



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

In reply refer to:
I-08/000115-DSCA

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assignment of Code "B8" for Fiscal Year (FY) 2008 Section 1206 Programs,
DSCA Policy 08-02 [SAMM E-Change 88]

REFERENCE: DSCA Memorandum, December 13, 2007, Subject: Guidance for
Development of FY08 Section 1206 Programs

The referenced memorandum contains procedural guidance for documents pertaining to the FY 2008 section 1206 program. This policy memorandum augments the referenced guidance regarding preparation of FY 2008 section 1206 Letters of Offer and Acceptance (LOAs). Effective immediately, SAMM Table C4.T2., Country and International Organization Codes and FMS Eligibility, is updated to add code "B8" to track funds provided for FY 2008 programs authorized by the National Defense Authorization Act for Fiscal Year 2007 (PL 109-364), section 1206. The Defense Security Cooperation Agency must authorize use of this code for Pseudo LOA documents. The following information applies:

Organization	FMS Code	Combatant Command √1	Regional Grouping √2	FMS AECA Eligible √3	Term of Sale-Dependable Undertaking Authorized	Accel. Case Closure Eligible
National Defense Authorization Act for Fiscal Year 2007 (PL 109-364), Section 1206 (FY 08 Programs)	B8	NR	NR	No	No	N/A

This change will be included in the automated version of the SAMM found on the DSCA Web Page as SAMM E-Change 88.

Procedures for FY 2008 Pseudo LOAs authorized and funded pursuant to section 1206 of PL 109-364 are the same as those followed for the FY 2007 section 1206 program. Attached are specific LOA notes and instructions for section 1206 Pseudo LOAs funded with appropriations available to the Department of Defense for obligation in FY 2008.

If you have any questions concerning the attached guidance for preparing section 1206 Pseudo LOAs, please contact Ms. Kathy Robinson, STR/POL, kathy.robinson@dscamil, (703) 601-4368. The overall point of contact for section 1206 programs is Mr. Robert Presler, PGM/MGT, robert.presler@dscamil, (703) 604-6648.



Freda J. Lodge
Principal Director
Strategy

Attachment:
As stated

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Instructions for Preparing Section 1206 of PL 109-364
Pseudo Letters of Offer and Acceptance (LOAs)

LOA preparation instructions and applicable notes for FY 2008 section 1206 Pseudo LOAs financed with FY 2008 Operation and Maintenance funds are listed below.

Instructions for Preparing Section 1206 of PL 109-364 Pseudo LOAs
1. Case Identifier. DSCA (Strategy Directorate) will assign a case identifier composed of country code (e.g., "B8"), Implementing Agency code of the DoD Component providing the support, and a case designator assigned by DSCA (Strategy Directorate).
2. Nickname Field. The country/organization receiving the support and the Pseudo case authority and the text "(Non-FMS)" (e.g., Bandaria, PL 109-364, Sec 1206 (Non-FMS)) are identified in the "nickname" field on the Pseudo LOA.
3. Purchaser's Reference Field. Include the following statement below in the Purchaser's Reference Field of the Customer Request: "Based on the written request provided by the section 1206 of PL 109-364 Program Originator [insert Program Originator's name (e.g., Department of State, Combatant Commands, etc.)] to Defense Security Cooperation Agency, dated [insert date of written request]. The legal authority is section 1206 of PL 109-364. See Note [insert LOA note number] for additional information."
4. Term of Sale Field. The Term of Sale for section 1206 Pseudo LOAs is Cash with Acceptance.
5. Authority Field. Insert "Public Law 109-364" (in DSAMS only)
6. Authority Fiscal Year. Insert "2008" (in DSAMS only)
7. Purchaser Signature Field (Customer Signatory Name on Distribution Tab of Case Detail). Insert the authority and the statement that no purchaser signature is required (e.g., section 1206, PL 109-364 (Non-FMS - No Purchaser Signature Required)).
8. Purchaser Mailing Address. Insert "Department of Defense".
9. MASL. Use valid existing MASLs for items being transferred or contact DSCA to approve new MASLs, if required.
10. Delivery Term Code. For section 1206 of PL 109-364 Pseudo LOAs, use the Delivery Term Code (DTC) for Defense Transportation System that will provide shipment all the way into recipient country. This is generally accomplished through DTC 7, unless DTC 9 suffices.

LOA Notes for Section 1206 of PL 109-364 Pseudo LOAs

Note Name	Note Usage	Note Text
<p>Authority for Sale – Section 1206 of PL 109-364 Programs</p>	<p>Mandatory for all section 1206 of PL 109-364 Pseudo LOAs for FY 2008.</p>	<p>“This sale is made under the authority of section 1206 of PL 109-364. Any reference in this Letter of Offer and Acceptance to the United States Arms Export Control Act, to defense articles, and to defense services shall be construed instead to be a reference to section 1206 of PL 109-364. Any reference in this LOA to “purchaser” shall be construed as a reference to the Department of Defense.”</p>
<p>Case Closure – Section 1206 of PL 109-364 Programs</p>	<p>Mandatory for all section 1206 of PL 109-364 Pseudo LOAs for FY 2008.</p>	<p>“This case must be fully reconciled and closed by 30 September 2013.”</p>
<p>Funds, Purpose, Availability and Amount – Section 1206 of PL 109-364 Programs</p>	<p>Mandatory for all section 1206 of PL 109-364 Pseudo LOAs for FY 2008.</p>	<p>“ The funds financing this Pseudo Letter of Offer and Acceptance (LOA) are expiring funds and are subject to all the requirements and restrictions under the heading of section 1206 of PL 109-364. The funds provided are in support of authority to build the capacity of foreign military forces and carry the same time, purpose, and availability restrictions associated with the fund source 9780100, DoD Operation and Maintenance (O&M) or other funds that may be available for use in FY 2008.</p> <p>a. Failure to obligate FY 2008 O&M funds during the period of availability ending on 30 September 2008 will render them unavailable for new obligations after that date.</p> <p>b. FY 2008 O&M funds must be obligated by 30 September 2008 and must be expended on or before 30 September 2013.</p> <p>c. Total funds available for expenditure against this Pseudo LOA are limited to the value of [insert dollar value].</p> <p>d. Amendments or Modifications to this Pseudo LOA are only authorized with DSCA written approval.”</p>

LOA Note for Section 1206 of PL 109-364 Pseudo LOAs

Note Name	Note Usage	Note Text
<p>Title and Custody Transfer - Section 1206 of PL 109-364 Programs</p>	<p>Mandatory for all section 1206 of PL 109-364 Pseudo LOAs for FY 2008.</p>	<p>“The U.S. Government will retain title to and custody of the defense articles to be transferred under the authority of section 1206 of PL 109-364 (hereinafter “1206 program materiel”) until delivery to the recipient country. A designated U.S. Government representative will confirm and document delivery of the 1206 program materiel to an authorized recipient country representative or agent. This U.S. Government representative will keep documentation showing when, where, and to whom delivery was made and will provide a copy of this documentation to the [insert U.S Army Security Assistance Command, Navy International Programs Office, or Secretary of the Air Force/International Affairs].”</p>
<p>Nonrecurring Costs – USG Appropriation</p>	<p>Mandatory for LOAs when an NC charge applies but the case is financed by a USG appropriation. Mandatory for Amendments or Modifications when the case is financed by a USG appropriation and: (1) line items are added and the NC charge applies to the new lines; or (2) quantities are increased on line items where an NC charge applies. See Chapter 9, C9.4.5.</p>	<p>“Nonrecurring Costs (NC) apply to line item(s) [insert line item numbers] of this case. These charges are not included on this case because the case is financed with a USG appropriation.”</p>