOA)

Check mailing address--  
Defense Finance and Accounting Service, ATTN: DFAS-AWC/DE   
6760 E. Irvington Place   
Denver, CO 80279-2000

e. To authorize payments from funds available under FMF loan or grant agreements, the Purchaser may be required to submit a letter of request to the Defense Finance and Accounting Service, ATTN: DFAS-AWC/DE, 6760 E. Irvington Place, Denver, CO 80279-2000. Purchasers should consult applicable FMF agreements for explicit instructions. Questions pertaining to the status of FMF financing and balances should be directed to DSCA/COMPT-FM.

f. Payments not received by DFAS-AWC/DE by the due date may be subject to interest charges as outlined in paragraph 4.4.8 of the LOA Standard Terms and Conditions.

g. The values on the LOA are estimates. The final amount will be equal to the cost to the USG. When deliveries are made and known costs are billed and collected, DFAS-AWC/DE will provide a "Final Statement of Account" which will summarize final costs. Excess funds will be available to pay unpaid billings on other statements or distributed as agreed upon between the Purchaser and the Comptroller, DSCA.

h. The Purchaser may cancel this LOA upon request to the implementing agency. An administrative charge that equals one-half of the applicable administrative charge rate times the ordered LOA value, which is earned on LOA acceptance, or the applicable administrative charge rate times the actual LOA value at closure, whichever is higher, may be assessed if this LOA is canceled after implementation.

5. CHANGES TO THE LOA. Changes may be initiated by the USG or by requests from the Purchaser. After acceptance of the basic LOA, these changes will take the form of Amendments or Modifications.

a. Amendments encompass changes in scope, such as those which affect the type or number of significant items to be provided. Amendments require acceptance by the USG and the Purchaser in the same manner as the original LOA.

b. Modifications include changes which do not constitute a change in scope, such as increases or decreases in estimated costs or delivery schedule changes. Modifications require signature only to acknowledge receipt by the Purchaser.

c. When signed, and unless alternate instructions are provided, copies of Amendments and Modifications should be given the same US distribution as the basic LOA.

d. Requests for changes required prior to acceptance by the Purchaser should be submitted to the implementing agency for consideration. See DOD 5105.38-M.

6. CORRESPONDENCE. Questions or comments regarding this LOA should identify the Purchaser request reference and the identification assigned by the implementing agency within DOD.

**The following attachments are also included with this LOA:**

1. SCOPE OF WORK #1

## 1. SCOPE OF WORK #1 (Case S6-B-E02)

The U.S. Army Corps of Engineers, Transatlantic Program Center (CETAC) shall provide planning, engineering, design and related procurement services in order to accomplish the following specified requirements.

1. SURVEY: CETAC shall conduct a survey of the Bahrain International Airport (BIA) to collect technical data and to confer with the airport engineers and operations staff.
2. STUDY AND REPORT: CETAC will evaluate and study the data and other information gathered during the survey for the purpose of preparing a preliminary study. The study will identify a practical means to accommodate a secondary runway at BIA. The study will be prepared in a bond report format and will include the following information.

2.1 A discussion of possible options for construction of an additional second runway. A brief discussion of the impacts of the option to the existing airport facilities will be included.

2.2 A rough order of magnitude cost estimate will be provided for each option. The estimate will be in sufficient detail to be used as a planning and budgetary tool.

2.4 A time schedule (bar chart) will be provided depicting the estimated time required for planning, design and construction of the options discussed.

3. The options will be ranked and a recommended option will be selected for formal presentation to the designated authority.