

C4. CHAPTER 4

FOREIGN MILITARY SALES PROGRAM GENERAL INFORMATION

C4.1. DEFINITION AND PURPOSE

C4.1.1. The Foreign Military Sales (FMS) Program is that part of Security Assistance authorized by the Arms Export Control Act (AECA) and conducted using formal contracts or agreements between the United States Government (USG) and an authorized foreign purchaser. These contracts, called Letters of Offer and Acceptance (LOAs), are signed by both the USG and the purchasing Government or international organization; and provide for the sale of defense articles and/or defense services (to include training) usually from Department of Defense (DoD) stocks or through purchase under DoD-managed contracts. As with all Security Assistance, the FMS program supports United States (U.S.) foreign policy and national security objectives.

C4.2. WHO MAY PURCHASE USING THE FMS PROGRAM

C4.2.1. Presidential Determination. Defense articles and/or services may be sold or leased to a country or international organization only if the President, in accordance with AECA, section 3 (reference (c)), makes a determination that the prospective purchaser is eligible. Table C4.T1. summarizes the AECA criteria for this determination.

Table C4.T1. - Presidential Determination Criteria for FMS Eligibility

FMS Eligibility Criteria	
1	The furnishing of defense articles and defense services to such country or international organization strengthens the security of the United States and promote world peace;
2	The country or international organization shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service so furnished to it or produced in a cooperative project, to anyone not an officer, employee, or agent of that country or international organization, and not to use or permit the use of such an article or related training or other defense service for purposes other than those for which furnished unless the consent of the President has first been obtained;
3	The country or international organization shall have agreed that it shall maintain the security of such article or service and provide substantially the same degree of security protection afforded to such article by the United States; and
4	The country or international organization is otherwise eligible to purchase or lease defense articles or defense services.

C4.2.2. Other Factors Determining Eligibility

C4.2.2.1. Defense articles and/or services are not sold to foreign purchasers under the AECA unless they are part of the national defense establishment, under the direction and control of the ministry responsible for defense matters. Requests for training for foreign personnel (or units) that are not part of the Defense Ministry must be directed to the Department of State (DoS) and to the Agency for International Development (AID) through U.S. Embassy channels. The Defense Security Cooperation Agency (DSCA) and relevant Implementing Agencies should be informed of the request.

C4.2.2.2. Prior DSCA and DoS approval must be obtained for the sale or lease of defense articles, defense services, or training to foreign organizations or personnel if they are engaged in on-going civilian police functions under the direction and control of the ministry responsible for defense matters.

C4.2.2.3. Assistance may be provided to Communist countries only if the President exercises the waiver authority under the Foreign Assistance Act (FAA), section 614(a) (reference (b)), and reports to Congress that such assistance is vital to the security of the United States and promotes the independence of the recipient country from international communism. (FAA, section 620(f) reference (b))

C4.2.3. Purchasers Currently Eligible. Questions regarding eligibility should be referred to DSCA. Table C4.T2. lists the country and international organization codes. (Organizations are listed at the end of the table.)

C4.2.3.1. The table identifies the short names and two position country and organization codes assigned for FMS purposes (e.g., for assignment of LOA identifiers or Security Assistance communications). For territories, the host country code is listed in parenthesis to the right of the territory name. The responsible Combatant Commands and Region Groupings are also given.

C4.2.3.2. The country codes are generally consistent with National Institute of Standards and Technology (NIST) codes in NIST Publication 10-4, Federal Information Processing Standards (reference (aj)), maintained by National Geospatial-Intelligence Agency (NGA). If FMS and NIST codes differ, NIST codes are listed in parenthesis to the right of the FMS code.

C4.2.3.3. The FMS AECA Eligible (Yes/No) column indicates those countries and organizations determined by the President under AECA, section 3(a)(1) (reference (c)) to be eligible to purchase defense articles and defense services under authority of the AECA. The Presidential Determination date can be found in the Congressional Budget Justification for Foreign Operations. An eligibility determination by itself does not signify that sales will be made since sales may be suspended (indicated by note \3) for legal or policy reasons and certain items may not be releasable to the requesting country.

C4.2.3.4. The “Accelerated Case Closure Eligible” column indicates if the country participates in the Accelerated Case Closure (ACC) program. (See Chapter 6, section C6.8.)

Table C4.T2. - Country, International Organization, and Regional Codes and FMS Eligibility

Country/ Territory(Host Country)	FMS Country Code	Combatant Command \1	Region Grouping \2	FMS AECA Eligible \3	Accel. Case Closure Eligible	EX Number Suffix
Afghanistan	AF	CE	NESA	Yes	Yes	001
Albania	AL	EU	EUR	Yes	Yes	002
Algeria	AG	AF	AFR	Yes	Yes	003
Andorra	AN	EU	EUR	No	N/A	N/A
Angola	AO	AF	AFR	Yes	Yes	004
Anguilla (UK)	AV	SO	AR	No	N/A	N/A
Antigua and Barbuda	AC	SO	AR	Yes	Yes	005
Argentina	AR	SO	AR	Yes	Yes	006
Armenia	AM	EU	EUR	Yes	Yes	007
Aruba	AA	SO	AR	No	N/A	N/A
Australia	AT (AS)	PA	EAP	Yes	Yes	008
Austria	AU	EU	EUR	Yes	Yes	009
Azerbaijan	AJ	EU	EUR	Yes	Yes	010
Bahamas	BF	NO \6	AR	Yes	Yes	011
Bahrain	BA	CE	NESA	Yes	Yes	012
Bahrain National Guard	BZ	CE	NESA	Yes	Yes	N/A
Bangladesh	BG	PA	NESA	Yes	Yes	013
Barbados	BB	SO	AR	Yes	Yes	014
Belarus	BO	EU	EUR	No	N/A	N/A
Belgium	BE	EU	EUR	Yes	Yes	015
Belize	BH	SO	AR	Yes	Yes	016
Benin	DA (BN)	AF	AFR	Yes	Yes	017
Bermuda (UK)	BD	NO	AR	No	N/A	N/A
Bhutan	BT	PA	NESA	No	Yes	N/A
Bolivia	BL	SO	AR	Yes	Yes	018
Bolivia INC	D1	SO	AR	Yes	Yes	N/A
Bosnia-Herzegovina	BK	EU	EUR	Yes	Yes	019
Botswana	BC	AF	AFR	Yes	Yes	020
Brazil	BR	SO	AR	Yes	No	021
British Indian Ocean Territory (UK)	IO	PA	NESA	No	N/A	N/A
British Virgin Islands (UK)	VI	NO \7	AR	No	N/A	N/A
Brunei	BX	PA	EAP	Yes	Yes	022
Bulgaria	BU	EU	EUR	Yes	Yes	023
Burkina Faso	UV	AF	AFR	Yes	Yes	024
Burma	BM	PA	EAP	Yes	Yes	025
Burundi	BY	AF	AFR	Yes	Yes	026
Cambodia	CB	PA	EAP	Yes	Yes	027
Cameroon	CM	AF	AFR	Yes	Yes	028
Canada	CN (CA)	NO	EUR	Yes	Yes	029
Cape Verde, Republic of	CV	AF	AFR	Yes	Yes	030
Cayman Islands (UK)	CJ	SO	AR	No	N/A	N/A
Central African Republic	CT	AF	AFR	Yes	Yes	031

Country/ Territory(Host Country)	FMS Country Code	Combatant Command \1	Region Grouping \2	FMS AECA Eligible \3	Accel. Case Closure Eligible	EX Number Suffix
Chad	CD	AF	AFR	Yes	Yes	032
Chile	CI	SO	AR	Yes	Yes	033
China	CH	PA	EAP	Yes	Yes	034
Colombia	CO	SO	AR	Yes	Yes	035
Colombia INC	D5	SO	AR	Yes	Yes	N/A
Comoros	CR (CN)	AF	AFR	Yes	Yes	036
Congo, Republic of (Brazzaville)	CF	AF	AFR	Yes	Yes	037
Congo, Democratic Republic of (Kinshasa)	CX (CG)	AF	AFR	Yes	Yes	038
Cook Islands (NZ)	CW	PA	EAP	Yes	Yes	039
Costa Rica	CS	SO	AR	Yes	Yes	040
Croatia	HR	EU	EUR	Yes	Yes	041
Cuba	CU	NO	AR	No	N/A	N/A
Cyprus	CY	EU	EUR	No	N/A	N/A
Czechoslovakia \5	CZ	EU	EUR	No	N/A	N/A
Czech Republic	EZ	EU	EUR	Yes	Yes	042
Denmark	DE (DA)	EU	EUR	Yes	Yes	043
Djibouti	DJ	AF	AFR	Yes	Yes	044
Dominica	DO	SO	AR	Yes	Yes	045
Dominican Republic	DR	SO	AR	Yes	Yes	046
East Timor	TT	PA	EAP	Yes	Yes	047
Ecuador	EC	SO	AR	Yes	Yes	048
Ecuador INC	D6	SO	AR	Yes	Yes	N/A
Egypt	EG	CE	NESA	Yes	Yes	049
El Salvador	ES	SO	AR	Yes	Yes	050
Equatorial Guinea	EK	AF	AFR	Yes	Yes	051
Eritrea	ER	AF	AFR	Yes	Yes	052
Estonia	EN	EU	EUR	Yes	Yes	053
Ethiopia	ET	AF	AFR	Yes	Yes	054
Faeroe Islands (DE)	FO	EU	EUR	No	N/A	N/A
Falkland Islands (UK)	FA	SO	AR	No	N/A	N/A
Fiji	FJ	PA	EAP	Yes	Yes	055
Finland	FI	EU	EUR	Yes	Yes	056
France	FR	EU	EUR	Yes	No	057
French Guiana (FR)	FG	SO	AR	No	N/A	N/A
French Polynesia (FR)	FP	PA	EAP	No	N/A	N/A
Gabon	GB	AF	AFR	Yes	Yes	058
Gambia	GA	AF	AFR	Yes	Yes	059
Georgia	GG	EU	EUR	Yes	Yes	060
Germany	GY (GM)	EU	EUR	Yes	Yes	061
Ghana	GH	AF	AFR	Yes	Yes	062
Gibraltar (UK)	GI	EU	EUR	No	N/A	N/A
Greece	GR	EU	EUR	Yes	Yes	063

Country/ Territory(Host Country)	FMS Country Code	Combatant Command \1	Region Grouping \2	FMS AECA Eligible \3	Accel. Case Closure Eligible	EX Number Suffix
Greenland (DE)	GL	EU	AR	No	N/A	N/A
Grenada	GJ	SO	AR	Yes	Yes	064
Guadeloupe (FR)	GP	SO	AR	No	N/A	N/A
Guatemala	GT	SO	AR	Yes	Yes	065
Guinea	GV	AF	AFR	Yes	Yes	066
Guinea-Bissau	PU	AF	AFR	Yes	Yes	067
Guyana	GU	SO	AR	Yes	Yes	068
Haiti	HA	SO	AR	Yes	Yes	069
Honduras	HO	SO	AR	Yes	Yes	070
Hong Kong (CH)	HK	PA	EAP	No	N/A	N/A
Hungary	HU	EU	EUR	Yes	Yes	071
Iceland	IL (IC)	EU	EUR	Yes	Yes	072
India	IN	PA	NESA	Yes	Yes	073
Indochina	IC	PA	EAP	No	N/A	N/A
Indonesia	ID	PA	EAP	Yes	Yes	074
Iran	IR	CE	NESA	No	No	N/A
Iraq	IQ	CE	NESA	Yes	N/A	075
Ireland	EI	EU	EUR	Yes	Yes	076
Israel	IS	EU	NESA	Yes	Yes	077
Italy	IT	EU	EUR	Yes	Yes	078
Ivory Coast (Cote d'Ivoire)	IV	AF	AFR	Yes	Yes	079
Jamaica	JM	SO	AR	Yes	Yes	080
Japan	JA	PA	EAP	Yes	Yes	081
Jordan	JO	CE	NESA	Yes	Yes	082
Kazakhstan	KZ	CE	EUR	Yes	Yes	083
Kenya	KE	AF	AFR	Yes	Yes	084
Kiribati	KR	PA	EAP	Yes	Yes	085
Korea (North)	KN	PA	EAP	No	N/A	N/A
Korea (Seoul)	KS	PA	EAP	Yes	Yes	086
Kosovo	KV	EU	EU	Yes	No	087
Kuwait	KU	CE	NESA	Yes	Yes	088
Kyrgyzstan	KG	CE	EUR	Yes	Yes	089
Laos	LA	PA	EAP	Yes	Yes	090
Latvia	LG	EU	EUR	Yes	Yes	091
Lebanon	LE	CE	NESA	Yes	Yes	092
Lesotho	LT	AF	AFR	Yes	Yes	093
Liberia	LI	AF	AFR	Yes	Yes	094
Libya	LY	AF	AFR	Yes	No	095
Liechtenstein	LS	EU	EUR	No	N/A	N/A
Lithuania	LH	EU	EUR	Yes	Yes	096
Luxembourg	LX (LU)	EU	EUR	Yes	Yes	097
Macau (CH)	MC	PA	EAP	No	N/A	N/A
Macedonia	MK	EU	EUR	Yes	Yes	098

Country/ Territory(Host Country)	FMS Country Code	Combatant Command \1	Region Grouping \2	FMS AECA Eligible \3	Accel. Case Closure Eligible	EX Number Suffix
Madagascar	MA	AF	AFR	Yes	Yes	099
Malawi	MI	AF	AFR	Yes	Yes	100
Malaysia	MF(MY)	PA	EAP	Yes	Yes	101
Maldives	MV	PA	NESA	Yes	Yes	102
Mali	RM(ML)	AF	AFR	Yes	Yes	103
Malta	MT	EU	EUR	Yes	Yes	104
Marshall Islands	R1 (RM)	PA	EAP	Yes	Yes	105
Martinique (FR)	MB	SO	AR	No	N/A	N/A
Mauritania	MR	AF	AFR	Yes	Yes	106
Mauritius	MP	AF	AFR	Yes	Yes	107
Mexico	MX	NO	AR	Yes	Yes	108
Micronesia	FM	PA	EAP	Yes	Yes	109
Moldova	MD	EU	EUR	Yes	Yes	110
Monaco	MN	EU	EUR	No	N/A	N/A
Mongolia	MG	PA	EAP	Yes	Yes	111
Morocco	MO	AF	AFR	Yes	Yes	112
Mozambique	MZ	AF	AFR	Yes	Yes	113
Myanmar (see Burma)						
Namibia	WA	AF	AFR	Yes	Yes	114
Nauru	NR	PA	EAP	No	N/A	N/A
Nepal	NP	PA	NESA	Yes	Yes	115
Netherlands	NE (NL)	EU	EUR	Yes	Yes	116
Netherlands Antilles (NE)	NA (NT)	SO	AR	No	N/A	N/A
New Caledonia (FR)	NC	PA	EAP	No	N/A	N/A
New Zealand	NZ	PA	EAP	Yes	Yes	117
Nicaragua	NU	SO	AR	Yes	Yes	118
Niger	NK (NG)	AF	AFR	Yes	Yes	119
Nigeria	NI	AF	AFR	Yes	Yes	120
Niue (NZ)	NQ	PA	EAP	No	N/A	N/A
Norfolk Island (AT)	NF	PA	EAP	No	N/A	N/A
Norway	NO	EU	EUR	Yes	Yes	121
Oman	MU	CE	NESA	Yes	Yes	122
Pakistan	PK	CE	NESA	Yes	Yes	123
Palau	PS	PA	EAP	Yes	Yes	124
Palestinian Authority	PW	CE	NESA	No	No	N/A
Panama	PN (PM)	SO	AR	Yes	Yes	125
Papua-New Guinea	PP	PA	EAP	Yes	Yes	126
Paraguay	PA	SO	AR	Yes	Yes	127
Peru	PE	SO	AR	Yes	Yes	128
Peru INC	D3	SO	AR	Yes	Yes	129
Philippines	PI (RP)	PA	EAP	Yes	Yes	130
Pitcairn (UK)	PC	PA	EAP	No	N/A	N/A
Poland	PL	EU	EUR	Yes	Yes	131

Country/ Territory(Host Country)	FMS Country Code	Combatant Command \1	Region Grouping \2	FMS AECA Eligible \3	Accel. Case Closure Eligible	EX Number Suffix
Portugal	PT (PO)	EU	EUR	Yes	Yes	132
Qatar	QA	CE	NESA	Yes	Yes	133
Republic of Montenegro	MJ	EU	EUR	Yes	No	134
Republic of Serbia	RB	EU	EUR	Yes	No	135
Reunion (FR)	RE	AF	AFR	No	N/A	N/A
Romania	RO	EU	EUR	Yes	Yes	136
Russia	RS	EU	EUR	Yes	Yes	137
Rwanda	RW	AF	AFR	Yes	Yes	138
Saint Helena (UK)	SH	AF	AFR	No	N/A	N/A
Saint Kitts and Nevis	SC	SO	AR	Yes	Yes	139
Saint Lucia	ST	SO	AR	Yes	Yes	140
Saint Pierre and Miquelon (FR)	SB	SO	AR	No	N/A	N/A
Saint Vincent and Grenadines	VC	SO	AR	Yes	Yes	141
Samoa	WS	PA	EAP	Yes	Yes	142
San Marino	SM	EU	EUR	No	No	N/A
Sao Tome and Principe	TP	AF	AFR	Yes	Yes	143
Saudi Arabia	SR (SA)	CE	NESA	Yes	Yes	144
Saudi Arabia Ministry of the Interior	SD	CE	NESA	Yes	Yes	145
Saudi Arabia National Guard	SI	CE	NESA	Yes	Yes	146
Senegal	SK (SG)	AF	AFR	Yes	Yes	147
Serbia (Refer to Republic of Serbia)	S2 (SR)	EU	EUR	No	No	N/A
Serbia and Montenegro	YI	EU	EUR	No	No	N/A
Seychelles	SE	AF	AFR	Yes	Yes	148
Sierra Leone	SL	AF	AFR	Yes	Yes	149
Singapore	SN	PA	EAP	Yes	Yes	150
Slovak Republic	LO	EU	EUR	Yes	Yes	151
Slovenia	S3 (SI)	EU	EUR	Yes	Yes	152
Solomon Islands	BP	PA	EAP	Yes	Yes	153
Somalia	SO	AF	AFR	Yes	Yes	154
South Africa	UA (SF)	AF	AFR	Yes	Yes	155
Spain	SP	EU	EUR	Yes	Yes	156
Sri Lanka	CE	PA	NESA	Yes	Yes	157
Sudan	SU	AF	AFR	Yes	Yes	158
Government of Southern Sudan	SX	AF	AFR	No	N/A	N/A
Suriname	NS	SO	AR	Yes	Yes	159
Swaziland	WZ	AF	AFR	Yes	No	160
Sweden	SW	EU	EUR	Yes	No	161
Switzerland	SZ	EU	EUR	Yes	Yes	162
Syria	SY	CE	NESA	No	No	N/A
Taiwan	TW	PA	EAP	Yes	Yes	163
Tajikistan	TI	CE	EUR	Yes	Yes	164
Tanzania	TZ	AF	AFR	Yes	Yes	165
Thailand	TH	PA	EAP	Yes	Yes	166

Country/ Territory(Host Country)	FMS Country Code	Combatant Command \1	Region Grouping \2	FMS AECA Eligible \3	Accel. Case Closure Eligible	EX Number Suffix
Togo	TO	AF	AFR	Yes	Yes	167
Tokelau (NZ)	TL	PA	EAP	No	No	N/A
Tonga	TN	PA	EAP	Yes	Yes	168
Trinidad-Tobago	TD	SO	AR	Yes	Yes	169
Tunisia	TU (TS)	AF	AFR	Yes	Yes	170
Turkey	TK (TU)	EU	EUR	Yes	Yes	171
Turkmenistan	TX	CE	EUR	Yes	Yes	172
Turks and Caicos (UK)	TS	NO	AR	No	No	N/A
Tuvalu	TV	PA	EAP	Yes	Yes	173
Uganda	UG	AF	AFR	Yes	Yes	174
Ukraine	UP	EU	EUR	Yes	Yes	175
United Arab Emirates (previous code TC)	AE	CE	NESA	Yes	Yes	176
United Kingdom	UK	EU	EUR	Yes	Yes	177
United Kingdom Polaris Project	UZ	EU	EUR	Yes	No	178
United Nations Interim Mission in Kosovo	T2	EU	EU	No	N/A	N/A
Uruguay	UY	SO	AR	Yes	Yes	179
Uzbekistan	U2	CE	EUR	Yes	Yes	180
Vanuatu	NH	PA	EAP	Yes	Yes	181
Venezuela	VE	SO	AR	Yes	Yes	182
Vietnam (previous code VS)	VM	PA	EAP	Yes	Yes	183
Western Sahara	WI	AF	AFR	No	N/A	N/A
Yemen	YE (YM)	CE	NESA	Yes	Yes	184
Yemen, Aden	YS (YM)	CE	NESA	No	N/A	N/A
Zaire (see Congo, Kinshasa)						
Zambia	ZA	AF	AFR	Yes	Yes	185
Zimbabwe	ZI	AF	AFR	Yes	Yes	186

Table C4.T2. - Country, International Organization, and Regional Codes and FMS Eligibility (DSCA/DFAS Reserved)

Organization	FMS Code	Combatant Command /1	Regional Grouping /2	FMS Eligible /3 AECA Eligible /8	Accel. Case Closure Eligible
Afghanistan Security Forces Fund - FY05 Emergency Supplemental Appropriations Act (Public Law 109-13)	Y8	CE	NR	AECA Only	N/A
Afghanistan Security Forces Fund (ASFF) Contributions	C5	CE	NR	AECA Only	N/A
Airborne Warning and Control System	W1	NR	NR \4	No	N/A
Case Closure Suspense Account (post 1995)	55	NR	NR	No	N/A
Central Treaty Organization (CENTO) (ceased 1979)	T3	NR	NR	No	N/A
Consolidated Appropriations Act, 2008 (Public Law 110-161) Afghanistan Security Forces Fund	E3	CE	NR	AECA Only	N/A
Consolidated Appropriations Act, 2008 (Public Law 110-161) Iraq Security Forces Fund	E4	CE	NR	AECA Only	N/A
Counterterrorism DSAMS	44	NR	NR	No	N/A
Counterterrorism Program/Contractor Support	33	NR	NR	No	N/A
Dept. of Defense	00	NR	NR	No	N/A
Emergency Supplemental Appropriations (Public Law 109-234) (Jun 15, 2006) Afghanistan Security Forces Fund	B2	CE	NR	AECA Only	N/A
Emergency Supplemental Appropriations (Public Law 109-234) (Jun 15, 2006) Iraq Security Forces Fund	B3	CE	NR	AECA Only	N/A
Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108-106) for Iraq	Y7	CE	NR	AECA Only	N/A
European Participating Group F-16 follow on	PG	NR	NR	No	N/A
Extraordinary Expenses – IMET and Counterterrorism	22	NR	NR	No	N/A
F-16, Belgium	F1	NR	NR	No	Yes
F-16, Denmark	F2	NR	NR	No	Yes
F-16, Netherlands	F3	NR	NR	No	Yes
F-16, Norway	F4	NR	NR	No	Yes
FAA Sec 607 Sales, Payment in Advance	S6	NR	NR	AECA Only	N/A
FAA Sec 607 Sales, Reimbursable (Delayed Payment)	S5	NR	NR	AECA Only	N/A
FAA Sec 632 Transactions	S4	NR	NR	AECA Only	N/A
Fiscal Year 2007 DoD	B6	CE	NR	AECA Only	N/A

Organization	FMS Code	Combatant Command /1	Regional Grouping /2	FMS Eligible /3 AECA Eligible /8	Acccel. Case Closure Eligible
Appropriations Act (Public Law 109-289) (Sep 29, 2006)) as supplemented by PL 110-28 (May 25, 2007) Afghanistan Security Forces Fund					
Fiscal Year 2007 DoD Appropriations Act (Public Law 109-289) (Sep 29, 2006)) as supplemented by PL 110-28 (May 25, 2007) Iraq Security Forces Fund	B7	CE	NR	AECA Only	N/A
FMF Administration (DFAS use through FY95)	55	NR	NR	No	N/A
FMS Agreements (FACTS Data, DSCA)	C2	NR	NR	No	N/A
General Costs - IMET and Counterterrorism	66	NR	NR	No	N/A
IMET Infrastructure Cost	77	NR	NR	No	N/A
Internal DSAMS Training	AA	NR	NR	No	N/A
Internal DSAMS Training	NN	NR	NR	No	N/A
Intl Civil Def Organization (ICDO)	T8	NR	NR	No	N/A
Iraq Security Forces Fund - FY05 Emergency Supplemental Appropriations Act (Public Law 109-13)	Y9	CE	NR	AECA Only	N/A
MAP Owned Materiel (DSCA Records)	M3	NR	NR	No	N/A
MAP Property Sales and Disposal (MAPSAD)	M2	NR	NR	No	N/A
National Defense Authorization Act (NDAA), Section 1033 Transactions	S7	NR	NR	AECA Only	N/A
National Defense Authorization Act for Fiscal Year 2006 (PL 109-163), Section 1206	B4	NR	NR	AECA Only	N/A
National Defense Authorization Act for Fiscal Year 2007 (PL 109-364), Section 1206	B5	NR	NR	AECA Only	N/A
National Defense Authorization Act for Fiscal Year 2007 PL 109-364, Section 1206; and National Defense Authorization Act for Fiscal Year 2008 PL 110-181, Section 1206 for the Pakistan Frontier Corps	B8	NR	NR	AECA Only	N/A
National Defense Authorization Act for Fiscal Year 2009 (P.L. 110-417), all Section 1206 for foreign military forces and Section 1201 for the Pakistan Frontier Corps	B9	NR	NR	No	N/A
NDAA, Section 1004 Transactions	S8	NR	NR	AECA Only	N/A
Panama Canal Area Military Schools (PACAMS)	11	SO	AR	No	N/A
Presidential Drawdowns (DSCA authorized use only)	S9	NR	NR	AECA Only	N/A

Organization	FMS Code	Combatant Command /1	Regional Grouping /2	FMS Eligible /3 AECA Eligible /8	Acccel. Case Closure Eligible
Seasparrow (Sec 1004, P.L. 98-525)	N3	NR	NR \4	No	N/A
Section 1107 of FY04 Supplemental (Train and Equip Authority) for the Afghanistan National Army	Y2	CE	NR	AECA Only	N/A
Section 1107 of FY04 Supplemental (Train and Equip Authority) for the New Iraqi Army	Y3	CE	NR	AECA Only	N/A
Section 9006 of FY05 Defense Appropriations Act (Public Law 108-287) for Afghanistan	Y5	CE	NR	AECA Only	N/A
Section 9006 of FY05 Defense Appropriations Act (Public Law 108-287) for Iraq	Y6	CE	NR	AECA Only	N/A
Security Assistance Automated Resource Management Suite (SAARMS) database	E1	NR	NR	No	N/A
Special Defense Acquisition Fund (SDAF)	D2	NR	NR	No	N/A
Coalition Readiness Support Program (CRSP) for Fiscal Years 2008, 2009, 2010 and 2011	E7	NR	NR	No	N/A
Coalition Readiness Support Program (CRSP) for FY12/13	E8	NR	NR	No	No
Supplemental Appropriations Act, 2008 (Public Law 110-252) Afghanistan Security Forces Fund (FY2009 Bridge Funds)	E5	CE	NR	No	N/A
Supplemental Appropriations Act, 2009 (Public Law 111-32) Afghanistan Security Forces Fund (FY2009 Supplemental Funds)	E6	CE	NR	AECA Only	N/A
Supplemental Appropriations Act, 2009 (Public Law 111-32) Pakistan Counterinsurgency Fund (FY2009 Supplemental Funds)	G2	CE	NA	AECA Only	N/A
Supplemental Appropriations Act, 2009 (Public Law 111-32) Iraq Security Forces Fund (FY2009 Supplemental Funds)	G3	CE	NR	AECA Only	N/A
Supplemental Appropriations Act, 2009 (Public Law 111-32) Pakistan Counterinsurgency Capability Fund (PCCF) (FY2009 Supplemental Funds), as transferred into Pakistan Counterinsurgency Funds (PCF)	G4	CE	NR	AECA Only	N/A
National Defense Authorization Act for FY 2010 (P.L. 111-84) and Department of Defense Appropriations Act, 2010 (P.L.111-118), as supplemented by P.L. 111-212 Afghanistan Security Forces	G5	CE	NR	AECA Only	N/A

Organization	FMS Code	Combatant Command /1	Regional Grouping /2	FMS Eligible /3 AECA Eligible /8	Acccel. Case Closure Eligible
Fund (ASFF)					
National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383) and Department of Defense and Full Year Continuing Appropriations Act, 2011 (Public Law 112-10) for Afghanistan Security Forces Fund (ASFF)	G6	CE	NR	AECA Only	N/A
National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84) and Department of Defense Appropriations Act, 2010 (Public Law 111-118), for section 1206 programs	G7	NR	NR	AECA Only	N/A
Supplemental Appropriations Act, 2010 (Public Law 111-212) Iraq Security Forces Fund (FY2010 Supplemental Funds)	G8	CE	NR	AECA Only	N/A
Supplemental Appropriations Act for Fiscal Year 2009 (Public Law 111-32) and Continuing Appropriations Act 2011 (Public Law 111-322) for Pakistan Counterinsurgency Capability Fund	G9	CE	NR	AECA Only	N/A
USG Transition Support (Iraq)	IZ	CE	NR	No	N/A
Uzbekistan - Emergency Wartime Supplemental Appropriations Act 2003 (Public Law 108-11)	Y4	CE	NR	AECA Only	N/A
National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), as amended, and Department of Defense and Full Year Continuing Appropriations Act, 2011 (Public Law 112-10) for Section 1206 programs	H2	NR	NR	AECA Only	N/A
Ike Skelton National Defense Authorization Act, 2011 (Public Law 111-383) and Department of Defense (DoD) and Full Year Continuing Appropriations Act (CAA), 2022 (Public Law 112-10), Iraq Security Forces Fund (ISFF)	H3	CE	NR	AECA Only	N/A

Table C4.T2. - Country, International Organization, and Regional Codes and FMS Eligibility (NATO)

Organization	FMS Code	Combatant Command /1	Regional Grouping /2	FMS Eligible /3 AECA Eligible /8	Accel. Case Closure Eligible
National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), as amended, Section 1206 for FY12	H4	NR	NR	AECA Only	N/A
Afghanistan Security Forces Fund (ASFF) for FY12	H5	CE	NR	AECA Only	No
Airborne Early Warning & Control Operations & Support (O&S) Budget	K7	EU	EUR	Yes	No
C3 Agency (NC3A)	K4	EU	EUR	Yes	Yes
EF2000 and Tornado Dev, Prod, & Log Mgt Agency (NETMA)	K3	EU	EUR	Yes	No
HAWK Prod & Log Org (NHPLO) Headquarters	M6	EU	EUR	Yes	Yes
Headquarters	N6	EU	EUR	Yes	No
Missile Firing Installation (NAMFI)	N9	EU	EUR	Yes	No
Mutual Weapons Dev Prog (MWDP)	N8	EU	EUR	Yes	No
NAMSA General + Nike	N4	EU	EUR	Yes	No
NAMSA-F104 + C-130	K2	EU	EUR	Yes	No
NAMSA-HAWK	N7	EU	EUR	Yes	No
NAMSA-Weapons	M5	EU	EUR	Yes	No
NATO	N2	EU	EUR	Yes	No
NATO Air Command and Control Management (NACMA)	A6	EU	EUR	Yes	No
NATO Airlift Management Organization (NAMO)	K8	EU	EUR	Yes	No
NATO Medium Extended Air Defense System Management Agency (NAMEADSMA)	W2	EU	EUR	Yes	No
NEFMA \5	M1	EU	EUR	Yes	No
Prog Mgt Ofc (NAPMO)	N1	EU	EUR	Yes	No
Southern Region Signal/ Communications	M7	EU	EUR	Yes	No
Supreme Allied Commander, Atlantic (SACLANT)	K5	EU	EUR	Yes	No
Supreme HQ, Allied Powers, Europe (SHAPE)	A2	EU	EUR	Yes	No
NATO Alliance Ground Surveillance Management Agency (NAGSMA)	W3	EU	EUR	Both	No

Table C4.T2. - Country, International Organization, and Regional Codes and FMS Eligibility (Regions)

Organization	FMS Code	Combatant Command /1	Regional Grouping /2	FMS Eligible /3 AECA Eligible /8	Accel. Case Closure Eligible
Africa	R6	AF	AFR	No	Yes
African Union (AU)	A3	AF	AFR	Yes	Yes
American Republic	R5	SO	AR	No	Yes
Dept of Humanitarian Affairs (UNDHA)	A5	NR	NR	Yes	Yes
East Asia/Pacific	R4	PA	EAP	No	Yes
Economic Community of Central African States (ECCAS)	C3	AF	AFR	Yes	Yes
Economic Community of West African States (ECOWAS)	A7	AF	AFR	Yes	Yes
European	R2	EU	EUR	No	Yes
International Civil Aviation Organization (ICAO)	T7	NR	NR	Yes	Yes
Near East/South Asia	R3	CE	NESA	No	Yes
Organization of American States (OAS)	A1	NR	NR	Yes	Yes
Organization of Security and Cooperation in Europe (OSCE)	A8	EU	EUR	Yes	Yes
Regional Security System	SS	SO	AR	Yes	No
SE Asia Treaty Organization (ceased 24 Sep 75)	T4	NR	NR	No	Yes
Southern African Development Community (SADC)	A9	AF	AFR	Yes	Yes
United Nations	T9	NR	NR	Yes	Yes
United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA)	A4	NR	NR	Yes	Yes
United Nations Transitional Authority in East Timor (UNTAET)	E2	PA	EAP	Yes	Yes

Notes:

1) Combatant Commands:

NR - Non-Regional	PA - Pacific CMD
AF - Africa CMD	SO - Southern CMD
CE - Central CMD	NO - Northern CMD
EU - European CMD	

2) Regional Grouping:

NR - Non-Regional	EUR - European
AFR - Africa Region	EAP - East Asia/Pacific
AR - American Republic	NESA - Near East/South Asia

3) Purchaser's eligibility may change. See paragraph C4.2.4.

4) Affiliated with but not eligible for FMS as part of NATO.

5) Included for historical purposes.

6) Responsibility for Security Cooperation transitioned from U.S. Southern Command to the U.S. Northern Command on October 1, 2008.

- 7) Responsibility for Security Cooperation transitioned from U.S. Southern Command to the U.S. Northern Command on October 1, 2003.
- 8) Authorized under program-specific legislation.

C4.2.4. Changes in Eligibility Status. Sales to purchasers may be suspended or terminated for legal and/or policy reasons. If the DoS determines that it is necessary to suspend Security Assistance to a particular country, the Director, DSCA, issues instructions to the Security Assistance program Implementing Agencies. Details about this process can be found in Chapter 6. Questions relative to eligibility should be referred to DSCA (Operations Directorate). The following are some of the reasons why purchasers may not be eligible for support.

C4.2.4.1. Termination Due to Unnecessary Military Expenditures. Further sales, credits, and guaranties shall be terminated to any country that diverts economic aid, or its own resources to unnecessary military expenditures, to a degree that materially interferes with its development (AECA, section 35 (reference (c))). Existing sales, credits, and guaranties need not be terminated.

C4.2.4.2. Prohibition Against Discrimination, Intimidation, or Harassment. No sales are made and no credits or guaranties extended to, or for, any country whose laws, regulations, official policies, or governmental practices prevent any person from participating in the furnishing of defense articles or defense services on the basis of race, religion, national origin, or sex. Sales, credits or guaranties shall NOT be made or extended to countries engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States. (AECA, sections 5 and 6 (reference (c)))

C4.2.4.3. Terrorism. Unless the President finds that the national security requires otherwise, the President shall terminate all assistance, sales, credits, and guaranties to any Government that aids or abets (by granting sanctuary from prosecution) any individual or group that has committed an act of international terrorism. (FAA, section 620A (reference (b)))

C4.2.4.4. Nationalization of U.S. Property. Assistance shall be suspended for countries that have nationalized, expropriated, or seized U.S. property, or have imposed discriminatory taxes. Assistance shall also be suspended if a country has initiated steps to repudiate or nullify existing agreements with U.S. citizens or entities without taking proper compensatory action. (FAA, section 620(e) (reference (b)))

C4.2.4.5. Compensation for Nationalized Property. FAA, section 620(g) (reference (b)) states that no monetary assistance shall be made available under this act to any Government or political subdivision or agency of such Government that compensates owners for expropriated or nationalized property.

C4.2.4.6. Narcotics. Economic and military assistance and sales to a country shall be suspended if the President determines the Government of that country has failed to take adequate steps to prevent either the sale of illegal drugs or other controlled substances to USG personnel or their dependents or the smuggling of such narcotics into the United States. (FAA, section 490 (reference (b)))

C4.2.4.7. Violation of Agreements. Any Government using equipment and/or services in substantial violation of an agreement between the United States and that Government shall be ineligible for future U.S. assistance until the President determines that such violations have ceased and is assured they shall not recur. (FAA, section 505(d) and AECA, section 3(c) (references (b) and (c)))

C4.3. WHAT MAY BE PURCHASED USING THE FMS PROGRAM

The FMS program transfers defense articles and services to eligible foreign purchasers. AECA, section 47 (reference (c)) defines the terms “defense article” and “defense service.” The U.S. Munitions List designates specific items that fall into these categories and includes an asterisk (*) by Significant Military Equipment (SME). The U.S. Munitions List (22 CFR part 121 of (reference (n))) can be found at the website http://pmdrtc.state.gov/docs/itar/2007/itar_part_121.doc. Any item of SME that has a nonrecurring research and development cost of more than \$50 million or a total production cost of more than \$200 million is considered Major Defense Equipment (MDE). See Appendix 1 for the Nonrecurring Cost Recoupment Charges for MDE.

C4.3.1. Source of Supply. Defense articles or services may be sold from DoD stocks, or the Department of Defense may enter into contracts to procure defense articles or services on behalf of eligible foreign countries or international organizations (AECA, sections 21 and 22 (reference (c))). DoD procurements for FMS use standard Federal Acquisition Regulation (FAR) (reference (ak)) contract clauses and contract administration practices except where deviations for FMS are authorized in the Defense Federal Acquisition Regulation Supplement (DFARS) (reference (al)).

C4.3.2. Materiel Standards. It is DoD policy that defense articles sold under FMS programs should reflect favorably upon the United States. Defense articles offered and sold under FMS are new or unused or, as a result of refurbishment, possess original appearance insofar as possible and, as a minimum, have serviceability standards prescribed for issue to U.S. Forces. If the purchaser desires exclusively new equipment, this requirement is stated in the LOA. If the purchaser wishes to purchase “as is” (no assurance of serviceability), this is also stated in the LOA. In addition to full disclosure of item condition, the purchaser is informed of unusual safety or environmental risks known at the time of sale. This information is included in the LOA with reference to separate publications or correspondence as appropriate.

C4.3.3. Logistics Support. The Department of Defense considers the support of U.S. origin defense articles critical to the success of the Security Assistance program. Systems in use with U.S. Forces are supported through the DoD procurement system. Support items that are stocked, stored, and issued due to common application with end items in use, should be provided even though the end items may have been acquired commercially or system support buyout is complete. (See Chapter 6.)

C4.3.3.1. When a system is to be phased out of the DoD inventory, countries that have acquired the system under FMS are given the opportunity to determine item requirements and to place final orders designed to maintain system capability through its service life. These orders are consolidated to ensure economic buys. (See Chapter 6.)

C4.3.3.2. The Department of Defense shall take reasonable steps to support systems that are not used by U.S. Forces including items that were never adopted by U.S. Forces. Support is provided for these items when mutually satisfactory arrangements are made with the country involved and supply sources are available. Effort is made to support non-standard items, whether acquired commercially or through FMS, when this effort serves U.S. interests.

C4.3.4. Communications Security (COMSEC) Equipment. Combatant Commanders' requirements to communicate with foreign governments via secure transmissions will necessitate a requirement for release and delivery of U.S. COMSEC. Transfer of U.S. COMSEC must be done in conjunction with a Combatant Command's interoperability requirement or otherwise support a U.S. policy objective. See Chapter 3, C3.3.1. and C3.3.2. for information on the technology transfer process. See Chapter 3, C3.3.6. for information on INFOSEC case processing.

C4.3.5. Design and Construction Services. AECA, section 29 (reference (c)) authorizes the sale of design and construction services to eligible foreign countries and international organizations provided that full costs are paid to the United States.

C4.3.5.1. Design and construction services are offered under normal FMS procedures. When part of a larger program, the services are included in the total package LOA under the cognizance of the managing Implementing Agency. When required, the Implementing Agency and construction agent may conclude an internal agreement to show program management relationships.

C4.3.5.2. When these services are stand-alone, the construction agent is normally the Implementing Agency.

C4.3.6. Police Training or Related Programs. Although the FAA, section 660 (reference (b)) expressly forbids it (see paragraph C4.4.3.), the AECA does not prohibit police training or related programs. DSCA (Strategy Directorate) and DoS approval must be obtained before offering this type of defense article or service through FMS procedures.

C4.3.6.1. If foreign students are authorized to attend military police training, foreign Governments must certify that the students are not involved in any civilian law enforcement functions for at least 2 years after receiving the training. Law enforcement includes apprehension and control of political offenders and opponents of the Government in power (other than prisoners of war), as well as persons suspected of common crimes.

C4.3.6.2. Counterterrorism training may be requested through the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (SO/LIC) under the Regional Defense Counterterrorism Fellowship Program. DSCA should be informed of any request for antiterrorism or counterterrorism training. Foreign officers nominated to receive such training are vetted using the same DoD and/or DoS procedures in place for all International Military Education and Training (IMET) and FMS training.

C4.3.6.3. Limited military intelligence training is available. The scope of this type training shall be limited to training that is directly related to combat or operational intelligence or intelligence management of combat or operational intelligence at the joint military staff level. In case of doubt about whether or not a particular course or type of training falls into one of these two categories, obtain a clarification from DSCA.

C4.3.7. White Phosphorous Munitions. Requests for white phosphorus munitions should be submitted in accordance with the procedures established for SME. Requests should indicate, by type of ammunition, the quantity, and intended use. Requests should be accompanied by the U.S. Mission's opinion as to whether the amount requested is reasonable in relation to the intended use, current on-hand inventories, and predictable usage rates of such items; and requests must also contain assurance from the host Government that white phosphorus munitions are used only for purposes such as signaling and smoke screening. The DSCA (Operations Directorate) shall coordinate the request. Upon approval, the DSCA (Operations Directorate) advises the DoD Component and provides the special conditions that must be included in the LOA.

C4.3.8. M-833 and Comparable Depleted Uranium Rounds. FAA, section 620G (reference (b)) allows the sale of M-833 depleted uranium ammunition and comparable anti-tank rounds containing a depleted uranium-penetrating component to NATO member countries, major non-NATO allies, Taiwan, and countries for which a Presidential national security interest determination has been completed. Such a determination has been completed for the M-833 round for Bahrain and Saudi Arabia and the M-829 round for Saudi Arabia and Kuwait.

C4.3.9. Ship Transfers. Vessels 20 years old or more and no more than 3,000 tons (light load displacement) or less may be transferred after 30 continuous days of the date that the U.S. Navy (USN) notifies Congress of its intent to make the transfer. Naval vessels that are less than 20 years old or more than 3,000 tons may be transferred only after enactment of legislation authorizing the transfer. 10 U.S.C. 7307 (reference (aq)) prescribes these criteria and Congressional oversight provisions. See Chapter 11 for information on Excess Defense Articles (EDA) Congressional notification requirements.

C4.3.10. Technical Data Packages (TDPs) for Defense Articles Manufactured by Watervliet Arsenal. TDPs from a Government-owned and operated defense plant manufacturing large caliber cannons (e.g., Watervliet Arsenal) to a foreign Government, or assistance to a foreign Government in producing defense items currently manufactured or developed in a Government-owned and operated defense plant manufacturing large caliber cannons, may be transferred if the statutory exceptions in 10 U.S.C. 4542 (reference (z)) are met. The Secretary of the Army must determine if these requirements can be met before committing to such transfers; notify the Congress of every transfer agreement; and submit a semiannual report to Congress on the operation of this law and all agreements entered into under it.

C4.3.11. Stinger/Man-Portable Air Defense System (MANPADS). All security cooperation organizations and personnel to include Military Departments (MILDEPs) and Security Cooperation Organizations (SCOs) must get specific approval from DSCA (Programs and Strategy Directorates) prior to any discussions on MANPADS with any potential purchaser. This includes discussion of sales for replacement batteries, parts, components, or expendables for MANPADS. This requirement stands even for countries previously sold MANPADS or approved for MANPADS sales. See Chapter 8 for more information on Stinger/MANPADS.

C4.3.12. Landmines. All security cooperation organizations and personnel to include MILDEPs and SCOs must get specific approval from DSCA (Strategy Directorate) prior to any discussions on landmines with any potential purchaser.

C4.3.13. Foreign Liaison Officer Support. Countries may locate a representative in the United States to assist with their programs. LOAs may be written to cover administrative costs (e.g., office space, secretarial support) for these personnel. See paragraph C4.4.2. for the types of foreign representative services and/or expenses that may NOT be included on an LOA.

C4.3.14. Night Vision Devices (NVDs). NVDs are man-portable devices, which incorporate image intensification, infrared, thermal, or sensor-fused technologies. NVDs fall under Category XII(c) of the U.S. Munitions List (22 CFR part 121 of reference (n)) and are designated as sensitive, unclassified SME. The Deputy Under Secretary of Defense for Technology Security Policy and National Disclosure Policy (DUSD(TSP&NDP)) is responsible for NVD export policy and requires the case-by-case review of all requests for the international transfer of such items through FMS or direct export licensing. Each review considers input from the MILDEPs, the acquisition community, and the Chairman of the Joint Chiefs of Staff. Image intensifier tubes ordered as spare parts or replacements for destroyed, lost, stolen, or missing devices also require a case-by-case review except when replacing defective or damaged tubes that are returned to the USG on a direct exchange or repair and return basis. The technical capabilities of replacement tubes will not exceed the export restrictions set forth in the original authorization. NVDs taken from DoD stock may not be sold or transferred without an accompanying data sheet verifying that the technical capabilities of the image intensifier tubes do not exceed export restrictions. See Chapter 5 for more information on processing requests for NVDs and Chapter 8 for End-Use Monitoring (EUM) responsibilities.

C4.3.15. Medical Countermeasures. Purchases of medical countermeasures such as drugs, vaccines, and other medical interventions against biological and chemical agents require the approval of the Office of the Secretary of Defense. It is essential that Letters of Request (LORs) for these items be submitted to DSCA as soon as the requirement is known to allow sufficient staffing time. See paragraph C5.1.4.3.4 for additional information on LOR submission.

C4.3.16. Geospatial Intelligence (GEOINT). GEOINT provides the capability to visually depict physical features and geographically referenced activities on the Earth. It consists of imagery, imagery intelligence, and geospatial information (topographic, aeronautical and hydrographic maps, and charts data). GEOINT is essential to the guidance systems in many weapons. National Geospatial-Intelligence Agency (NGA) GEOINT data are either shared with the international community through agreements and arrangements under the authority of the Director of the NGA and/or the Director of National Intelligence, or can be purchased from NGA. Implementing Agencies are responsible for coordinating the release of the GEOINT data with NGA in advance. See paragraph C5.1.4.3.5. for additional information.

C4.3.17. Command, Control, Communications, Computer, Intelligence, Surveillance and Reconnaissance (C4ISR). Transfers of U.S. C4ISR to eligible countries and international organizations must support a U.S. Combatant Commander's (COCOM) interoperability requirements. A purchaser's desire to be interoperable with the United States is insufficient justification for release. DoD encourages the use of a Three-Phased Approach to plan C4ISR programs. Before a C4ISR Letter of Request (LOR) is submitted, pre-coordination with DSCA,

the respective Combatant Command, Implementing Agencies, the SCO, and the foreign purchaser is required. See Chapter 3 for more information on C4ISR and Chapter 5 for more information on processing LORs for C4ISR.

C4.4. WHAT MAY NOT BE PURCHASED USING THE FMS PROGRAM

Certain items may not be transferred using FMS procedures. Questions concerning what may or may not be authorized for a particular country should be directed to the DSCA (Operations Directorate). The following categories of items MAY NOT be included in LOAs.

C4.4.1. Items Procured from Foreign Countries. The Department of Defense shall not enter into sales arrangements that entail commitments for DoD procurement in foreign countries unless DSCA (Strategy Directorate) and DSCA (Office of the General Counsel) have approved an exception.

C4.4.2. Administrative Expenses for Foreign Government Representatives. The USG does not serve as the disbursing agent for funds received under LOAs unless those funds are required for materiel or services provided by the Department of Defense, another Federal agency, or through a DoD procurement contract. LOAs shall not include transportation, lodging, per diem, or other administrative expenses of foreign Government representatives, even though such expenses may relate to the procured materiel and/or services. In exceptional situations, DSCA may specifically authorize an LOA to include the payment of travel and living allowances for International Students. See Chapter 10 for information on international training. Foreign purchasers may not use LOAs to lease commercial or General Services Administration (GSA) vehicles. Foreign purchasers are responsible for making and paying for these arrangements outside the FMS process.

C4.4.3. Police, Counterterrorism, and Military Intelligence Programs.

C4.4.3.1. The FAA prohibits using funds authorized under that Act to conduct any police training or related programs either in a foreign country or in the United States. All military assistance under the FAA, not just training, is subject to this prohibition with certain statutory exceptions as found in FAA, section 660 (reference (b)).

C4.4.3.2. Police training in the context of the FAA prohibition includes military police as well as civilian police if the military police perform on-going civilian law enforcement functions. Neither the name given to a unit nor the ministerial authority under which it operates is sufficient to determine whether a particular unit is a "police unit." The determining factor is the nature of the functions performed by the unit. Assistance in foreign countries for any civilian law enforcement function (except maritime law enforcement or international narcotics control) is prohibited.

C4.4.3.3. The prohibitions discussed above do not apply to units with the sole function of internal security that involves combat operations against insurgents, or legitimate self-defense of national territory against foreign invasion, whether or not the unit is called police.

C4.4.3.4. If some personnel from a smaller unit within a larger unit that is eligible for assistance are detailed to on-going civilian law enforcement functions, then just the smaller unit is prohibited from receiving grant support under the FAA. However, no grant funds may be used

in any program of internal intelligence or surveillance on behalf of any foreign Government either within the United States or abroad.

C4.4.3.5. The AECA does not prohibit police training or related programs or funding such training with Foreign Military Financing (FMF) funds. DSCA and DoS approval shall be obtained before offering this type of defense article or service through FMS procedures. See paragraph C4.3.6.

C4.4.4. Napalm. Napalm, including napalm thickener, dispensers, and fuses shall not be provided through FMS or commercial contracts.

C4.4.5. Riot Control Agents. Riot control agents shall not be provided via FMS, but certain types are available on a commercial basis. Such proposed commercial sales require that an export license be obtained from the DoS, Directorate of Defense Trade Controls.

C4.4.6. Cluster Munitions and Cluster Munition Technology. No military assistance shall be furnished for cluster munitions, and no cluster munitions or cluster munitions technology shall be sold or transferred, unless the submunitions of the cluster munitions, after arming, do not result in more than 1 percent unexploded ordnance across the range of intended operational environments. Cluster munitions are composed of a non-reusable delivery canister or delivery body containing multiple, conventional explosive submunitions designed to disperse at an optimum altitude and distance from the desired target for dense area coverage. This applies to systems delivered by cruise missiles, artillery, mortars, missiles, bombs, tanks, rocket launchers, or naval guns capable of deploying payloads of explosive submunitions that detonate via target acquisition, impact, or altitude, or that self-destruct (or a combination of both). Cluster munitions technology includes, but is not limited to, cluster munition components, accessories, attachments, parts, firmware, software, or other related technical data. This restriction does not apply to technology used to clear or disarm unexploded cluster munitions.

C4.5. GENERAL FMS POLICIES

Detailed procedures for FMS programs including writing LOAs and managing cases are found in Chapters 5 and 6. The following broad policies apply and should be noted early in the FMS process.

C4.5.1. Sales Determinations. Once the eligibility criteria in section C4.2. have been met, the Secretary of State determines whether there shall be a sale to a country and the amount thereof, whether there shall be a lease to a country, and whether there shall be delivery or other performance under any sale or lease. (See Chapter 11 for information on leases.) Arms control consequences must be taken into consideration when evaluating any FMS sale (FAA, section 511 (reference (b))); AECA, section 38(a)(2) and 42(a)(c) (reference (c))). Decisions to issue licenses or approve sales under the AECA or to furnish military assistance under the FAA shall take into account the extent to which such exports, sales, or assistance contribute to an arms race, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.

C4.5.2. International Weapons Competitions. Foreign nations often compete weapon system procurements. The foreign Government's defense or economic ministry solicits bids or proposals from defense industries in the international market. Depending on the nation's

acquisition process, the solicitation may be a formal request for information, a tender or proposal, an invitation to bid, or a similar document that states the review criteria for proposal submissions. Given the size of the U.S. industrial base, the U.S. response may consist of more than one offering. In the international competition, the foreign nation evaluates proposals submitted by both the U.S. and non-U.S. competitors against the solicitation criteria.

C4.5.2.1. Foreign Solicitation. In an international competition, the foreign nation releases its solicitation in the international market. When submitted through appropriate channels (see Chapter 5, paragraph C5.1.3.) the solicitation is a Letter of Request (LOR) and initiates USG processes (e.g., NDP-1, technology transfer, and other reviews) to determine if it is in the U.S. best interest to participate in the competition. The U.S. response in an international competition may include FMS, Direct Commercial Sale (DCS), international cooperative agreement, or a combination of these programs (see Chapter 5, paragraph C5.2.2. for more information on LOR responses). Most foreign solicitations are released to international defense industries rather than to Governments; however, the FMS process should not be excluded from the response solely on the basis of how the foreign solicitation was released or conditioned.

C4.5.2.2. Lead Agency for Advocacy. DSCA is the DoD focal point for policy regarding U.S. participation in international competitions. The Department of Commerce (DoC) is the lead USG agency for policy regarding advocacy of U.S. offerings to foreign Governments. The MILDEPs and defense contractor team develop the proposal. Table C4.T3. identifies the lead agency and advocacy for the USG responses.

C4.5.2.3. Responsibilities of the DoD Lead Managing the USG Response. The DoD lead facilitates the USG's deliberative processes such that the policy decisions that affect the proposals are developed as early as possible. The DoD lead obtains the views of the key USG stakeholders: DoS, DoC, Office of the Under Secretary of Defense (Policy), Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), Defense Technology Security Administration, DSCA, and the MILDEPs. The DoD lead ensures MILDEP and/or contractor teams submit proposals that are consistent with internal U.S. decisions, are as responsive as possible to the requirements of the foreign solicitation, and meet the solicitation's schedule. In cases of multiple U.S. offerings, the DoD lead must facilitate all U.S. proposals through the USG reviews on a level playing field basis. The DoD lead must act impartially such that there is no perception that one offering is preferred over another and there is no biased interpretation of policy. The DoD lead must bring together all competing MILDEP and/or contractor teams to highlight issues, perform joint problem solving, establish plans and agreements, ensure that the U.S. entrants are being held to the same standards, address cross-cutting issues, and coordinate responses with the foreign purchaser.

Table C4.T3. - Lead Agency and/or Advocacy in International Competitions

Number of U.S. Responses	Number of Services Involved	Lead DoD Agency	USG Advocacy
One	One	MILDEP responsible for the weapon system or technology offered	The one U.S. system offered is articulated as the formal U.S. position.

Number of U.S. Responses	Number of Services Involved	Lead DoD Agency	USG Advocacy
More than one	One	MILDEP responsible for the weapon systems or technologies offered	USG personnel may not favor the merits of one U.S. proposal over another. U.S. advocacy must be generic - the U.S. proposals are combat proven, interoperable with many nations, technologically superior, worldwide supportable, etc. This neutral stance extends to USG presence in meetings with foreign officials. If USG personnel are present for one U.S. contractor presentation, every effort must be made to be present for all briefings on other U.S. offerings. Only when one U.S. MILDEP and/or contractor team remains in the competition can the United States advocate one U.S. offering. This occurs if all other MILDEP and/or contractor teams self-eliminate or the foreign nation formally states these proposals are no longer under consideration.
	More than one	DSCA	

C4.5.3. Total Package Approach (TPA). A TPA ensures that FMS purchasers can obtain support articles and services required to introduce and sustain equipment. The complete sustainability package must be offered to the purchaser when preparing Price and Availability (P&A) data or LOAs. In addition to the system itself, other items to consider in a total package include: training, technical assistance, initial support, ammunition, follow-on support, etc.

C4.5.4. Marketing. In accordance with FAA, section 515 (reference (b)), “The President shall continue to instruct United States diplomatic and military personnel in the United States missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of United States-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch.” Chapter 2 provides general instructions to SCOs, and the DoS has furnished similar guidance to country teams as a whole. Additional instructions may be provided for specific programs. For questions, contact DSCA (Strategy Directorate).

C4.5.5. False Impressions. Problems can occur when foreign purchasers expect to obtain certain articles and services from the USG but conditions prevent these sales. USG personnel must consider releasability, disclosure, and all required coordination before indicating to a potential purchaser that a sale from the USG is possible. See Chapter 3, paragraph C3.5.4.

C4.5.6. Re-Transfer Restrictions. All purchasers or grant recipients must agree they shall not transfer title or possession of any defense article or related training or other defense services to any other country without prior U.S. consent, authority for which has been delegated to the DoS (AECA, section 3(a)(2) (reference (c)) and FAA, section 505(a) (reference (b))). Special care must be taken to ensure that minor repair parts, fuel, or other defense articles that lose identity when co-mingled, are controlled by the recipient Government using procedures that assure there are no non-approved transfers. See Chapter 8 for information on re-transfers.

C4.5.7. Proper Use of Materiel and End Use Monitoring (EUM). Sales and assistance may be made to countries only for purposes of internal security, legitimate self-defense for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons, civic action, or regional or collective arrangements consistent with the United Nations (UN) Charter, or requested by the UN (AECA, section 4 (reference (c)); and FAA, section 502 (reference (b))). Proper use of U.S.-origin items is a joint responsibility of the recipient and U.S. personnel. U.S. representatives have primary responsibility until items are physically transferred to the recipient. The recipient then assumes this responsibility, based on agreements under which transfers are made, including transfer to a third party or other disposal or change in end-use. See Chapter 8 for information on EUM.

C4.5.8. Neutrality. The Department of Defense prefers that countries friendly to the United States fill defense requirements with U.S. origin items. Unless an item has been designated as “FMS only,” the Department of Defense is generally neutral as to whether a country purchases U.S.-origin defense articles or services commercially or through FMS channels. In some instances, such as for certain Government Furnished Equipment (GFE) and Government Furnished Materiel (GFM), AECA, section 38(a)(3) (reference (c)) controls apply and items are sold only via FMS.

C4.5.9. FMS-Only Determinations. The AECA (reference (c)) gives the President discretion to designate which military end-items must be sold through FMS channels exclusively. This discretion is delegated to the Secretary of Defense and executed by DSCA in close coordination with the Defense Technology Security Administration (DTSA) and the MILDEP or DoD Component responsible for the end-item. The DoS approves or disapproves all sales and is responsible for the continuous supervision and general direction of all sales.

C4.5.9.1. In general, the Department of Defense is neutral as to whether a sale is accomplished via Direct Commercial Sale (DCS) or FMS. However, there are times when the Department of Defense requires that a transaction be accomplished via FMS. Four general criteria are used to determine if a sale is required to proceed through the FMS process. The criteria are: Legislative/Presidential restrictions; DoD/MILDEP policy, directive or regulatory requirement, e.g., the National Disclosure Policy; government-to-government agreement requirements; and interoperability/safety requirements for U.S. Forces.

C4.5.9.2. These criteria, particularly DoD/MILDEP policy, can be further understood by considering four possible elements:

C4.5.9.2.1. U.S. Political/Military Relationship with the End-User. The geopolitical situation and security relationships are taken into account when considering the appropriateness of FMS-Only. The inherent strengths of FMS or DCS licensing methods are also considered in selecting the method that best suits the interests of U.S. and the foreign purchaser within the context of existing world security circumstances.

C4.5.9.2.2. Sale of a New or Complex System or Service. FMS-Only may be recommended:

C4.5.9.2.2.1. To maximize the purchaser’s ability to assimilate the technologies and manage its acquisition/logistics.

C4.5.9.2.2.2. For enhanced interoperability and cooperation between U.S. and purchaser's military forces.

C4.5.9.2.2.3. For end-items or services that require complex systems integration with other combat systems.

C4.5.9.2.2.4. For end-items or services that require access to sensitive U.S. government databases, libraries, or software-source code.

C4.5.9.2.2.5. For end-items or services that require EUM or on-site accountability.

C4.5.9.2.3. Diversion and Exploitation of Defense Systems Technologies. Security of sensitive technologies is an area of particular concern that requires greater scrutiny in the transfer process. Defense systems and munitions that are not particularly complex or sensitive, but still require enhanced control to prevent proliferation to rogue states or terrorist organizations, represent another area where FMS may be more appropriate than DCS.

C4.5.9.2.4. Feasibility of Separating Weapon System Components into FMS/DCS Elements. At times, purchasers may desire all or a portion of a sale to be DCS. It is possible to separate the FMS-Only aspects of a purchase from the portion that can be DCS.

C4.5.9.3. Each MILDEP or DoD Component develops the FMS-Only designation considering the criteria in subparagraphs C4.5.9.1. and C4.5.9.2. The MILDEP or DoD Component forwards FMS-Only systems designations with rationale to DSCA (Programs Directorate/Weapons Division) and DTSA. DTSA enforces the FMS-Only designations within the Department of Defense through the export licensing process. Questions regarding FMS-Only designations should be directed to the MILDEP or DoD Component. Requests for further assistance with FMS-Only designations may be directed to DSCA (Programs Directorate/Weapons Division) for reconciliation or referral to the appropriate DoD element for resolution in accordance with NDP-1, DoD Directive 2040.2 (reference (u)), or DoD Directive 5120.49 (reference (ar)).

C4.5.10. Direct Commercial Sales (DCS) Preference. Companies may prefer that a sale be made commercially vice using FMS procedures. When a company receives a request for proposal from a country and prefers commercial means, the company may request that DSCA (Strategy Directorate) issue a DCS preference for that particular sale. The company's request must include a copy of the purchaser's solicitation for a price quotation. Approved DCS preferences should be held within SCOs and at the item manager level to allow proper screening of LORs. The process outlined in this section is a best efforts commitment by the Department of Defense. Failure on the part of the DoD Component to comply with these procedures shall not invalidate any resultant FMS transaction. Before approving DCS preference for a specific transaction, the following are considered.

C4.5.10.1. Article or Service Exclusions. Items provided on blanket order lines and those required in conjunction with a system sale do not normally qualify for DCS preference.

C4.5.10.2. Specific Sale Exclusions. For certain countries and for sales financed with Military Assistance Program (MAP) or FMF funds, articles or services that may otherwise qualify for DCS preference must be sold through FMS procedures. The Director, DSCA, may also mandate FMS for a specific sale.

C4.5.10.3. P&A or LOA Requests. DCS preferences are valid for 1 year. If during this time period, the applicable Implementing Agency receives a request from the purchaser for the same item they shall notify the purchaser of the DCS preference, using the following text:

[Company] has advised us that it is actively negotiating with you a program under which [article or service] is to be provided commercially.

Although we have no preference as to whether this item is procured through FMS or on a commercial basis, we do not normally provide price and availability information that could conflict with information formally requested from commercial firms. If a commercial transaction is undertaken, the U.S. Government shall not be a party to the contract; therefore, all aspects of contract performance must be between your Government and the company.

Before we can provide FMS data, you must confirm that all commercial efforts have ceased and advise us of the reason for this decision.

The Implementing Agency must determine if commercial activity has ceased, determine if guidance in paragraph C4.5.11. applies, or seek further guidance from DSCA (Strategy Directorate).

C4.5.11. Concurrent FMS and Commercial Negotiations. Implementing Agencies shall not engage in FMS-commercial comparison studies unless the Director, DSCA, grants an exception for a specific circumstance. Purchasers should submit a request for exception to DSCA (Strategy Directorate). Purchasers should avoid concurrent FMS and commercial requests. However, the purchaser's national policy or specific circumstances may require that both FMS and commercial data be obtained.

C4.5.11.1. FMS Data Obtained First. If the purchaser obtains FMS data and later determines they should request a commercial price quote, the purchaser should cancel the LOR prior to requesting commercial data. If an LOA has been offered and the purchaser then solicits formal bids from private industry for the same item, the Implementing Agency should query the country as to its intentions and indicate that the LOA may be withdrawn.

C4.5.11.2. Commercial Data Obtained First. If the purchaser requests FMS data after soliciting bids from contractors, the purchaser must supply information to the Implementing Agency showing that commercial acquisition efforts have ceased before any FMS data is provided.

C4.5.12. Travel in Support of Security Assistance Programs. U.S. military and DoD civilian employees who travel to and from a foreign country on Security Assistance business, whether the travel is financed by FMS administrative or case funds, must use the same commercial air carrier, class of service, and routing that the transportation officer requires of other DoD travelers. Waivers from the normal travel procedures shall be granted to Security Assistance travelers on the same basis and in the same manner as provided for DoD personnel traveling on

regular defense business. (See Joint Federal Travel Regulations (JFTR), Volume 1, Military Members; and Joint Travel Regulations (JTR), Volume 2, DoD Civilians (references (as) and (at)).)

C4.5.13. Use of Federal Acquisition Regulation (FAR) and DoD FAR Supplement (DFARS).

When procuring for a foreign Government, the Department of Defense shall apply the same contract clauses and contract administration as it would use in procuring for itself, except where deviations are authorized in the DFARS (reference (al)). If a sole source procurement requested by a foreign Government appears to be motivated by objectives in conflict with this requirement or with any U.S. legislation, the MILDEP's proposed sole source denial memorandum must be forwarded to DSCA (Operations and Strategy Directorates) for coordination.

C4.5.14. Diversion of Materiel. DoD policy requires a determination that the sale of a defense item shall not degrade U.S. defense efforts by taking needed equipment from U.S. stocks (withdrawals) or disrupting deliveries of critical items from production for U.S. Forces (diversions), unless the sale of the item is in the overall U.S. national interest. See Chapter 6, paragraph C6.4.6. for information regarding diversions.

C4.5.15. Insurance. Purchasers shall self-insure FMS shipments or obtain commercial insurance without any right of claim against the United States. When requested by the purchaser, the Implementing Agency may obtain insurance and include it as a separate LOA line item. For FMS cases already implemented, an Amendment can add authorized insurance coverage. Whenever an Implementing Agency provides these services to a purchasing country or organization, it should obtain insurance from a U.S. insurance firm if possible. Providing insurance is an exceptional arrangement and the purchaser should be encouraged to make arrangements for insurance on subsequent cases.

C4.5.16. Classification of Security Assistance Information. All Security Assistance information shall be unclassified unless the DoS, the Assistant Secretary of Defense for International Security Affairs (ASD(ISA)), the Assistant Secretary of Defense for International Security Policy (ASD(ISP)), or the Director, DSCA, directs classification in a particular situation, or unless the national security classification criteria of Executive Order (E.O.) 12958 (reference (au)), DoD 5200.1-R (reference (x)), and corresponding MILDEP regulations warrant classification for national defense purposes.

C4.5.16.1. Purchaser Requests to Classify Security Assistance Information. Under exceptional circumstances and when approved by any of the organizational elements above in paragraph C4.5.16. and DSCA, Security Assistance information may be classified at the request of the purchaser. See Chapter 5 for information the purchaser must provide when making such a request. FMS purchasers should be discouraged from requesting classification of FMS cases and related information. 10 U.S.C. 130c (reference (ag)) protects purchaser's sensitive FMS information from public dissemination. (See Section 1073 of Public Law 106-398 (2001) (reference (av)).) Congress has set a high standard for classification of FMS cases and requires a description of the damage to national security of the United States that could be expected to result from public disclosure of the information as justification.

C4.5.16.2. Factors Determining Classification. The primary factors considered by the DoS, ASD(ISA), ASD(ISP), and the Director, DSCA, in requiring classification of FMS information are: the extent to which disclosure of the information would reveal the purchaser's order of battle, taking into consideration the nature and quantity of defense articles sold and the degree to which the purchaser relies on the United States as a source of military supply; the extent to which disclosure of the information could be expected to stimulate demands by third countries upon the United States or upon other supplying nations for defense articles, thus encouraging global or regional instability or fostering an arms race; and to prevent unauthorized disclosure of the fact that a specific defense article (e.g., F-16 aircraft) is or may be sold to a particular foreign Government.

C4.5.16.3. Levels of Classification. All Security Assistance information that is classified is CONFIDENTIAL unless the DoS, ASD(ISA), ASD(ISP), or the Director, DSCA, directs a higher level of classification in a particular instance, or unless the national security classification criteria of E.O. 12958 (reference (au)), DoD 5200.1-R (reference (x)), and corresponding MILDEP regulations warrant a higher level of classification for national defense purposes.

C4.5.16.4. Declassification. All classified Security Assistance information shall be declassified when the originating agency so determines unless a longer period of classification is either directed in a particular situation by the DoS, ASD/ISA, ASD/ISP, or the Director, DSCA, or is warranted by the national security classification criteria of E.O. 12958 (reference (au)), DoD 5200.1-R (reference (x)), and corresponding MILDEP regulations for national defense purposes.

C4.5.17. Department of Defense (DoD) Support to Direct Commercial Sales (DCS). U.S. industry may request defense articles and services from the DoD to support a DCS to a foreign country or international organization. Defense articles and/or services provided to U.S. industry must be accomplished pursuant to applicable statutory authority including Section 30 of the AECA (reference (c)). Section 30 of the AECA (reference (c)) authorizes the sale of defense articles or defense services to U.S. companies at not less than their estimated replacement cost (or actual cost in the case of services) for incorporation into end items to be sold by such company on a direct commercial basis to a friendly foreign country or international organization pursuant to Section 38, AECA (reference (c)). SAMM Chapter 11, section C11.8. further clarifies authorized DoD support (articles or services) under this section. In addition, it is important that defense industry representatives identify early in the DCS planning process if support from the DoD will be required. If DoD support is deemed necessary, then meetings with DoD representatives should be arranged to discuss the level of support required and the method for funding the associated costs.

C4.6. GENERAL FMS FINANCIAL POLICIES

See Chapter 9 for detailed financial policy information. Some broad financial policies that should be noted early in the FMS process include the following.

C4.6.1. Recovery of Cost. The FMS program must be managed at no cost to the USG (with certain exceptions specifically identified in the AECA). The LOA mandates that the purchaser pay the full program value regardless of terms of sale specified for the individual case or the estimated values provided. Modifications and Amendments are used to update case values as necessary when changes to the program occur. See Chapter 6, section C6.7. for more information on when these documents should be used.

C4.6.2. Pre-LOR and Case Development Activities. Pre-LOR activities are those necessary to assist the purchaser in defining requirements in sufficient detail to produce a complete LOR. A complete LOR is one that contains all of the information necessary for the Implementing Agency (IA) to develop an LOA response. Pre-LOR activities include research and analysis, meetings, briefings, responses to requests for proposals and participation in international competitions, equipment demonstrations, and travel directly related to those efforts. Case development activities are those required to prepare LOAD quality data after an LOR is complete. Case development activities are complete when the LOA has been signed by the purchaser.

C4.6.2.1. Priority to Case Execution. IAs must make prudent choices when expending FMS administrative surcharge funds. In budgeting FMS administrative surcharge funds, priority should be placed upon providing support to IA case execution activities.

C4.6.2.2. Limits on Pre-LOR Expenditures. No more than 8% of the total FMS administrative surcharge funds allocated to an IA in a fiscal year may be expended on pre-LOR activities. Requests for an exception to policy to exceed the 8% limit on IA expenditure of FMS administrative surcharge funds on pre-LOR activities require DSCA Director approval. Requests for an exception to policy must include an accounting of expended and remaining funds and priorities for the remainder of the year.

C4.6.2.3. Pre-LOR and Case Development Notifications to DSCA. IAs will notify DSCA Business Operations and Strategy Directorates of planned pre-LOR and case development activities in the annual FMS administrative funds POM and budget process. Thereafter, IAs must notify DSCA Business Operations and Strategy Directorates when:

C4.6.2.3.1. There are any changes to information presented in the budget process and the change will result in a new or increased cost greater than 1% of the total IA pre-LOR budget approved by DSCA.

C4.6.2.3.2. Expenditure of FMS administrative surcharge funds for case development activities associated with a potential FMS case (to include groups of closely related cases) are expected to exceed \$1,000,000.

C4.6.2.4. FMS administrative surcharge funding associated with these thresholds is all-inclusive (civilian pay, contracts, travel, etc.) and must be reported. Notifications should include an analysis of IA capability to fund other pre-LOR/case development efforts for the remainder of the current fiscal year. A notification memo template is provided at figure C4.F1.

C4.F1. Notification Memo Template

MEMORANDUM FOR: PRINCIPAL DIRECTOR FOR STRATEGY, DEFENSE
 SECURITY COOPERATION AGENCY
 PRINCIPAL DIRECTOR FOR BUSINESS OPERATIONS,
 DEFENSE SECURITY COOPERATION AGENCY

In accordance with SAMM C4.6.2.2., [identify MILDEP/IA] is notifying DSCA that we expect pre-LOR [or case development] efforts in support of an anticipated sale of [specific equipment/weapon system] to [specify country] to exceed 1% of our approved pre-LOR budget [or \$1,000,000 for case development]. We estimated we will expend a total of \$_____ on the [specify country and equipment/weapon system] pre-LOR [or case development] effort. Our total FMS administrative surcharge budget for FY_____ is \$_____. This effort represents _____% of our total pre-LOR [or case development] budget.

[Provide a brief description of the effort and your rationale for spending _____% of your budget on this effort. Be sure to include an estimated completion date. Note whether more than one FY budget will be used to pay the associated costs.]

[Provide any additional information to support this request such as: what percentage of the IA total budget is in pre-LOR and case development? Will finds be transferred from another PE to cover these costs? Note whether there will be any additional/follow-on requests for pre-LOR or case development funds in support of this effort. Provide an assessment of the likelihood these efforts will result in an accepted case, etc.]

Signature block

C4.6.2.5. DSCA will reply to IA notifications within ten (10) working days if additional information or clarification is required.

C4.6.2.6. Use of Appropriated Funds. Should IAs have additional pre-LOR and case development efforts that are not funded in the FMS administrative funds budget, on an exceptional basis and at the discretion of the IA, in accordance with AECA Section 43(a), these efforts may be funded with funds available to the IA for operations. AECA Section 43(a) provides: "Funds made available under other law for the operations of United States Government agencies carrying out functions under this Act shall be available for the administrative expenses incurred by such agencies under this Act." IA funds for operations may not be used to confer a subsidy on the foreign customer in violation of AECA sections 21 and 22. FMS administrative funds or case funds that subsequently become available may be used, as appropriate, to reimburse the IA funds.

C4.6.3. Payment in U.S. Dollars. Sales may be made under FMS only if the eligible purchaser agrees to pay in U.S. dollars (AECA, sections 21 and 22 (reference (c))). AECA, section 21(h) (reference (c)) authorizes reciprocal arrangements under limited circumstances.

C4.6.4. Use of FMS Credit Funds for Procurement Outside the United States. FMS credit funds may be used for procurement outside the United States only if the President determines that such procurement does not result in adverse effects upon the U.S. economy or the industrial mobilization base (AECA, section 42(c) (reference (c))). Prior consultations with the DSCA (Operations Directorate) and the Departments of State and Treasury are required. See Chapter 9 for more information on credit funds.

C4.6.5. Foreign Military Financing (FMF) and/or Credits

C4.6.5.1. Use of FMF and/or Credit for Essential Items. FMF and/or credit and guaranties under the AECA shall be used only to assist countries in acquiring essential items that cannot reasonably be financed by other means and normally shall be used only to finance investment requirements.

C4.6.5.2. Use of Concessionary FMF and/or Credit Terms. Concessionary FMF and/or credit terms (i.e., interest rates less than the cost of money to the USG) shall be granted only when determined by the President (AECA, section 23 (reference (c))).

C4.6.5.3. Repayment of FMF and/or Credit. FMS credits must be repaid in U.S. dollars. Repayment terms are not longer than 12 years after the loan agreement has been signed on behalf of the USG unless otherwise provided for by U.S. law (AECA, section 23 (reference (c))). Individual credit installments must be repaid in a timely manner to avoid Brooke Sanctions (a provision within the annual Foreign Operations Appropriations Act).

C4.6.5.4. Use of FMF and/or Credit Payments. Cash received from FMS and from repayments of FMF and/or credits shall not be used for financing new FMF and/or credits or guaranties (AECA, section 37 (reference (c))).

C4.6.5.5. U.S. Guaranties. The USG may guarantee financing by any individual, corporation, partnership, or other judicial entity doing business in the United States (excluding USG agencies other than the Federal Financing Bank) if such financing is in connection with FMS or direct commercial sales of defense items. Fees shall be charged for such guaranties (AECA, section 24 (reference (c))). As of publication of this document no active guaranties exist.