

## C6. CHAPTER 6

### FOREIGN MILITARY SALES CASE IMPLEMENTATION, EXECUTION, AND CLOSURE

#### C6.1. CASE IMPLEMENTATION

C6.1.1. Routine Case Implementation. Once a case has been signed and the purchaser has submitted any required initial deposit, the Implementing Agency takes action to implement the case. The FMS case must be implemented in all applicable data systems (e.g., Defense Security Assistance Management System (DSAMS), Defense Integrated Financial System (DIFS), DSCA 1200 System, and Military Department (MILDEP) legacy systems) before case execution occurs. Although the Letter of Offer and Acceptance (LOA) provides basic information, more detailed information may be required to execute the FMS case. Implementing Agencies should issue detailed implementing instructions to activities that are involved in executing the FMS case. Instructions must state that implementation is subject to receipt of obligational authority (OA).

C6.1.2. Emergency Case Implementation. On an exception basis, DSCA (Business Operations Directorate) may approve emergency implementation of an FMS case. The emergency implementation action is taken only when the FMS purchaser has accepted the LOA, but has not yet paid the initial deposit required for implementation. In the event emergency implementation action is desired by the sponsoring Implementing Agency, a written request shall be sent (either by facsimile or e-mail) to the DSCA (Business Operations Directorate/Country Financial Management (CFM)) Country Finance Director (CFD). The request specifies the case for which emergency implementation is requested, and the extenuating circumstances that explain its urgency (e.g., meeting a contract award deadline after which prices would increase). The DSCA CFD may request verification as to when the purchaser is expected to remit the initial deposit. The CFD prepares a package soliciting DSCA (Business Operations Directorate) decision on the request. The CFD notifies the Implementing Agency and the Defense Finance and Accounting Service (DFAS) financial manager of the DSCA (Business Operations Directorate) decision. If approved, DSCA posts an emergency implementation authorization milestone in DSAMS and the Implementing Agency processes the emergency implementation in DSAMS and the MILDEP systems. DSAMS interfaces the implementation date to DIFS.

#### C6.2. CASE EXECUTION – GENERAL INFORMATION

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

C6.2.1. General FMS Case Files. General FMS Case Files are maintained in accordance with the Department of Defense (DoD) 7000-14.R (reference (o)), Volume 15, Chapter 6. Execution of a typical FMS case may span several years. Case Managers must ensure accessibility to retired files, source documents, invoices, bills of lading, other proof of shipments, and other applicable documents that provide the audit trail to account for United States Government (USG) and purchaser funds. Retention period is 10 years after the date of case closure. Cases with large volumes of transactions may have the sourced documents transferred to microfiche or stored

electronically. Per Chapter 8, C8.T2., delivery and inventory records for Enhanced EUM articles (per C8.2.1.2.) must be maintained by the Implementing Agencies and Security Cooperation Organizations (SCOs) indefinitely, or until the USG has verifiable information that the recipient country has properly disposed of the Enhanced EUM items(s). The sourced documents may be transferred to microfiche, stored electronically, or saved within the Security Cooperation Information Portal (SCIP) SCO/Toolbox EUM Resource Tab.

C6.2.2. Execution Records. FMS records, such as case directives, production or repair schedules, international logistics supply delivery plans, requisitions, shipping documents, bills of lading, work orders, contract documents, billing and accounting documents, work sheets, and related feeder information are normally unclassified. All case transactions, financial and logistical, must be recorded as part of the official case file. Cost statements and large accounting spreadsheets must be supported by source documents. In those rare instances when financial transactions are recorded and supporting documentation is not available, certified memoranda by those responsible must be retained. Case Managers must make every effort to maintain the accuracy of their accounts and to adhere to the requirements of internal control. Complete, accurate, and accessible records are key to case reconciliation and closure.

C6.2.3. Disbursement Documentation. The DoD Components that process FMS Trust Fund disbursement transactions support the payment voucher with authentic contracts and/or purchase orders, invoices, and receiving reports. This documentation shows the proper authorities' certification of receipt and payment for the articles or services. The disbursement documentation is available for USG inquiries or requests on particular FMS cases. Additionally, the documentation facilitates the FMS case reconciliation process.

### C6.3. CASE EXECUTION – ACQUISITION.

C6.3.1. Compliance with DoD Regulations and Procedures. Acquisition for FMS purchasers shall be in accordance with United States (U.S.) and/or DoD regulations and procedures. This affords the foreign purchaser the same benefits and protection that apply to DoD procurement and is one of the principal reasons why foreign Governments and international organizations prefer to procure through FMS channels. FMS requirements may be consolidated with USG requirements or placed on separate contract whichever is more expedient and cost effective. Federal Acquisition Regulation (FAR) (reference (ak)) provisions applicable to the Department of Defense also apply to FMS procurements. While all FAR and Defense FAR Supplement (DFARS) (reference (al)) clauses apply to FMS procurements, Table C6.T1. lists selected sections with unique application to FMS.

C6.3.2. Submission of Certified Cost or Pricing Data. When foreign Governments conduct a competition for a weapon system and a U.S. system is selected, that competition should determine the price to be paid. This is true even if the sale is then processed as a foreign military sale and even if Department of Defense is buying the same item sole source. If the contracting officer determines that adequate price competition has occurred, the contractor shall not be required to submit certified cost or pricing data. This policy is incorporated into the DFARS (reference (al)) at 225.7303(b).

C6.3.3. Incentive Clauses. USG contracts may include incentive clauses for early performance. The Case Manager and contracting officer work together to make sure the contract and the LOA are consistent.

Table C6.T1. Selected FAR and DFARS Sections Relevant to FMS Acquisition

Topic	FAR	DFARS
Acquisitions for FMS	---	Subpart 225.73
Contingent Fees (Agent Fees & Commissions)	Subpart 3.4	225.7303-4
Options FMS	---	Subparts 217.2 and 225.7306
Costs of Doing Business with a Foreign Government	---	225.7303-2
Selling Costs/Expenses	31.205-38	225.7303-2(a)(1)
Other Than Full and Open Competition - International Agreement	6.302-4	206.302-4
Contract Type Risk – FMS	---	215.404.71-3(d)(1)(vii)
FMS Customer Involvement	---	225.7304
Source Selection	---	225.7304
Limitation of Liability	---	225.7305
Offset Arrangements	---	225.7307
Contract Clauses	---	225.7308
Applicability of Acquisition Warranty	---	225.7304
Pricing Acquisitions for FMS	---	225.7303

C6.3.4. Sole Source Request. The competitive procurement process is used to the maximum extent possible when procuring articles or services. Sole source procurement can be considered when the purchaser requests it in writing and provides sufficient rationale (DFARS 225.7304 (reference (al))). Purchaser requests for sole source procurement using foreign sources of supply must meet the requirements in Chapter 4, paragraph C4.4.1. Sole source requests are considered only when based on the objective needs of the purchaser. Requests that discriminate against or exclude sources are not considered. Some items have only a single source of supply. A single source and a sole source are not the same thing.

C6.3.4.1. Timing of Sole Source Requests. Purchasers should indicate the desire for sole source procurement in their Letter of Request (LOR). The designation of sole source procurement for an LOA that has already been accepted by the purchaser would be an exception to policy. If this situation occurs, the LOA may be amended to include the sole source designation. A Modification may be used instead of an Amendment if the sole source request is made by the official who requested the LOA, his or her replacement, or an official known to have equivalent or greater authority than the official who signed the LOA.

C6.3.4.2. Prime and/or Subcontractor Designations. The purchaser can request a prime and/or subcontractor source. Risks associated with the designation of subcontractors must be conveyed to the FMS purchaser. If problems occur in the performance or integration of the component, the FMS purchaser must bear the increased costs of correcting the problem. The purchaser must be advised of this potential expense when the sole source designation is requested.

C6.3.4.3. Sole Source Request Contents. An authorized official of the purchasing Government may submit a letter and/or message through the Security Cooperation Organization (SCO) Chief requesting that an item(s) and/or service(s) be procured from a specific contractor

or subcontractor. The Defense Attaché or comparable purchaser's representative in the United States may also submit these requests to the Implementing Agency with procurement responsibility for the required item and/or service. The letter must provide the basis and justification for the sole source request. Table C6.T2. shows some examples of justifications for sole source procurements – this list is not all inclusive.

Table C6.T2. Possible Sole Source Justifications

Possible Sole Source Justifications	
1	One of the numerous suppliers can deliver faster and the situation is urgent enough to forego the benefits of the competitive process.
2	The procurement of a non-standard item has been requested and the purchaser has identified a specific source (e.g., obsolete items no longer supported by the Department of Defense).
3	The country has an established history of procurement for articles or services from a particular source and a change would adversely affect an ongoing program. An example is an ongoing maintenance program where a particular prime contractor provides technical assistance or other services under established agreements.
4	The designated source has won the foreign purchaser's own source selection competition. A copy of the country's request for proposal, invitation for bid, or request for tender; a description of the method used to advertise the requirement and any restrictions placed thereon; and a narrative summary of the country's source selection criteria and method of evaluation should be included with the sole source request. If price is not the sole selection criteria, the country must identify the weight that was given to each criterion.
5	The country has established a history of procurement for articles or services from a particular source and wishes to continue for equipment standardization and consequent benefits of logistics support. This includes spares for support equipment or other single vendor integrity (SVI) subcontracted items.

C6.3.4.4. Sole Source Request Approval and/or Disapproval. The Implementing Agency approves valid sole source requests. If the Implementing Agency determines that a sole source request should NOT be approved, the memorandum informing the purchaser is coordinated with the DSCA (Operations and Strategy Directorates).

C6.3.4.5. Coordination with Contracting Offices. When possible, the Implementing Agency sends the sole source request to the contracting office for information and advice. The Implementing Agency also sends a copy of the accepted LOA document (containing the sole source designation) to the contracting officer. This is especially important when the contracting activity is separate from the activity responsible for the LOA (e.g., LOAs prepared by a MILDEP that contain items procured by the Defense Logistics Agency (DLA)).

C6.3.4.6. LOA Sole Source Note. The applicable LOA document must identify the sole source designation. See Chapter 5, Table C5.T5. for the LOA note wording.

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

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

C6.3.5.2. Negotiations. During the contracting process between the contractor and the Department of Defense, the contracting officer shall consult with the FMS purchaser about major contractual matters especially any matter that could be perceived as inconsistent with or significantly different from the LOA. As specified in the DFARS 225.7304(b) (reference (al)), FMS purchasers should be encouraged to participate with USG acquisition personnel in discussions with industry to develop technical specifications, to establish delivery schedules, identify any special warranty provisions or other requirements unique to the FMS purchaser, and review prices of varying alternatives, quantities, and options needed to make price-performance tradeoffs. The degree of participation of the FMS purchaser during contract negotiations is left to the discretion of the contracting officer after consultation with the contractor. USG personnel shall not release any contractor proprietary data, except in those limited cases where the contractor authorizes release of specific data. Requests by the FMS purchaser for rejection of any bid or proposal shall not be honored. Any questions regarding these provisions are forwarded to the Director, DSCA.

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

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

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

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

**C6.3.7.1. Prior Notification of Fees to Purchaser.** Purchasers shall be advised of all contingent fees (including agents' fees and sales commissions) associated with an FMS case prior to or in conjunction with LOA submission to the purchaser unless the purchaser has indicated otherwise. For agents' fees and sales commissions, such notices include: the name and address of the agent(s); the estimated amount of the proposed fee, and the percentage of the sale price; and a statement indicating one of the following: appropriate officials of DoD consider the fee to be fair and reasonable; or, a portion of the proposed fee is considered to be fair and reasonable (provide rationale); or the USG cannot determine the reasonableness of the proposed fee. This statement is normally included as an LOA note. See Chapter 5, Table C5.T5. The note may include the contractor's justification for the proposed fee and other data requested by the purchaser. The note also includes a statement that purchaser acceptance of the LOA constitutes the purchaser's approval of the sales commissions and fees involved.

**C6.3.7.2. Purchaser Approval Thresholds.**

**C6.3.7.2.1.** The following countries must approve ALL contingent fees (regardless of dollar value) before they can be considered allowable FMS contract costs: Australia, Egypt, Greece, Israel, Japan, Jordan, Korea (Republic of), Kuwait, Pakistan, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, and the Venezuelan Air Force. At the request of these Governments all LOAs issued to these purchasers include notes identified in Chapter 5, Table C5.T5.

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

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

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

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

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

C6.3.7.7. Contingent Fees for Commercial Contracts. Contingent fees may not be funded with Foreign Military Financing (FMF) funds.

C6.3.7.7.1. FMF Credit Non-Repayable. In a certification to DSCA (Direct Commercial Contracts), the contractor must disclose contingent fees for contracts financed with FMF Credit Non-Repayable funds. It is the responsibility of the contractor to prove that payments of any contingent fees are not financed with FMF Credit Non-Repayable funds.

C6.3.7.7.2. FMF Credit Repayable. In a certification to DSCA (Direct Commercial Contracts), the contractor must disclose contingent fees for contracts financed with FMF Credit Repayable funds. Contingent fees in direct commercial contracts financed with FMF Credit Repayable funds must be limited to \$50,000 per contract for countries other than those specifically listed in the DFARS (reference (al)). It is the responsibility of the contractor to prove that payments of any contingent fees are not financed with FMF Credit Repayable funds.

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

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

<p>Director  Defense Security Cooperation Agency  201 12<sup>th</sup> St South, Suite 203  Arlington VA 22203-5408</p> <p>Dear Sir:</p> <p>The Government of [insert country] hereby appoints [insert name] whose address is [insert address] as its Agent for the purpose of receiving deliveries of the following items on LOA [insert case identifier]: [insert list of items]. Above items shall be used for the [manufacture/assembly/repair/rehabilitation]* of the [insert program]. Said Agent is hereby authorized to sign in the name of the Government of [insert country] as its Agent for the receipt of these items as indicated by the shipping instructions contained in the LOA. The Government of [insert country] undertakes to instruct [insert name] as its Agent to maintain possession of the above-specified items in accordance with the LOA until transferred by such Agent of the Government of [insert country].</p> <p style="text-align: center;">Sincerely,</p> <p style="text-align: center;">(Signed by Minister or Deputy Minister of Defense level)</p> <p>Such agency is acknowledged.</p> <p>_____</p> <p>(Signature of Agent)</p>
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\*Insert words describing the Agent's functional

**C6.3.8. Warranties.** The Department of Defense obtains the same warranties for FMS as it does for itself. These warranties are exercised within the Supply Discrepancy Report (SDR) process and do not require special actions by the purchaser. The purchaser may request performance warranties, which are provided and paid for on the LOA as a defense service. Any warranty in addition to the LOA Standard Terms and Conditions, Section 6, is described in a note on the LOA. See Chapter 5, Table C5.T5. The Implementing Agency must inform the purchaser, either in the LOA note or by documentation such as a technical bulletin accompanying the item when shipped, of any steps necessary to maintain or exercise rights under these additional warranties.

**C6.3.9. Offsets.** DFARS 225.7303-2(a)(3) (reference (a1)) allows U.S. contractors to recover, under FMS contracts based on LOAs financed wholly by purchaser cash or repayable FMF credits, costs of any offsets that are associated with those contracts. USG agencies MAY NOT enter into or commit U.S. firms to any offset agreement. Any purchaser requesting offset arrangements in conjunction with FMS should be informed that the responsibility for negotiating offset arrangements and satisfying all related commitments resides with the U.S. firm involved. It is the responsibility of the Implementing Agency to specify to DSCA, in the transmittal of any Congressional Notification, in the LOA and in any subsequent LOA Modification or Amendments, whether offset costs have been or will be included, and the amount, if known. Non-repayable FMF credits may not be used to pay any costs associated with offset agreements.

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

**C6.3.9.2. Procurements.** The USG position is stated in section 2.8 of the Standard Terms and Conditions. It is the contractor's responsibility to inform the Implementing Agency when



estimated offset costs are included in the FMS pricing information that the contractor has provided. The contractor must disclose the amount of the estimated offset costs included the price to the USG contracting officer. The costs should be included before transmittal of the LOA for acceptance. Requests to include costs after LOA acceptance require an LOA Modification or Amendment. An offset note is included on the LOA (see Chapter 5, Table 5.T5. for exact wording).

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

#### C6.4. CASE EXECUTION - LOGISTICS

LOA requirements are fulfilled within existing U.S. military logistics systems. An exception to this policy is the use of the Defense Transportation System (DTS) discussed in Chapter 7. With the exception of Excess Defense Articles (EDA) or obsolete equipment, items are furnished only when the Department of Defense plans to ensure logistics support for the expected item service life. This includes follow-on spares support. If an item will not be supported through its remaining service life, including excess and obsolete defense articles, a note in the LOA should explain any limitations on that support. See Chapter 5, Table C5.T5.

C6.4.1. Priority. Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 4110.01C (reference (az)) establishes priorities for filling requisitions based on the purchaser's Force Activity Designator (FAD) (established by the Chairman of the Joint Chiefs of Staff (CJCS)) and on the Urgency of Need Designator (UND), assigned on the requisition. FADs are ranked with FAD I being the highest and FAD V being the lowest priority. Per Enclosure (D) of CJCSI 4110.01C (reference (az)), the Joint Materiel Priority Allocation Board (JMPAB) is chartered to act on the Chairman's behalf to review and act upon requests for changes in FAD. Upon assignment, upgrade, or cancellation of a foreign country FAD by the JMPAB, the Defense Security Cooperation Agency (Strategy Directorate) ensures proper dissemination of FAD decisions to the Security Assistance community.

C6.4.1.1. FAD Changes. Requests to change a foreign country FAD are made by the Combatant Commander. The Combatant Commander's request to increase a foreign country FAD must be in accordance with Enclosure B of CJCSI 4110.01C (reference (az)) and must address the Combatant Commander's plan to alleviate the situation or condition influencing the upgrade request.

C6.4.1.2. Coordination of FAD Change. Normal day-to-day foreign country FAD change requests will be staffed using standard procedures by the CJCS. The CJCS will review and provide a decision on all Combatant Commander operational, crisis, or emergency foreign FAD upgrade requests within 24 hours.

C6.4.1.3. Security Guidance for FADs. FAD assignment to a specific country or foreign force, unit, or activity may be released only to the recipient country and to U.S. forces or agencies with the need to know and on an unclassified basis. FAD assignments to a specific country are not released to other foreign countries. Compilations of foreign FAD assignments, combining two or more foreign countries or territories, are classified SECRET.

C6.4.2. Project Codes. Project codes assigned by the CJCS provide precedence for requisition processing and visibility within the transportation process. For processing purposes, requisitions with a CJCS 9-series project code will be ranked above all other requisitions with the same FAD and Urgency of Need Designator. CJCS project codes assigned to the Security Assistance community are the “9-alpha-alpha” and “3-juliet-alpha” series. The “9-alpha-alpha” series identify a project, operation, program, force, or activity sanctioned by the CJCS that requires heightened logistic infrastructure visibility and support. The “3-juliet-alpha” series identifies a unique military project or operation when a CJCS project code is warranted for tracking purposes, but normal materiel allocation is to remain unaffected. DSCA (Strategy Directorate) will submit project code requests to the CJCS in accordance with Appendix A to Enclosure A of the CJCSI 4120.01A. (reference (i)).

C6.4.3. Requisitions. The Implementing Agency or the purchaser may initiate Military Standard Requisitioning and Issue Procedures (MILSTRIP) requisitions under implemented LOAs. Table C6.T3. identifies service points of contact for requisition entry.

Table C6.T3. Points of Contact for Requisition Entry

MILDEP	Address
Army	U.S. Army Security Assistance Command 54 M Avenue, Suite 1 New Cumberland, PA 17070-5096.
Navy	Navy Inventory Control Point (NAVICP) Philadelphia, PA 19111-5095
Air Force	Air Force Security Assistance Center Wright-Patterson AFB, Ohio 45433-5000

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

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

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

C6.4.3.1.3. The Item Manager may initiate an immediate procurement action.

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

C6.4.3.2. Cooperative Logistics Supply Support Arrangements (CLSSAs). CLSSA requirements are satisfied on the same basis as U.S. Force requirements in accordance with the country's FAD and Uniform Material Movement and Issue Priority System (UMMIPS). The FAD identifies the priority that is given to a purchaser's request. For information on what items can be provided on CLSSA cases see Chapter 5, subparagraph C5.4.3.3.

C6.4.3.2.1. The Foreign Military Sales Order (FMSO) I case provides for purchase and sustainment of equity in DoD inventory and pipeline, equal to 17 months projected recurring demand. Following receipt of adequate stocks for sustained fill of incoming requisitions (i.e., FMSO I maturity), the FMSO I provides for 5 months on hand (FMSO IA) and 12 months on order (FMSO IB). The DoD Components use this equity investment (capitalization) to procure additional stocks of secondary items, in preparation for purchaser stock withdrawals.

C6.4.3.2.2. The purchaser withdraws stocks from DoD inventories and deposits funds for routine FMSO I replenishment using the FMSO II case. Unless item stock levels are adequate to support all purchasers, FMSO II case requisitions received prior to receipt of augmentation stock are placed on backorder pending maturity of the FMSO I. As augmentation stocks become available, requisitions received under the FMSO II can be filled from stock.

C6.4.3.2.3. For items supplied by DLA, the Implementing Agency submits requirements and funds to DLA.

C6.4.3.2.4. When items subject to CLSSA augmentation are transferred from one DoD Component to another, CLSSA program data and funds are provided to the receiving DoD Component during the transfer process.

C6.4.3.2.5. The DoD Components, including DLA, maintain performance standards and measurement records to show effectiveness and timeliness of CLSSA support.

C6.4.3.2.6. When there is an excess quantity of an item in stock, demand records are reviewed before excess materiel is transferred or declared surplus. If CLSSA requirements caused the excess condition, Implementing Agencies notify purchasers of their liability and ask for disposition instructions.

C6.4.3.2.7. If it is necessary to reduce the level of a purchaser's investment in the U.S. supply system or to terminate part or all of a CLSSA, closeout should minimize impact on the DoD Working Capital Fund (WCF) and the purchaser. CLSSA and other FMS purchasers pay their share of depreciation and other WCF operating costs during the life of each LOA. When a purchaser builds an initial FMSO I, then terminates the CLSSA before substantial orders are placed, and no other purchaser exists, liability may apply for assets on hand and due-in. When liability is determined, countries are required to pay for the items via the CLSSA. Purchasers have the option of receiving the items, or sending them to Defense Reutilization and Marketing Service (DRMS). The purchaser is responsible for all disposal costs. If proceeds exceed disposal costs, the net proceeds are credited to the purchaser's FMS trust fund account.

C6.4.4. Requisition Status Reports. The Implementing Agency prepares a quarterly MILSTRIP requisition status report for each purchaser. The report shows open, shipped, or cancelled requisitions for the reporting period.

C6.4.5. Commercial Buying Service (CBS). The International Logistics Control Office (ILCO) is authorized to use a CBS to support FMS purchaser requirements for nonstandard and difficult to support standard items when DoD organic capability or contractual supportability is not available or timely. Existing CBS options include Parts and Repair Ordering System (PROS) and Simplified Non-Standard Acquisition Process (SNAP).

C6.4.6. Foreign Military Sales Tailored Vendor Logistics (FMS TVL). The ILCO is authorized to use DLA's FMS TVL to support FMS purchaser requirements. An expansion of the existing DoD Tailored Vendor Logistics support program (DoD PV), FMS TVL is a supply support option that augments existing USG support. By accessing the Tailored Vendor Logistics' electronic catalog, the FMS purchaser can identify the item, price and supply lead-time with the added flexibility of being able to define special requirements and delivery needs, before submitting the requisition. In addition to providing support for standard items, this program also supports requirements for non-standard items.

C6.4.7. Diversions and Withdrawals of Materiel. Materiel procured or stocked for FMS may be diverted to meet higher priority requirements with the prior concurrence of the Director, DSCA. The following policies implement the Arms Export Control Act (AECA), section 21(i) (reference(c)), 10 U.S.C. 133b and 975 (references (ba) and (bb)).

C6.4.7.1. Operational Readiness Impact. Under normal circumstances, Implementing Agencies fill Security Assistance requirements from production on a first-in, first-out basis. National security considerations and foreign policy objectives may require deviation from this DoD policy in order to expedite equipment delivery to a purchaser. Items may be diverted from production or from U.S. Forces to meet high priority FMS requirements. While the language of AECA, section 21(i) (reference (c)) pertains only to shipments from stocks, impacts can occur when the Department of Defense diverts materiel from production. The diversion or withdrawal must not significantly lower the operational readiness of U.S. Forces as determined by the DoD Component.

C6.4.7.1.1. If the MILDEPs or the Office of the Secretary of Defense (OSD) staff identify an undesirable effect on U.S. Forces' combat readiness, the Under Secretary of Defense for Policy (USD(P)) through DSCA shall request a written MILDEP assessment. The MILDEP Secretary verifies the assessment and submits it to USD(P) and the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) for review. USD(P) refers the coordinated recommendation to the Secretary of Defense for review and decision.

C6.4.7.1.2. Any diversion or withdrawal that would impact U.S. National Guard or Reserve Forces is coordinated with DSCA, who coordinates the proposal with the Assistant Secretary of Defense for Reserve Affairs (ASD(RA)), pursuant to DoD Directive 1225.6 (reference (bc)). If the proposed diversion or withdrawal includes tanks, a determination that the proposed sale will not increase the shortage of tanks in the U.S. National Guard or Reserve during the current 5-year defense plan is included in the Congressional notification and Congress is advised of the plan to replace the tanks.

C6.4.7.2. Report to Congress - Diversions. The AECA requires a report by the President to Congress when a sale could have significant adverse effect on the combat readiness of the U.S. Armed Forces. There may be instances when the MILDEP Secretary determines that a proposed supply action warrants Secretary of Defense review, but does not constitute a significant adverse impact on Department of Defense requiring a Presidential report to Congress. When the MILDEP Secretary refers a potential impact case to USD(P) and USD(AT&L), the referral includes the purchaser, sale value, item description, and an assessment as to whether the supply action would affect the operational readiness of the military service, or have other impacts that warrant Secretary of Defense review, but which do not constitute a significant adverse impact requiring either alteration or termination of the supply action, or a Presidential report to Congress; or the supply action would constitute a significant adverse impact within the meaning of the law and, if taken, would require a report to Congress.

C6.4.7.2.1. The Secretary of Defense determines whether the Department of Defense provides items on an expedited basis and whether the impact of doing so is significant within the meaning of AECA, section 21(i) (reference(c)).

C6.4.7.2.2. Where the Secretary of Defense takes action to advise the President of the requirement for a report to Congress, the Secretary of Defense provides the analysis relevant to the justification and certification called for in AECA, section 21(i)(1)(E) (reference (c)). No Presidential report is required if the decision is not to make a sale. AECA, section 21(i) (reference (c)) also applies when the significant adverse effect becomes apparent after a sales contract is concluded. However, no Presidential report is required with respect to supply action under a sales contract where the supply action is altered in order to avoid a significant adverse effect on U.S. combat readiness that would otherwise occur.

C6.4.8. System Support Buyout. For weapons systems soon to be obsolete to U.S. Forces and not supported under a CLSSA, the responsible MILDEP identifies purchasers that have this system and advises them of the system phase out. The purchaser should have a minimum of 2 years to place a final order for secondary items to support the system for its remaining useful life. After this time period, the following are authorized:

C6.4.8.1. Items with no demand for 4 years, including the system support buyout period, may be processed for disposal.

C6.4.8.2. Items with demand during the 4-year period may be retained and managed in support of Security Assistance requirements.

C6.4.9. Repair Programs.

C6.4.9.1. Direct Exchange (DX). A repairable item may be exchanged for the same type serviceable item in DoD stocks under certain conditions.

C6.4.9.1.1. The repairable must have been obtained under the AECA, must not be an end item, and the Department of Defense (including FMS) must have a requirement for the repairable item. Programs may be executed under defined line, blanket order, or CLSSA cases.

C6.4.9.1.2. Purchaser funds must be available for the cost of the serviceable replacement. The requisition for the replacement is generally filled according to normal supply procedures.

C6.4.9.2. Repair and Return. Repair and Return is used when a serviceable replacement is not available from stock on hand or due in within a reasonable time, or if the purchaser requests Repair and Return of a specific item. Repair of a purchaser-owned article requires that the repairable article be returned under an LOA. The purchaser must wait the lead-time for repair. SDRs for non-receipt of Repair and Return items must be submitted in accordance with subparagraph C6.4.9.1.

C6.4.10. Returns. Returns may be accepted if the defense article was previously provided under the AECA, is not significant military equipment (SME), and is in fully functioning condition without need of repair or rehabilitation. The Department of Defense (including FMS) must have a funded requirement for the defense article. The purchaser is not reimbursed directly. Rather, the purchaser's FMS account is credited to reflect the transaction, using DoD appropriations or other purchaser funds, dependent upon the buyer.

C6.4.10.1. Return credits may be applied to collections of specific cases when requested by the purchaser.

C6.4.10.2. Title for returned items transfers to the United States following acceptance at the point of U.S. receipt inspection. Returns to or through U.S. controls DESTINED FOR FMS RESALE do not constitute a third party transfer as discussed in Chapter 8.

C6.4.11. Supply Discrepancies. The USG makes every effort to provide the correct defense article or service in the quantity and quality shown in the LOA. In the event of a discrepancy, the purchaser submits an SDR. This section provides Security Assistance unique guidance for processing of SDRs (Standard Form (SF) 364). Further guidance, such as definitions, instructions for SF 364 completion, DoD processing timeframes, and responsibilities is found in Joint Regulation (JR) Defense Logistics Agency Instruction (DLAI) 4140.55, Army Regulation (AR) 735-11-2, Air Force Joint Manual (AFJMAN) 23-215, and Navy Instruction (NAVINST) 4355.18, "Reporting of Supply Discrepancies," hereafter referred to as JR 4140.55.

C6.4.11.1. Timeframes for Submission. SDRs are more easily resolved when they are submitted promptly. The longer the time between when the discrepancy occurs and when the SDR is submitted, the more difficult it is to find supporting documentation and informed personnel. A mandatory standard note on SDR time limits (Chapter 5, Table C5.T5.) requires that the Purchaser agrees to report misdirected or unordered shipments. The Purchaser further agrees to report such shipments containing items that are identified as classified/sensitive materiel, and/or arms, arms parts, or explosives, within 24 hours of discovery, regardless of dollar value, for disposition instructions from the USG. The Purchaser agrees to ship such classified/sensitive materiel, and/or arms, arms parts, or explosives within 30 days of USG direction for such return. For all other items, the Purchaser agrees to ship discrepant articles within 180 days of receiving USG direction for such return. When appropriate, the USG may direct an expedited return of an exemplar of the discrepant articles prior to issuing further direction. Time limits for reporting discrepancies relating to contractor warranties are prescribed in the individual warranty clauses and/or contracts.

C6.4.11.2. Minimum Dollar Value. SDRs are processed only when the estimated value is \$200 or greater regardless of the type of discrepancy. This minimum value includes the value of the item plus any transportation and handling costs. Purchasers may submit SDRs regardless of the dollar value so that problems can be documented, but only those over the minimum dollar value are reviewed for possible compensation.

C6.4.11.3. Causes of Discrepancies. Supply discrepancies result from shortages or overages, improper packing or marking, duplicate shipments, incorrect items, and condition or quality discrepancies (including damage) prior to release to the carrier by the origin shipper. For Security Assistance purposes, supply discrepancies also result from documentation and/or billing errors, deficiencies in the performance of services, and instances where no evidence of shipment (signed carrier receipt and shipping document) can be produced by the shipper. Discrepancies are not always the result of erroneous USG action. Further, erroneous USG action does not always result in SDR compensation. The LOA Standard Terms and Conditions (Chapter 5, Figure C5.F3.) set forth assumptions of risk for the purchaser.

C6.4.11.4. SDR Responses. The Implementing Agency, in conjunction with the DoD or commercial supply source, resolves SDRs and determines financial responsibility. The Implementing Agency designates a single point of contact for SDR corrective action. Only this point of contact and DSCA are authorized to accept and convey USG liability or originate a commitment for corrective action. Commitments to the purchaser for U.S. financing of discrepancies are not made until all reviews are complete. There is no automatic approval of SDRs based solely on dollar value. SDR responses should be provided by the Implementing Agency within timeframes established by JR 4140.55. The Implementing Agency SDR point of contact approves extensions.

C6.4.11.5. SDR Documentation. A complete document package is key to effective SDR resolution. Table C6.T4. lists the required items.

Table C6.T4. Supply Discrepancy Report (SDR) Documentation Requirements

<b>SDR Documentation Requirements</b>		
1	SF 364	Copy of the SDR, SF 364, and supporting data from the purchaser.
2	LOA Documents	Copy of the LOA and any Amendment or Modification bearing on the discrepancy.
3	Chronology of Events	The following statement should be included – it covers pertinent events for most SDRs: The SDR was filed within the time period allowed by the LOA, which in this instance is [time period on the LOA] from [the date of shipment/the date of furnishing of services or the date of billing]. Date of [shipment/completion of services] was [date]. Date of billing was [date]. The SDR was received by [organization] on [date] with document origination date of [date signed by initiator].
4	Key Actions	Principal SDR processing actions and dates, present status of any assets, and other information pertinent to the SDR background.
5	General Counsel Position	An Implementing Agency General Counsel position regarding USG liability, to include: This office was furnished relevant documents pertaining to SDR [number]. The determination of USG liability for this SDR is supported by [list LOA General Terms and Conditions paragraph(s), footnotes, attachments, legal principle, legal precedent, or other bases for the determination].
6	Options	A list of options, with costs, to remedy the SDR. In addition to this list, the Implementing Agency should address the following items as applicable: 1) article or service received vice what was stipulated in the LOA; 2) whether the supply source repurchases the item(s), hold the item(s) for DoD/FMS sale, repair, or replace the item; 3) detailed cost estimates, including transportation, temporary duty (TDY), and other associated charges for each remedy; and, 4) if rework or repair is indicated, include source documents from the office responsible for correcting the SDR upon receipt of authority.
7	Preventive Action	Discuss policy, procedure, or systems change; education; or other actions to reduce probability of recurrence.
8	Retention of Records	Show status of records required for resolution, including present and anticipated preservation.



C6.4.11.6. Shipment Documentation. Any movement document or receipt, signed by a carrier representative, showing that the U.S. shipped or released materiel to a carrier for shipment to the country's designated representative, constitutes evidence of shipment. Such documents generally show the quantity; National Stock Number (NSN); mode of shipment; date; Transportation Control Number (TCN); notice of availability number; bill of lading, parcel post insured, or registered number; addressee; vessel, voyage, or flight number (to the extent possible); and names of the shipper and carrier. This information is essential for adjudication of SDRs. If proof of delivery to a carrier is requested and the freight forwarder has not received the consignee copy of the bill of lading, then a duplicate of the appropriate documents establishing evidence of shipment is provided to the purchaser's representative.

C6.4.11.7. DSCA SDR Review. DSCA (Business Operations and Strategy Directorates) reviews and approves or disapproves SDRs when the Implementing Agency determines the USG is liable for correction and recommends use of FMS funds in excess of \$50,000; or, the SDR involves an issue likely to be raised to DSCA or higher levels. DSCA makes the final decision within 30 days.

C6.4.11.8. SDR Financial Guidelines. AECA, sections 21 and 22 (reference (c)) require that the USG recover full costs. This requirement applies to SDRs. When purchasers re-requisition items, the current price is paid even if the item was initially released at a lower price. Purchaser problems involving Government Furnished Equipment (GFE) obtained under AECA, section 30 (see Chapter 11, section C11.8 for more information) should be addressed to the U.S. contractor possessing the GFE. FMS funding and FMS SDR processing do not apply to these sales. GFE/GFM items purchased under the auspices of an FMS case are processed under normal SDR guidelines.

C6.4.11.9. Financing Approved SDRs. Table C6.T5. shows the most common SDRs and methods of financing when the Implementing Agency determines an SDR should be approved. Corrections are financed:

C6.4.11.9.1. Within contract costs for DWCF, Operation and Maintenance (O&M), Procurement Appropriation (PA), and Research, Development, Test and Evaluation (RDT&E) items obtained from procurement.

C6.4.11.9.2. Within the surcharge for DWCF items or services supplied from stock.

C6.4.11.9.3. From the O&M, PA, or RDT&E account for O&M, PA, or RDT&E items supplied from stock.

C6.4.11.9.4. From the FMS (Administrative, Transportation, or Packaging, Crating and Handling (PC&H)) fund accounts when sources above do not apply. These SDRs are financed from current year FMS Administrative or Logistics Support Expense (LSE) budget obligation authority, or reissuance of past unused budget authority. The DSCA FMS Administrative Budget Call, issued on an annual basis to MILDEPs and Defense Agencies, provides procedural guidance for the inclusion of estimated SDR costs that are financed from FMS administrative funds.

Table C6.T5. Methods of Financing Approved SDRs

Nature of Discrepancy	Source of Supply	FMS Funds <sup>1</sup> (Admin, PC&H, Transportation)	USG Funds/Appropriations (DWCF, PA, O&M, RDT&E)
Damage, Defect, or Other Deficiency	Procurement <sup>2</sup>	Generally not applicable except where U.S. action or inaction caused inability of USG to obtain satisfaction from contractor for purchaser.	Generally not applicable. Usually corrected by contractor within existing contract terms.
	Stock	Peripheral costs of correction (e.g., testing, transportation, TDY)	Replacement, refund to purchaser account, or rework of defective items for costs not listed under FMS Fund heading.
Non-receipt or Shortage	Procurement <sup>2</sup>	Generally not applicable except where U.S. action or inaction caused inability of the USG to obtain satisfaction from contractor for purchaser.	Generally not applicable. Usually corrected by contractor within existing contract terms.
	Stock	Not applicable except where item shipped DTS and U.S. action or inaction caused inability to obtain satisfaction from carrier. See next column.	(Shortage/misdirection at origin based on no evidence of shipment.) Credit to purchaser account, charged to USG fund or appropriation initially credited. Lost items are absorbed as inventory losses.
Overage	Procurement <sup>2</sup>	Generally not applicable.	Generally not applicable
	Stock	Generally not applicable. See next column.	If billed and purchaser does not want item - amount charged is refunded to purchaser account and USG appropriation fund charged. If USG directs no return, absorb as inventory loss.
Incorrect Item	Procurement <sup>2</sup>	Generally not applicable. See next column.	Generally not applicable. Normally corrected by contractor within contract terms.
	Stock	Generally not applicable. See next column.	Unless the item manager chooses to reissue, refund to the purchaser account, charged against appropriation or fund initially credited. If USG directs no return, absorb as inventory loss.
Missing or Improper Documentation	Procurement <sup>2</sup>	Generally not applicable. See next column.	Generally not applicable. Normally corrected by contractor.
	Stock	Generally not applicable. See next column.	Issue documentation and/or proper items without additional charge to FMS purchaser. If not available for issue, refund against USG appropriation/fund initially credited. If USG directs no return, absorbed as inventory loss.
Duplicate or Erroneous Billings (From procurement <sup>2</sup> or stock)		Generally not applicable. See next column.	Refund or adjustment to purchaser account. Adjustments charged against appropriate USG or purchaser account.

<b>Nature of Discrepancy</b>	<b>Source of Supply</b>	<b>FMS Funds<sup>1</sup> (Admin, PC&amp;H, Transportation)</b>	<b>USG Funds/Appropriations (DWCF, PA, O&amp;M, RDT&amp;E)</b>
Loss of Purchaser Item (provided for repair, etc.)		Reimburse purchaser when item is nonstandard (no longer maintained in USG inventory).	Reimburse purchaser when item is DoD standard (currently maintained in USG inventory) and the loss is bookkeeping or inventory control only.
<p>1. In some instances, Administrative, Transportation, or PC&amp;H funds may complement other financing for SDR resolution. For example, it could be appropriate to reimburse PC&amp;H or transportation costs for initial delivery of an overage when this is the sole means for resolution.</p> <p>2. Procurement includes defense articles and services acquired to fill the FMS requirement and therefore not supplied from on-hand DoD assets. Both stock and procurement guidance may apply in some instances (e.g., item on hand in DoD inventory reworked through a commercial contract prior to shipment).</p>			

## C6.5. FMS CASE RECONCILIATION AND REVIEWS

C6.5.1. Reconciliation. Lines and cases shall be reconciled throughout the case life cycle. It is easier to find and fix problems as they occur. Case Managers SHALL NOT wait until the case is ready for closure to perform reconciliation activities. Case Managers reconcile and close lines of accounting, requisitions, Project Directive Line Items (PDLIs), funding documents, etc., as items are delivered. The Implementing Agency issues Notices of Supply/Service Completion (NSSCs) to the purchaser as LOA lines or cases are completed and reduces internal program or case directives to return OA back to the case (at case level). The Case Manager conducts final reconciliation of MILDEP and DoD systems to ensure that systems are in balance.

C6.5.2. FMS Case Reviews. FMS case reviews occur at least once per calendar year. Implementing Agency checklists (some formats may be mandated/standardized by DSCA) contain detailed guidance for reviews and are signed and dated by the Case Manager conducting the review for inclusion in the case file. Some of the key areas that should be reviewed include: accessorial costs; billings; closure issues; commitments, obligations, and expenditures; open contracts; credit values; deliveries; disbursements; liquidated progress payments; LOA values; OA; payment schedule; quantities; SDRs; travel vouchers; etc. This information may be found using the LOA, DIFS, MILDEP Systems, case directives, case files, funding documents, shipping documents, vouchers, etc. Often the case review identifies the need for payment schedule revisions. Refer to Chapter 9, section C9.9 for additional guidance regarding payment schedules.

C6.5.3. Security Cooperation Education and Training Working Group (SCETWG). See Chapter 10 for information on SCETWGs.

C6.5.4. DSCA Financial Management Reviews. See Chapter 9 for information on Financial Management Reviews.

C6.5.5. Reason for Review. When considering holding a review, the following items are addressed: USG resources, desires of the FMS purchaser, political visibility or sensitivity, changes in a region, program, size, and complexity of the program. Objectives (Why are we conducting this FMS review?) and deliverables (What outcomes do we want to achieve?) must be clearly identified. A purchaser's internal policy or even legislation may require periodic information on the status of country accounts, issues, cases, and programs. The preferences and desires of the purchaser regarding the conduct of reviews should be accommodated to the extent possible.

C6.5.6. Representation at Reviews. While senior officials may co-chair macro-level reviews, detailed reviews require attendance of managers who are responsible for day-to-day operations of the program or weapon system. The rank of the lead USG review attendee should be equivalent to that of the lead purchaser attendee. Every effort should be made to minimize the number of attendees while ensuring full coverage of all agenda topics. The USG chair ensures that each attendee has a distinct and active role in the review. If topics outside the attendees' expertise are discussed, the attendee follows-up with the appropriate organizational component. For reviews hosted by the FMS purchaser, SCOs coordinate administrative arrangements, make lodging and transportation arrangements, and accommodate the visiting team however practical.

**C6.5.7. Timing and Frequency of Reviews.** The frequency and timing of reviews depend on the review purpose, purchaser funding, budget timelines, program events, etc. For external reviews (i.e., those that involve the FMS purchaser), the frequency and timing is coordinated with the FMS purchaser. Table C6.T6. shows the normal frequency and timing of each review. When scheduling reviews, consideration is given to purchaser and USG holidays, weekends, and personnel changes (e.g., SCO, purchaser leadership, etc.). Since FMS reviews for a given purchaser or program often involve many of the same people, these reviews are consolidated as much as practical to ensure maximum use of resources.

Table C6.T6. Timing and Frequency of Reviews Matrix

<b>Review Type</b>	<b>USG Representation</b>	<b>Frequency</b>	<b>Timing</b>
Policy-level	OSD/USD(ISA)/USD(ISP)/SOLIC (USG chair) State Department Chairman of the Joint Chiefs of Staff DSCA (may chair a subcommittee or working group) MILDEPs/Implementing Agencies (if requested) USD(AT&L), USD(C) (if requested) Others as needed	Varies - some reviews are held on a regular basis, usually annually.	Based on determination by policy-level officials.
Country-level	DSCA (USG chair) MILDEPs/Implementing Agencies (if required) SCOs DFAS (if required) Other interagency (e.g., State, Commerce) (if required)	Usually Annually	May be driven by purchaser funding and budgeting timelines.
Service-level	MILDEPs/Implementing Agencies (USG chair) SCOs (if required/requested) DSCA (if required) DFAS (if required) Contractors (if required)	Usually Annually	May be driven by purchaser funding and budgeting timelines.
Program-level	Implementing Agencies and Program Management/Executive Offices (USG chair) DFAS (if required) DSCA (if required) SCOs (if required) Contractors (if required) Others as needed	Based on milestone plan established during case development as referenced in the LOA (and refined over time).	Event-driven based on established milestones.
Internal (USG only)	Varies, depending on review purpose	Varies - although some internal reconciliation reviews may be held annually.	Varies

**C6.5.8. Funding of Reviews.** The funding source for a review depends on the type of review and who (and what level) attends. The manpower funding matrix (see Chapter 5, Table C5.T6.) is used to determine funding sources. If the USG requests reviews exceeding the normal frequency shown in the Table C6.T6., the source of funding does not change. If the FMS purchaser requests reviews exceeding the normal frequency, these additional reviews are funded on the applicable FMS case.

C6.5.9. Standardized Review Formats. Standard formats help the FMS review attendees understand and consistently apply terms. While standardized formats are preferred, additional information can be provided. Chapter 9, Figure C9.F7. provides the standard format for use in all DSCA Financial Management Reviews and in other DSCA-led FMS reviews when financial status is reported. Requests for waivers/deviations to this format should be addressed to DSCA (Business Operations Directorate).

## C6.6. SUSPENSION AND CANCELLATION OF SECURITY ASSISTANCE

C6.6.1. Suspension. If the Department of State (DoS) determines that it is necessary to suspend Security Assistance to a particular country, it issues guidance for execution. Upon receipt of this guidance, the DSCA (Operations Directorate) issues appropriate instructions to the Implementing Agencies informing the Combatant Commander and the SCO. Suspension of delivery is not the same as FMS case cancellation or contract termination action (see section C6.9.). DSCA (Operations Directorate) notifies the Implementing Agencies when suspensions are lifted. The following procedures apply to suspensions that impact all aspects of case execution.

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

C6.6.1.2. If procurements have started, but contracts have not been awarded, the Implementing Agency provides details to DSCA (Operations Directorate) and requests guidance.

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

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

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

C6.6.1.6. Any requisitions submitted against either a CLSSA or a blanket order FMS case may be required to be held by the Implementing Agency and not be filled.

C6.6.1.7. The following applies under Brooke Amendment sanctions:

C6.6.1.7.1. FMS LOAs financed with FMF funds that were or may be accepted by a country on or after the effective date of the sanction shall not be implemented.

C6.6.1.7.2. New or pending FMF-financed LOAs shall not be countersigned or issued to the country for acceptance. FMF cases accepted prior to effective date of sanctions

remain in force and shall be executed. Modifications or Amendments to existing FMF-funded FMS cases are allowed if they do not involve new obligation of funds. See Chapter 9, subparagraph C9.7.2.12.4.

C6.6.1.8. See Chapter 11, paragraph C11.5.9. for information on restriction on the EDA program when countries are under sanctions.

C6.6.1.9. For training funded through an FMS case or under International Military Education and Training (IMET), students in training before the suspension date may complete their course and Mobile Training Teams (MTTs) and Language Training Detachments (LTDs) may complete training unless the DoS directs otherwise. This includes sequential training (proceeding to the next scheduled course). Sequential training for which funds have not been obligated shall be reviewed by DSCA (Programs Directorate) on a case-by-case basis. If course costs have been obligated before the effective date of the suspension, the student is permitted to begin training and the MTTs or LTDs are allowed to begin. If course costs have not been obligated before the effective date of the suspension, students are not permitted to begin a course and MTTs and LTDs are not allowed to commence. DSCA provides instructions for students from suspended countries. (See Chapter 10.)

C6.6.1.10. Within 10 days of a suspension notification, the Implementing Agency advises DSCA of the impact of the suspension informing the Combatant Commander and the SCO. This includes identification of major items and significant secondary items that are scheduled for release to the suspended country within 30 days, and those items that are on order but have not been shipped. Not later than 21 days after the suspension, the Implementing Agency must advise DSCA of all other materiel that is either in route, scheduled for shipment within 30 days, or on order but unshipped. This report also identifies the total unused dollar value on blanket order and CLSSA (FMSO II) cases.

C6.6.2. Cancellation. The DoS may extend a suspension to become a cancellation in accordance with AECA, sections 2(b) and 42(e) (reference(c)). DSCA directs case cancellation and appropriate contract actions to include termination. DSCA provides guidance on the disposition of items, funding, etc., after a case-by-case review.

## C6.7. AMENDMENTS AND MODIFICATIONS

FMS cases may be amended or modified to accommodate certain changes. Questions on the use of the LOA, Amendment, or Modification should be referred to DSCA (Strategy Directorate) by the Implementing Agency policy office. All Amendments and Modifications are prepared using the DSAMS, unless the Amendment or Modification is classified. It is important to clearly identify the purpose of the Amendment or Modification when preparing the case. It is not sufficient to state that the purpose is to increase or decrease funds or lead-times without plainly stating the reason for the increase or decrease. The case reviewer, as well as the purchaser, must know the reasons why these actions are taking place on the case. Examples include: “This Amendment increases the estimated costs of line item 002 for additional requirements as requested by the purchaser”; or “This Modification increases the estimated costs of line item 002 to cover price increases based on contractual requirements”. These are examples only; Implementing Agencies should identify the applicable reasons for the changes needed.

### C6.7.1. Amendments

**C6.7.1.1. Use of an Amendment.** An Amendment is necessary when a change requires purchaser acceptance. The scope of the case is a key issue to consider in deciding whether to prepare an Amendment, Modification, or new LOA. A scope change takes place when the original purpose of a case line or note changes. This may be reflected through either an increase or decrease in dollar value, quantity, or lead-time. An LOA note revision can also be considered a scope change if it alters the original purpose of the line or case. Major increases in scope such as addition or deletion of SME, including Major Defense Equipment (MDE), normally require the preparation of a new LOA vice an Amendment. The reasons for the changes are the key determinants as to the type of LOA document that is appropriate. Table C6.T7. provides examples of changes that require an Amendment. This list is not all-inclusive.

Table C6.T7. Amendment Requirements

<b>Examples of When an Amendment is Required</b>	
1	Realigning or redistributing funds among case lines
2	Adding case lines
3	Deleting case lines (except for case closure)
4	Quantity increases or decreases to defined order lines
5	Dollar value increases or decreases to blanket order lines with the exception of price increases or decreases
6	Addition or deletion of requirements
7	Extending a lead time, period of performance, or availability of services for additional coverage even if there is no change in dollar value
8	Change in Delivery Term Code to add/delete transportation requirement
9	Revising line item descriptions or notes to increase or decrease scope
10	Changing a MASL that has a corresponding configuration or scope change

**C6.7.1.2. \$50,000 Break Point.** The DSCA database records Amendments reflecting net increases of more than \$50,000 in the fiscal year the Amendment is accepted. Amendments that reflect net increases of \$50,000 or less are recorded in the year of the basic LOA. Questions regarding this policy should be addressed to DSCA (Business Operations Directorate).

**C6.7.1.3. Amendment Financial Requirements.** Payments are included on the Amendment (see Chapter 9) when the existing payment schedule does not include sufficient amounts to cover costs from the expiration date of the Amendment until the next billing cycle. For under-collected cases, the amount due with Amendment acceptance also includes payments to cover current financial requirements, including termination liability, if applicable.



C6.7.1.4. Restatements. There may be times when major changes need to be made to a document after it has been countersigned and offered to the Purchaser. If the Purchaser wants to retain the existing designator (instead of canceling the offer and issuing a new case), the offered case may be restated. Restatements can be made as long as the document is in “offered” status, the purchaser has not yet signed the case, the OED has not yet expired, and all changes are consistent with FMS policies and procedures. Before restating an LOA amendment, the Purchasing country must be notified that the original offer is no longer valid. Expiration of the Offer Expiration Date (OED) on the offered LOA amendment is considered written notice. Restated documents must clearly state that they are restated and supersede the previously offered version and must be coordinated and countersigned using the same procedures as the original case. A copy of the previous version(s) of the amendment must accompany the coordination request. If the Purchaser signs the original offer, it is considered an invalid acceptance because the original offer either expired or was withdrawn. This action is considered a counteroffer and a new offer should be made to the Purchaser by extending and then restating the LOA amendment; or the case should be cancelled and a new LOA amendment (new offer) prepared.

C6.7.1.5. Reactivating Cancelled Offers. Once an offered LOA Amendment has been cancelled, it will remain cancelled in most instances. Reactivating cancelled cases destroys the data history. LOAs that are not yet offered can be cancelled/reactivated at the IAs discretion. Once an LOA Amendment is offered, cancellation in DSAMS should happen when it is determined that the document is no longer needed (e.g., the country stipulates they do not want it). Cancellation cannot be used to place a document on hold. The Hold and Suspend milestones are used for that purpose. A request for a reactivation/data fix should be forwarded to DSCA/DBO/FPIO and identify what actions are required along with sufficient justification warranting the changes. The request will be coordinated with the DSCA country program director, country financial manager, and the DSCA Strategy Directorate, Policy Division for their input on whether to approve or disapprove the request. DSCA/DBO/FPIO will then either post the Reactivation Authorized Milestone (DREACT) in DSAMS, along with an explanatory remark, or notify the DSADC Helpdesk (with a copy to the IA) to initiate the data fix against the document, and indicate the decision in DSAMS Case Remarks listing all deleted milestones once the data fix has been accomplished.

C6.7.1.5.1. This could involve reactivating the document (which takes it back to development status) or doing a data fix (removing milestones), which takes it back to a more appropriate status.

C6.7.1.5.1.1. If reactivation is approved, DSCA/DBO/FPIO will post the Reactivation Authorized Milestone (DREACT) in DSAMS and notify the IA by e-mail. The IA will then post the MILDEP Reactivation (MILREACT) milestone in the DSAMS Case Milestone List Window and bring other systems that may have this cases loaded up to date. This takes the case back to Development status.

C6.7.1.5.1.2. If a data fix is more appropriate, the IA must determine if there have been any changes, (e.g., lines or notes originally added to this document version that may have been systemically deleted). DSCA/DBO/FPIO will post the Reactivation Authorized Milestone (DREACT) in DSAMS and notify DSADC (info the IA) to data fix the document placing it in the appropriate status. Once the data fix has been completed, the IA must then post the MILDEP Reactivation (MILREACT) milestone in the DSAMS Case Milestone List Window,

replace/modify data in document (e.g., lines/notes that were deleted), update the milestone as appropriate, and bring other systems that may have this cases loaded up to date. This cannot be done systemically, as DSAMS does not retain this information.

C6.7.1.6. Pen and Ink Changes to Amendments. There may be times when minor changes to an Amendment are needed after it has been countersigned and offered to the purchaser. Minor changes can be made as long as: the Amendment is in “offered” status, the purchaser has not yet signed the Amendment, the Offer Expiration Date (OED) has not yet expired, and all changes are consistent with FMS policies and procedures. The purchaser should be authorized via message or memorandum to make any pen and ink changes, with a copy to DFAS Indianapolis. DSAMS must be updated with any changes. Pen and ink changes should be kept to a minimum, with processing as follows:

C6.7.1.6.1. OED Changes to Amendments. The greater the period of time between offer and acceptance, the greater the likelihood of decreased accuracy of data. Requests by the purchaser to extend the expiration date are honored only after a review by the Implementing Agency. The Implementing Agency must ensure all pricing data are still valid for the extended period. All concerned should be advised of any consequences associated with the extension.

C6.7.1.6.2. Minor Changes to Amendments. Minor changes may include insignificant technical corrections such as a small arithmetic change that does not increase total value and administrative changes such as an address correction, initial deposit or payment schedule adjustment, or minor changes to note wording. The Implementing Agency can review and approve these changes.

C6.7.1.6.3. Major Changes to Amendments. More significant changes generally require a new or restated Amendment. Pen and ink changes for significant changes to Amendments may only be done in exceptional circumstances and with DSCA (Business Operations and Strategy Directorates) concurrence. Changes initiated after the purchaser has signed the Amendment are accomplished through a corrective Amendment or Modification.

C6.7.1.6.4. Unauthorized Pen and Ink Changes to Amendments. When an Amendment is signed by the purchaser and returned to the Implementing Agency with unauthorized pen and ink changes, it is processed as a counteroffer. The Amendment should be restated and reoffered, or cancelled and a new Amendment prepared. If the Amendment is restated, the Amendment number remains the same. If the Amendment is cancelled, a new Amendment is prepared with a new number.

C6.7.1.7. Amendment Implementation. Amendments are implemented when the FMS purchaser has signed the Amendment and any Amount Due with Amendment Acceptance has been received by DFAS Indianapolis. When this occurs, the Case Manager posts the Amendment implementation milestone in DSAMS.

## C6.7.2. Modifications.

C6.7.2.1. Use of Modifications. U.S. unilateral changes to an FMS case are made by a Modification and do not require acceptance by the purchaser. Concurrent Modifications are the exception for adding scope, as long as the change is not significant such as adding SME. See

C6.7.2.3. for additional information. Table C6.T8 provides examples of changes that may be done using a Modification. This list is not all-inclusive.

Table C6.T8. Modification Requirements

Examples of When a Modification is Required	
1	Price increase or decrease on a defined order line
2	Increasing or decreasing line values for case closure
3	Increases due to over commitments
4	Lead time slippages caused by source of supply impacts (e.g., delays in contract award or materiel deliveries)
5	Revising source, line manager, offer release, or type of assistance codes
6	Correcting accessorial charges
7	Minor administrative changes such as typographical errors
8	Revising payment schedules
9	Revising the Terms of Sale
10	Correcting the FMS Administrative Surcharge
11	Charges for Value Added Tax and other international requirements levied on the U.S. that must be funded by the FMS case (considered a price increase)
12	To add charges for storage and other U.S. requirements already received that must be funded on the FMS case
13	Concurrent Modifications are the exception for adding limited scope

C6.7.2.1.1. Monitoring Funds. Costs charged under an FMS case line must not exceed the funds available on that line. Program management responsibility includes analysis and tracking to ensure funding is adequate to avoid program disruption. If tracking shows that costs incurred on the line are deviating from those estimated to the degree that later deviations are unlikely to bring overall costs into balance, or OA above line value is required at some point in the program, a Modification should be processed. A Modification should also be provided for relatively minor cost adjustments when all items are on order and prices are reasonably firm. Price increase Modifications shall be provided by the Implementing Agency BEFORE the actual accrued costs reported to the purchaser exceed those estimated on the case unless the case is in the closure process.

C6.7.2.1.2. Price Increases During Case Closure. Price increases discovered during case closure (i.e., after the case becomes supply/services complete) shall be validated during final reconciliation. For FMS cases that are in the closure process, the following rules apply:

C6.7.2.1.2.1. If expenditures exceed FMS case ordered values, a Modification or Amendment is required. The majority of actions related to expenditures reconciled prior to closure are addressed on a Modification. Contact DSCA (Strategy Directorate) for questions regarding Amendment or Modification usage.

C6.7.2.1.2.2. If the case is anticipated to close and expenditures do not exceed ordered value, the case may be closed without doing an Amendment or Modification.

C6.7.2.1.2.3. Refer to DoD 5105.65-M, FMS Case Reconciliation and Closure Manual (RCM) (reference (dg)) for comprehensive FMS case reconciliation and closure policies.

C6.7.2.2. Purchaser Acknowledgment. Acknowledgement of receipt of the Modification, although not required for implementation, confirms that a purchaser's authorized representative has received the Modification.

C6.7.2.3. Concurrent Modifications. Case value may be transferred between two or more cases by concurrent Modifications. Concurrent Modifications are prepared in DSAMS and identified using the DSAMS Concurrent Funding Tab under Case Detail to record the transfer from or to cases and amounts. DSAMS automatically relates the documents and prints the correct statements in accordance with C6.7.2.3.6. This process ensures that all the documents are implemented at the same time. The following conditions must be met for valid concurrent Modifications:

C6.7.2.3.1. The FMS country official who requests the shift in value has the authority to accept LOAs and a copy of the LOR must be attached to each Modification. Any shift that results in a scope increase or decrease must be as requested in the LOR.

C6.7.2.3.2. Must not include a significant scope change (e.g., adding SME).

C6.7.2.3.3. Total amount(s) increased are no more than the total amount(s) decreased. If addition(s) to the LOA(s) being increased generate a requirement for an initial deposit, an Amendment must be used.

C6.7.2.3.4. LOA(s) decreased have adequate funds available to cover remaining obligations.

C6.7.2.3.5. All cases being modified must be in "implemented" status. Closed cases are not identified in concurrent Modification packages.

C6.7.2.3.6. All Modifications are provided to DSCA as a package for countersignature and cross-reference each other in the "This Modification is for:" section of the Modification as follows:

(On decreased LOA):

"Value of \$\_\_\_\_ is hereby transferred to FMS Case \_\_-\_\_-\_\_ (reference Modification\_\_)."

(On increased LOA):

"Value of \$\_\_\_\_ is hereby transferred from FMS Case \_\_-\_\_-\_\_ (reference Modification \_\_)."

C6.7.2.4. Pen and Ink Changes to Modifications. Pen and ink changes to Modifications are NOT authorized. After a Modification has been signed and countersigned by the USG, any further changes must be accomplished by using a new Modification (or Amendment if applicable).

C6.7.2.5. Modification Implementation. Modifications do not require purchaser signature and are implemented upon countersignature. If countersignature is not required for a particular Modification, the Modification is implemented upon USG signature.

C6.7.3. Amendment and/or Modification Preparation. Amendments and Modifications are prepared using DSAMS. (See Chapter 5, paragraph C5.4.11 guidance for classified cases.) The Case Manager is responsible for preparing (or ensure preparation of) case Amendments and Modifications.

C6.7.4. Amendment and/or Modification Formats. Amendment and Modification formats, including sample data and document-unique instructions for preparation, are provided in Figures C6.F2. – C6.F4.

Figure C6.F2. Amendment Format


	<p><b>United States of America</b></p> <p><b>Amendment 1 to Letter of Offer and Acceptance (LOA)</b></p> <p><b>BN-Q-SEH</b></p>		
<p>Based on BN/MODAT2313 dated 03/04/2006</p> <p>Mail To: Embassy of Bandaria Office of the Air Attache 1234 Massachusetts Ave, NW Washington, DC 29999.</p> <p>Pursuant to the Arms Export Control Act, the Government of the United States (USG) offers to amend the Letter of Offer and Acceptance (LOA) identified above for the purchase of defense articles, defense services, or both. Other provisions, terms, and conditions of the original LOA remain unchanged.</p> <p>This Amendment provides for additional test equipment for the AGM-65 missiles.</p> <p>Basic LOA accepted: 04 Sep 2003.</p> <p>Estimated Cost: \$7,834,007 <span style="float: right;">Due with Amendment Acceptance: \$101,044</span></p> <p>Terms of Sale: Cash Prior to Delivery Dependable Undertaking</p> <p>This offer expires on 17 January 2007. Unless a request for extension is made by the Purchaser and granted by the USG, the offer will terminate on the expiration date.</p> <p>This Amendment consists of page 1 through page 3.</p> <p>The undersigned are duly authorized representatives of their Governments and hereby respectively offer and accept this Amendment:</p>			
<p>_____</p> <p>U.S. Signature</p>	<p><u>20 Aug 2006</u></p> <p>Date</p>	<p>_____</p> <p>Purchaser Signature</p>	<p>_____</p> <p>Date</p>
<p>_____</p> <p>Typed Name and Title</p> <p><u>Defense Security Cooperation Agency</u> Implementing Agency</p>	<p>_____</p> <p>Typed Name and Title</p> <p>_____</p> <p>Agency</p>		
<p><u>DSCA Reviewed/Approved</u> DSCA</p>	<p><u>4 Nov 2006</u> Date</p>		
		<p>BN-Q-SEH (A1) Page 1 of 3</p>	

Figure C6.F2. Amendment Format (continued)

This Amendment consists of changes as follows:

(1) Itm Nbr	(2) Description/Condition	(3) Qty, Unit of Issue	(4) Costs (a)Unit	(5) (b)Total	(6) Ofr Rel Cde	(7) Del Trm Cde
<b>ADDED</b>						
006	B8A 4935013355060 (N) GUIDED MISSILE TEST SET DSM-157	2 EA	\$225,000.00	\$450,000	P(18-30) TA5	A 4

Note(s) 18)

<u>Estimated Cost Summary</u>	<u>Previous (B)</u>	<u>Revised</u>
(8) Net Estimated Cost	\$6,837,107	\$7,287,107
(9) Packing, Crating, and Handling	154,722	154,722
(10) Administrative Charge	170,928	\$276,910
(11) Transportation	115,268	115,268
(12) Other	0	0
(13) Total Estimated Cost	\$7,278,025	\$7,834,007

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

ESTIMATED PAYMENT SCHEDULE		
<u>Payment Date</u>	<u>Quarterly</u>	<u>Cumulative</u>
Previous Payments Scheduled Date (15 Dec 2006)		\$156,419
Current USG Financial Requirements		\$156,419
Amount Received from Purchaser		\$156,419
Due with Amendment Acceptance	\$101,044	\$257,463
15 Jun 2007	\$463,126	\$720,589
15 Sep 2007	\$100,803	\$821,392
15 Dec 2007	\$326,184	\$1,147,576
15 Mar 2008	\$1,000,536	\$2,148,112
15 Jun 2008	\$2,050,821	\$4,198,933
15 Sep 2008	\$2,268,258	\$6,467,191
15 Dec 2008	\$970,856	\$7,438,047
15 Mar 2009	\$395,960	\$7,834,007

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Page 2 of 3

Figure C6.F2. Amendment Format (continued)

**Signed Copy Distribution:**

1. Upon acceptance, the Purchaser should return one signed copy of this Amendment to Defense Finance and Accounting Service -Denver, ATTN: DFAS-JY/DE, 6760 E. Irvington Place, Denver, CO 80279-2000. Simultaneously, wire transfer of the initial deposit or amount due with acceptance of this Amendment (if required) should be made to financial institution identifier 021030004 TREAS NYC, Agency Location Code 00003801, showing "Payment from Government of Bandaria for BN-Q-SEH"; or a check for the initial deposit, made payable to the US Treasury, mailed to DFAS-JDT/DE, P.O. Box 173659, Denver, CO 80217-3659, showing "Payment from Government of Bandaria for BN-Q-SEH". Wire transfer is preferred.
2. One signed copy should be returned to Defense Security Cooperation Agency, Director, Defense Security Cooperation Agency, 201 12<sup>th</sup> St South, Suite 203, Arlington VA 22203-5408.

**Note 16. ACCESSORIAL CHARGES (RESTATED).**

- a. A PC&H charge has been applied to lines 001 and 004.
- b. A transportation charge has been applied to lines 001 (based upon the current Transportation Look-up Table) and 004.

**Note 17. ADMINISTRATIVE SURCHARGE (REVISED).**

An administrative surcharge of 3.8% has been applied to lines 001-006.

**Note 18. GUIDED MISSILE TEST SET DSM-157. (ADDED)**

This line provides for two Guided Missile Test Sets (DSM-157), NSN: 3650-01-805- 6319 for use in testing the AGM-65-G missiles. Estimated unit cost is based upon concurrency with other U.S. Government buys.

Lines and notes are included for illustration purposes only.



Figure C6.F3. Modification Format



**United States of America**  
**Modification 1 to Letter of Offer and Acceptance (LOA)**  
**BN-Q-SEH**

Based on BN/MODAT7732 dated 12/08/2006

Mail To: Embassy of Bandaria Office of the Air Attaché 1234 Massachusetts Ave, NW Washington, DC 29999.

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

This Modification changes the NSN of the item being provided under Line 002 to correct an administrative error. It also changes the leadtime on Line 002 to reflect latest delivery projections.

Basic LOA accepted: 04 Sep 2003.

Estimated Cost: \$7,834,007

Terms of Sale:  
Cash Prior to Delivery  
Dependable Undertaking

This Modification consists of page 1 through page 2.

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

_____	<u>06 Feb 2007</u>	_____	_____
U.S. Signature	Date	Purchaser Signature	Date
_____		_____	
Typed Name and Title		Typed Name and Title	
<u>Defense Security Cooperation Agency</u>		_____	
Implementing Agency		Agency	
_____		_____	
DSCA		Date	

Figure C6.F3. Modification Format (continued)

This Modification provides notification of changes as follows:								
(1) Item Nb	(2) Description/Condition	(3) Qty, Unit of Issue	(4) Costs  (a) Unit	(b) Total	(5) SC/MOS/TA	(6) Ofr Rel Cde	(7) Del Trm Cde	
<b>PREVIOUS</b>								
002	B2G 810000MAVC0NT MAVERICK MISSILE CONTAINER	(N)	10 EA	\$95,000.00	\$950,000	P(18-30) TA5	A	2
<b>REVISED</b>								
002	B2G 810000MAVC0NT MAVERICK MISSILE CONTAINER	(N)	10 EA	\$95,000.00	\$950,000	P(20-32) TA5	A	2
<u>Estimated Cost Summary</u>			<u>Previous (A01)</u>		<u>Revised</u>			
(8)	Net Estimated Cost		\$7,287,107		\$7,287,107			
(9)	Packing, Crating, and Handling		\$154,722		\$154,722			
(10)	Administrative Charge		\$276,910		\$276,910			
(11)	Transportation		\$115,268		\$115,268			
(12)	Other		\$0		\$0			
(13)	Total Estimated Cost		\$7,834,007		\$7,834,007			
<b>To assist in fiscal planning, the USG provides the following revised anticipated costs of this LOA:</b>								
<b>Signed Copy Distribution:</b>								
1. Upon acknowledgement of receipt, the Purchaser should return one signed copy of this Modification to Defense Finance and Accounting Service -Denver, ATTN: DFAS-JY/DE, 6760 E. Irvington Place, Denver, CO 80279-2000.								
2. One signed copy should be returned to Defense Security Cooperation Agency, Director, Defense Security Cooperation Agency, 201 12 <sup>th</sup> St South, Suite 203, Arlington VA 22203-5408.								
<b>Note 2. LINE ITEM 002 – Guidance Control System Containers. (REVISED)</b>								
Line Item 002 provides [insert enough information to adequately describe each line being revised on the document (e.g., configuration, delivery schedule, etc.). Also include information on the actual change if it is not self-explanatory based on entry in the “This Modification....” paragraph on the first page of the Modification.]								
<b>Note 16. ACCESSORIAL CHARGES (RESTATED).</b>								
a. A PC&H charge has been applied to lines 001 and 004.								
b. A transportation charge has been applied to lines 001 (based upon the current Transportation Look-up Table) and 004.								
<b>Note 17. ADMINISTRATIVE SURCHARGE (RESTATED).</b>								
An administrative surcharge of 3.8% has been applied to lines 001-006.								
Lines and notes are included for illustration purposes only.						BN-Q-SEH (M1) Page 2 of 2		

Figure C6.F4. Instructions for Preparing an Amendment or Modification

<b>Instructions for Preparing an Amendment or Modification</b>	
1	<b>“Based On.”</b> Each Amendment or Modification includes a reference to the document, meeting, review, etc. that prompted the change.
2	<b>Description.</b> The “This Amendment (or Modification) is for:” includes a concise and clear purpose of the Amendment or Modification, using the following guidelines: <ul style="list-style-type: none"> <li>a. Program. Identify the major program involved (e.g., “Apache Program”).</li> <li>b. Overview. Provide an overview of the Amendment or Modification. Actual changes are shown in detail subsequent to page 1.</li> <li>c. References. Enter references to specific parts of the basic LOA, Amendments, or Modifications; e.g., Basic LOA, Item 001, Attachment 2; Amendment 2, Item 003. Show if the action is an addition, modification, deletion, increase, or decrease. This must show whether value increases (line or total LOA) are due to scope or price changes.</li> <li>d. Previous Unaccepted Amendments. If a previous Amendment offer has expired, note that Amendment (number) was not accepted and state that data prior to the Amendment is being used herein. The unaccepted Amendment number should not be reused.</li> <li>e. LOA Acceptance Date. Include “Basic LOA was accepted [insert date].”</li> </ul>
3	<b>SC/MOS/TA or Notes.</b> This column includes the source code (also referred to as the Source of Supply (SOS) code), the availability (estimated number of months FROM ACCEPTANCE OF THE BASIC LOA to when items are available), Type of Assistance (TA) code, and training notes.
4	<b>Term(s) of Sale.</b> The Term(s) of Sale must be recorded on the first page of the Amendment or Modification. Cases that include multiple sources of funding must list all sources. The Amendment or Modification includes a dollar breakout for each credit term used.
5	<b>DSCA Congressional Notification Transmittal Number.</b> Include the DSCA transmittal number used in the statutory Congressional notification (e.g., Congressional Notification 92-15) when applicable. When multiple notification numbers apply, they must all be listed.
6	<b>Expiration Date.</b> The Amendment expiration date follows the same rules as for an LOA. See Chapter 5, Figure C5.F5. for current country level timeframes.
7	<b>Other Fields.</b> Quantity, notes, codes, and financial fields should be changed to reflect the previous and revised values. The payment schedule should be adjusted accordingly.

### C6.8. FMS CASE CLOSURE

The case is a candidate for closure when: ordered articles have been physically delivered; ordered services have been performed; no orders have been placed against an open blanket order case for 180 days or more; and the FMS purchaser has confirmed that no orders are forthcoming. There are two types of case closure: accelerated and non-accelerated.

**C6.8.1. Accelerated Case Closure (ACC).** ACC allows a case to be closed after supply or services completion even if there are outstanding unliquidated obligations (ULOs) on the case. Under ACC, purchaser funds are placed in a case closure suspense account pending final resolution of the ULOs. This program is voluntary, except for those countries that have FMF-funded programs. (See DoD 7000.14-R (reference (o)), Volume 15, Chapter 2 for details.) DSCA (Business Operations Directorate) maintains the master list of countries participating in the ACC program. (Chapter 4, Table C4.T2. also identifies those countries or organizations participating in the ACC program.) Table C6.T9 shows a brief description of ACC eligibility criteria. ACC cases are targeted for closure within 24 months after the case becomes supply/services complete. Enhanced Accelerated Case Closure (EACC) targets ACC candidates for first priority. These cases have been supply or services complete for at least 24 months.

DSCA (Business Operations Directorate) issues the official EACC quarterly list of these cases to the MILDEPs for action. Force closure occurs when cases have remained on the DSCA EACC list for more than three quarters. In this situation, DSCA (Business Operations Directorate) directs DFAS Indianapolis to “force” close the case in DIFS.

Table C6.T9. Accelerated Case Closure Eligibility

ACC Eligibility Criteria	Considerations
Cases are supply complete for at least 1 year.	This time frame accommodates final reconciliation actions and the purchaser’s right to submit an SDR associated with the final delivery. The timeframe can be abbreviated if the purchaser confirms in writing that no additional SDRs will be submitted.
No outstanding SDRs or litigation claims are pending.	A case, for which a litigation judgment was issued, can close under ACC even if the settlement has not been paid.
The case is paid in full, i.e., collections equal the final costs.	If the case is not yet paid in full, the MILDEP/Implementing Agency is encouraged to continue processing the case for closure and to forward the closure certificate (and associated “C1” transaction) to DFAS Indianapolis. The purchaser should be notified as early as possible that a final payment is needed to close the case.
The purchaser wants the case closed.	By virtue of the purchaser participating in ACC, a general understanding exists at the Ministry of Defense (MOD) (or equivalent) level that the USG closes its cases within 2 years. Any exceptions to keeping a case open, even though it is supply complete, should be coordinated with DSCA (Business Operations Directorate). Normally, DSCA (Business Operations Directorate) requires that the purchaser’s MOD (or equivalent) organization agrees the case should remain open.

C6.8.2. Non-Accelerated Case Closure (Non-ACC). Non-ACC procedures are used to accommodate those countries that have not elected to participate in the ACC process and whose FMS programs are completely financed with national funds. Implementing Agencies begin non-ACC procedures after the following actions are complete. (See DoD 7000.14-R (reference (o)), Volume 15, Chapter 2 for details.)

C6.8.2.1. Performance and Billing. Performance reports, submitted to DFAS Indianapolis to report all delivered articles and services, have been processed and bills submitted to the purchaser. All estimated billings have been converted to actual billings.

C6.8.2.2. Reimbursement of Costs. Costs of articles and services have been reimbursed from FMS Trust Funds to DoD appropriations or USG equity accounts.

C6.8.2.3. FMS Accounting Balances. Implementing Agency and DFAS Indianapolis accounting balances have been reconciled and all performance and disbursements have been properly reported and accounted for.

C6.8.2.4. Item Discrepancies. All outstanding SDR claims have been submitted to DFAS Indianapolis.

C6.8.3. Estimated Case Closure Dates. Implementing Agencies must include a note identifying an estimated case closure date on all LOAs except FMSO Is. See Chapter 5, Table C5.T5. for exact LOA note wording. For cases belonging to countries under the ACC program, the estimated closure date is 24 months after the date of projected final delivery or service performance. For cases belonging to countries not participating in ACC, the estimated closure date is forecasted to 36 months after completion of the longest estimated underlying contract (if available). If no contracts apply, the date should be within 36 months after final delivery.

#### C6.8.4. Case Closure Process

C6.8.4.1. Case Closure Certificate. Case Managers prepare the case closure certificate and package for review in accordance with established procedures. All case closure certificates are sent electronically to DFAS Indianapolis.

C6.8.4.2. “Case Closures at Reduced or \$0 Value. For any case that is closed, the US Government will retain funds to pay for estimated administrative costs associated with the case – even if no articles and/or services have been delivered (\$0 delivered value). The minimum, non-refundable amount will be: the value when combining the Small Case Management Line (SCML) and the administrative surcharge value; OR ½ of the administrative surcharge estimated on the case; OR the standard administrative surcharge percentage of the expended value whichever is greater. DSCA (Business Operations Directorate) may approve reductions to this policy when it can be clearly shown that the actual values of administrative costs on the case are less than these values or if the case is cancelled for the convenience of the US Government. If an SCML was not included on the basic case and the case was “accepted” on or after 1 August 2006, an SCML must be added if the case value is reduced such that an SCML is needed to reach \$15,000 in administrative collections. Case Managers wishing to request that a case be closed be at \$0 articles and/or services value, must contact DSCA (Business Operations Directorate) for approval. The DSCA (Business Operations Directorate) reply is sent to the Case Manager and DFAS Indianapolis.”

C6.8.4.3. Case Closure in DIFS. DFAS Indianapolis reviews the case closure certificate and performs actions to close the case in DIFS. If DFAS Indianapolis has questions on the closure certificate, they contact the Implementing Agency listed on the certificate. Implementing Agencies check DIFS case closure inventory on an as needed basis to determine which cases have been closed. DFAS Indianapolis should close cases containing no inhibitors within 30 days of closure certificate and “C1” closure transaction receipt.

C6.8.4.4. Case Closure - DSCA 1238(Q) Report. The DSCA 1238(Q) report tracks closure objectives, actual closure progress during a given fiscal year, resource allocations to the closure function, and inventories of ACC cases over 2 years supply or services complete that the FMS purchaser wants kept open. This report is prepared by the MILDEPs each quarter and is sent to the DSCA (Business Operations Directorate).

### C6.9. CASE CANCELLATION

C6.9.1. Purchaser-Requested Case Cancellations. Purchasers may request that their FMS cases be cancelled. After a case has been implemented, cancellations are processed as a closure of the case. The purchaser is responsible for any termination costs as well as any estimated administrative costs associated with the case. The minimum, non-refundable amount of

administrative costs will be: the value when combining the Small Case Management Line (SCML) and the administrative surcharge value; OR ½ of the administrative surcharge estimated on the case; OR the standard administrative surcharge percentage of the expended value whichever is greater. Implementing Agency recommendations to charge other than these amounts must be submitted to DSCA (Business Operations Directorate) for approval. See paragraph C6.8.4.2. for information on closing cases with \$0 delivered value. For cases closing with a case value greater than or equal to \$25,000,000, the Implementing Agency will submit a recommended non-refundable administrative charge amount to DSCA (Business Operations Directorate) for approval. DSCA countersignature of an LOA Modification does not constitute DSCA approval. Requests submitted to DSCA must include the following documentation:

C6.9.1.1. Brief description of the case to include the basic LOA acceptance date and the terms of sale used.

C6.9.1.2. Copy of the purchaser's request for case cancellation or a written explanation why the case was cancelled.

C6.9.1.3. Statement whether costs to implement, execute, and cancel the case will be recouped by the administrative charge assessed on the actual delivered value.

C6.9.1.4. Minimum amount of FMS administrative charge that would normally be charged in accordance with current policy and a statement whether costs to implement, execute, and cancel the case will be recouped by that amount. If a different amount is recommended, include the proposed amount and justification.

C6.9.2. USG-Requested Case Cancellations. In accordance with the LOA Standard Terms and Conditions (see Chapter 5, Figure C5.F3.), the US Government may cancel a case (or any part of a case) when U.S. national interest requires. The amount of administrative charges assessed against cases cancelled by the US Government must be approved by DSCA (Business Operations Directorate) even if the proposed amount is \$0.