

## Chapter

# 5

# FOREIGN MILITARY SALES PROCESS

## INTRODUCTION

The Foreign Military Sales (FMS) program is part of Security Assistance (SA) authorized by the Arms Export Control Act (AECA) and is a fundamental tool of United States (U.S.) foreign policy. Under section 3, AECA, the U.S. may sell defense articles and services to foreign countries and international organizations when the President makes a determination that a prospective purchaser is eligible. The Defense Security Cooperation Agency (DSCA) issues the *Security Assistance Management Manual* (SAMM), DSCA 5105.38-M. The SAMM provides policy and guidance for the administration and implementation of SA in compliance with the AECA, the Foreign Assistance Act (FAA), and other related statutes and directives. Table C4.T2 of the SAMM identifies partner nations and organizations designated as eligible to purchase defense articles and services through the FMS program. Questions regarding eligibility should be referred to DSCA. FMS programs are conducted through binding contractual agreements between the U.S. government (USG) and an authorized foreign purchaser. These government-to-government agreements to transfer defense articles and services are called Letters of Offer and Acceptance (LOAs). A signed LOA, along with its associated revisions, is called an FMS case, though the terms “LOA” and “FMS case” are often used interchangeably. Chapter 8 of this textbook will address LOA revisions, referred to as amendments or modifications.

While this textbook offers an overview of the FMS process, it is not intended to replace the SAMM or other official policy references. The SAMM and DSCA policy memoranda can be found on DSCA’s web site: <http://www.samm.dsc.mil/>. In this dynamic national security environment, it is important to keep abreast of new or revised SA policies and procedures by periodically reviewing the SAMM and policy memoranda. There is also a convenient link to the SAMM and policy memoranda at the Defense Institute of Security Cooperation Studies (DISCS) web site: <http://www.discs.dsc.mil/>. These references are essential reading to understanding the FMS process. Much of the information discussed in chapters 5 and 6 of this textbook correlates to chapters 1, 2, 4, 5, and 6 of the SAMM.

Before discussing the FMS process itself, it is important to understand that the USG infrastructure supporting FMS is not a stand-alone arrangement, but rather utilizes the existing domestic structure of the DoD. Therefore, policies, databases, and organizational elements that support FMS vary among DoD agencies that manage LOAs. Military departments (MILDEPs) and other DoD agencies involved in writing and managing FMS programs are collectively referred to as Implementing Agencies (IAs), and are listed in table 5-2 of this chapter. Table C5.T2 of the SAMM also provides a list of IAs, along with associated mailing and message addresses.

The FMS process is complex and, for a major weapon system sale, may last for many years. The stages of the FMS process are outlined in table 5-1 and are discussed throughout this chapter. The DoD acquisition, logistics, financial, and training elements of the FMS process are further addressed in subsequent chapters of this textbook. This chapter addresses the entire FMS process starting with the preliminary stages when the customer begins to define requirements and ending with a discussion of FMS program/case closure.

**Table 5-1  
Foreign Military Sales Process**

<b>Pre-Case Development</b>	<b>Preliminary and Definition</b> <i>Indefinite Time Period</i>	Customer identifies defense capabilities Customer researches options/sources Customer refines requirements SCO prepares Pre-LOR Assessment Request (PAR) for classified and advanced technology release decisions, if applicable Customer and U.S. exchange technical information
	<b>Request</b> <i>Indefinite Time Period</i>	Customer prepares Letter of Request (LOR) Price and Availability (P&A) or LOA Country Team Assessment (CTA) LOR channels of submission Security Assistance survey teams
<b>Case Development</b>	<b>Offer</b> 45-150 days Anticipated Offer Date depends on type and complexity of case; Formal Congressional review is 15-30 days	IA and DSCA receive and evaluate LOR IA develops LOA data (LOAD) DSCA Case Writing Division finalizes LOA Congressional notification, if required, is concurrent with LOA development DSCA-CWD countersigns LOA IA issues LOA to customer
	<b>Acceptance</b> OED is generally 85 days from IA approval in DSAMS (includes 60 days for country review)	Customer signs LOA by Offer Expiration Date Customer sends signed LOA to the IA Customer sends signed LOA and Initial Deposit to Defense Finance and Accounting Service (DFAS-SCA), Indianapolis
<b>Case Execution</b>	<b>Implementation</b> 10-15 days average	DFAS issues Obligational Authority (OA) IA issues implementing directive IA activates FMS computer systems
	<b>Execution</b> Longest phase; depends on delivery schedule	Articles/services/training are ordered/contracted Articles shipped and services performed Training conducted IA reports performance to customer/DFAS-SCA
	<b>Closure</b> 2 years from supply/services complete (Accelerated Case Closure Procedures)	IA/DFAS/customer reconcile records IA sends closure certificate to DFAS-SCA DFAS-SCA issues final bill to customer

### **PRE-CASE DEVELOPMENT: PRELIMINARY AND DEFINITION**

The FMS process begins when the partner nation conducts a threat analysis based on its national security objectives. During this assessment, the customer typically looks at materiel and non-materiel solutions to address mission deficiencies. Non-materiel solutions may involve areas such as military doctrine, force structure, and training philosophy. For potential materiel solutions to defense requirements, the customer may explore options by seeking information from the USG about specific systems. An important element of this analysis is for the customer to quantify system life cycle costs to determine if the potential capability is a viable cost alternative. Normally, there should be ongoing

consultations between the purchaser and U.S. representatives, especially the in-country U.S. Security Cooperation Organization (SCO), to assist with defining and refining requirements. Chapter 4 of this textbook discusses SCO roles and responsibilities in detail.

When the SCO becomes aware of credible demand signals indicating the probable submission of a Letter of Request for Pricing and Availability (P&A) or a Letter of Offer and Acceptance (LOA), or a commercial Request for Information or Request for Proposal for such items, the SCO should develop a Pre-LOR Assessment Request (PAR), as directed in SAMM C3.1.2. The intent of the PAR is to inform the inter-agency community and the cognizant implementing agency to initiate the Technology Security and Foreign Disclosure (TSFD) process for the timely release of information.

As the partner nation continues to define requirements, follow-on discussions will often expand to include U.S. defense contractors as well as representatives from the IAs and other DoD organizations. These discussions may include such topics as required security agreements, acquisition alternatives, training plans, transportation plans, methods of financing, and concepts of operations and support. U.S. defense strategy plans, concerns for standardization, and interoperability should complement the purchaser's plans and budgets whenever feasible. Follow-on discussions for the more complex sales may even lead to an international agreement or a Memorandum of Understanding (MOU) between the partner nation and the U.S. to document the rights and obligations of each party with regard to weapon systems development, production, or transfer. Chapter 13 of this textbook, "Systems Acquisition and International Armaments Cooperation," discusses these types of agreements in detail.

## **PRE-CASE DEVELOPMENT: REQUEST**

Upon identifying U.S. systems and/or services to meet defense requirements, the customer may submit a Letter of Request (LOR) to the USG. An LOR can be communicated through formal correspondence (such as a letter or message), electronic mail, or a Request for Proposal (RFP). Less formal methods of communication such as minutes to a meeting or perhaps even oral discussions may be acceptable for transmission of an LOR, but USG representatives should ensure that the request is appropriately documented for future reference and accountability. SAMM C5.1 has a detailed discussion on LORs.

### **Letter of Request Response Documents**

A customer's LOR can request an information-only Price and Availability (P&A) response or a formal sales offer response in the form of an LOA. The key differences between these two types of USG responses to LORs are outlined below.

#### ***Price and Availability***

P&A data refers to a rough order of magnitude (ROM) estimate reflecting projected cost and availability for defense articles and services identified in an LOR. Generally the IA will use existing financial and logistics information to respond to a P&A request. P&A is intended for planning purposes only and should not be used by the potential purchaser for budgeting purposes. Normally, nonstandard subsystems will not be included in P&A responses unless approved by DSCA. These ROM estimates are not valid for use in preparation of an LOA, and therefore should not be construed as USG commitments to provide the requested materiel and/or services. In other words, a P&A response is not an official USG offer to sell. After reviewing P&A data, a separate LOR for LOA is required if a partner nation desires to pursue a purchase. It is not necessary for an LOR for P&A data to precede an LOR for an LOA. To avoid confusion, the term P&A should not be used when referring to data developed for an LOA—such data should be referred to as LOA data (LOAD). Refer to SAMM C5.3 for further discussion of P&A data.

## Letter of Offer and Acceptance

The LOA, addressed in C5.4 of the SAMM, is the authorized document used by the USG as an offer to sell defense articles and services to a partner nation or international organization. For instructional purposes, DISCS' Bandarian Security Cooperation Program Sample Documents package includes a sample LOA, including many related FMS process documents. By policy, the IA must offer an LOA within 45 to 150 days after receipt of an LOR, depending on the type and complexity of the case. The specific time parameters and associated criteria will be addressed in more detail later in this chapter. The LOA represents a bona fide offer by the USG to sell the described items identified in the document. The LOA becomes an agreement when the purchaser accepts (signs) it and provides the initial deposit payment specified in the LOA. While P&A and LOA data are both estimates, an LOA is developed based on the partner nation's specific requirements and contains the most precise data available at the time the document is prepared. If logistical or financial requirements change after the FMS case is implemented, it may be necessary to amend or modify the case. LOA amendments and modifications are discussed later in chapter 8, "FMS Contractual Agreements." The LOA is subject to many conditions and restrictions referred to as the LOA Standard Terms and Conditions, also described in chapter 8 of this textbook.

## Letter of Request Format

There is no standard or prescribed format for an LOR. The key to a good LOR is that it provides sufficient information to adequately communicate the partner nation's requirements to the USG. A complete and "actionable" LOR is essential so the IA can prepare a response that most accurately reflects those requirements. Figure 5-1 is a generic checklist depicting the categories of information that may need to be addressed in an LOR. While not all these categories are necessarily applicable to all LORs, the checklist provides good insight into the type of information the USG needs in order to be able to construct an LOA. These categories of information are described in detail in the LOR Writing Guide found in the "Online Learning" section of DISCS' web site. The U.S. Army and U.S. Air Force also have excellent tools available to assist in LOR preparation via generic and commodity-specific LOR checklists found on their web sites. See the list of references at the end of this chapter for the applicable links to these online resources.

Figure 5-1

Letter of Request Checklist	
<b>General Info / Special Considerations</b> <ul style="list-style-type: none"><li>• Purchaser</li><li>• Related purchases / MOU or MOA</li><li>• Commercial negotiations</li><li>• Transparency / special reports</li><li>• Interoperability</li><li>• Acceptance time frame</li><li>• International solicitation</li></ul>	<b>Services Considerations</b> <ul style="list-style-type: none"><li>• Description / type of service</li><li>• Period of performance / location</li><li>• DoD or U.S. contractor</li><li>• Case/program reviews</li></ul>
<b>Major Item Considerations</b> <ul style="list-style-type: none"><li>• Quantity</li><li>• Item identification / description</li><li>• Intended end use</li><li>• Model / configuration</li><li>• Desired delivery date</li></ul>	<b>Training Considerations</b> <ul style="list-style-type: none"><li>• Type / level of training</li><li>• Number / skill level of students</li><li>• Proposed location and dates</li><li>• DoD or U.S. contractor</li><li>• Training program concept</li></ul>
<b>Acquisition Considerations</b> <ul style="list-style-type: none"><li>• Pre-negotiations</li><li>• Sole source</li><li>• Offsets</li></ul>	<b>Support Considerations</b> <ul style="list-style-type: none"><li>• Operations Concept</li><li>• Maintenance Concept</li><li>• Supply Concept</li><li>• Initial Spares</li><li>• Support Equipment</li><li>• Facilities / Site Survey</li><li>• Publications</li><li>• Warranties</li><li>• Follow-on Support</li></ul>
<b>Financial Considerations</b> <ul style="list-style-type: none"><li>• Funding source / availability</li><li>• Payment Schedule/Initial Deposit</li><li>• Financial Waivers</li></ul>	<b>Delivery Considerations</b> <ul style="list-style-type: none"><li>• Freight forwarder</li><li>• Pilot pickup</li><li>• DTS Port of Debarkation (POD)</li><li>• Air or surface movement</li></ul>



**Total  
Package  
Approach**

In addition to the checklists and online tools, partner nations and SCOs can contact the IA headquarters' offices to request assistance (if needed) with LOR preparation. The financial or logistical success of an FMS program can hinge on clear and comprehensive LOR information. To enhance communication and ensure a complete and accurate LOA, purchaser involvement in the pre-LOA and LOA development process is encouraged, especially on major system sales cases. See the SAMM C5.4.5.2 for more information.

### **Total Package Approach**

Successful program and case management and customer satisfaction are generally the results of careful up-front planning and foresight. Effective planning for an FMS weapon system sale involves anticipating not only the requirements for the weapon system itself, but also the associated initial and follow-on support articles and services necessary for introduction and sustainment of the system. This philosophy is called the total package approach (TPA). Planning for what should be included in the system sale will of course vary according to the type of weapon system. The MILDEP commodity specific checklists mentioned earlier in this chapter can be a valuable tool in identifying the myriad of items or services to be considered for a proposed sale. This type of checklist can provide the customer, the SCO, and the case writer with the questions that need to be considered to ensure all requirements are identified in an LOR and are subsequently incorporated into the LOA to achieve TPA. See SAMM C4.3.2 for more discussion on TPA.

### **Security Assistance Survey Teams**

Commodity-specific checklists may not always be sufficient for anticipating all the variables during LOA development for weapon system sales, especially in instances where the purchaser is a new FMS customer or when the LOA is introducing a new weapon system capability for the first time. When requested by a country, a team can be organized to conduct a survey to review/assess military capabilities in support of SC objectives and to help identify and/or clarify the purchaser's requirements. Surveys are conducted in-country and are generally funded by the partner nation. A survey team typically includes a combination of USG personnel, purchaser representatives, and commercial contractors. Though there are various types of survey teams, a site survey is often used to assess facilities and required levels of maintenance and support capabilities as they pertain to a specific program. Looking at in-country facilities early in the process is crucial to ensure the partner nation is prepared to receive, operate, and maintain the new capability. Normally the best time to conduct a site survey is prior to writing the LOA. This will help ensure the IA has vital insight and required information up front to develop the most accurate pricing and delivery schedules possible for the LOA. Information regarding survey teams is contained in SAMM C2.4 and C2.F1. A detailed site survey checklist is also contained in the Navy Product Support Manual which may be viewed in the online *DISCS LOR Writing Guide*.

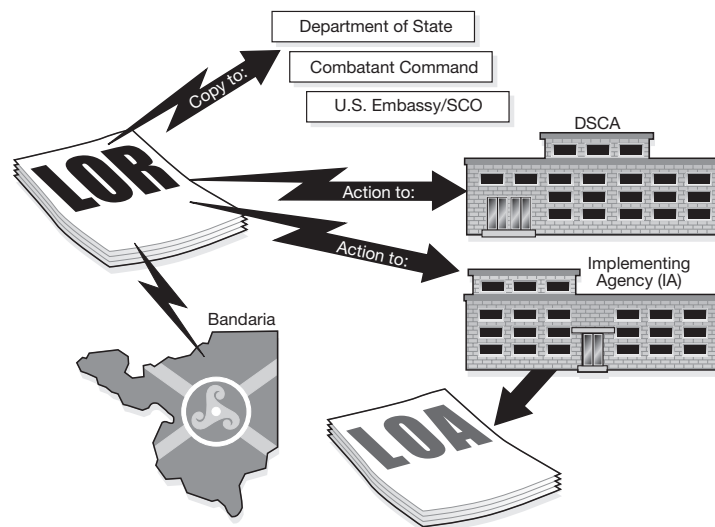
Though not considered a substitute for other types of SA survey teams, an Expeditionary Requirements Generation Team (ERGT) may be used to help augment combatant command (CCMD) staffs and SCOs with translating partner nation capability needs into high-quality LORs. An ERGT, which is organized and deployed by DSCA in response to a CCMD request, typically consists of representatives from DoD agencies, appropriate MILDEPs, and other interagency stakeholder organizations as needed to address the country's specific requirements. See the SAMM C2.4.2 for further information about ERGTs.

### **Letter of Request Channels of Submission**

Before discussing LOR submission procedures, it is important to understand a few key terms. The *U.S. Munitions List* (USML) is included in part 121 of the *International Traffic in Arms Regulations* (ITAR). Items highlighted with an asterisk on the USML require increased export controls because of their capacity for special military utility or capability. These items are called significant military

equipment (SME). A link to the ITAR is provided in the list of references at the end of this chapter. Items of SME having a nonrecurring research and development cost of more than \$50 million or a total production cost of more than \$200 million are called major defense equipment (MDE). Appendix 1 of the SAMM identifies MDE items and provides an associated prorated nonrecurring cost for each. Chapter 12 of this textbook, “Financial Management,” discusses nonrecurring costs for MDE in more detail. By policy, the action addressees for an LOR should be the IA and DSCA. The IA is the USG organization authorized to receive and process LORs. As mentioned earlier in this chapter, table 5-2 includes a listing of authorized IAs and Table C5.T2 in the SAMM provides addresses and routing information for each IA. An LOR can originate from in-country or from purchaser representatives in the U.S.. Regardless of where the LOR originates, there are key organizations that should receive a copy. In addition to the action addressees (IA and DSCA), the U.S. embassy/SCO and the applicable CCMD should receive a copy. If it is not clear which IA has cognizance for the system requested, or if the subject of the LOR is sensitive enough to require a higher-level review, then the U.S. embassy or customer may send the LOR directly to DoS/PM and/or DSCA. Figure 5-2 shows the typical channels of request for an LOR.

**Figure 5-2  
Channels of Request**



### Country Team Assessment

There may be times when an LOR must be accompanied by a Country Team Assessment (CTA). A CTA is prepared by senior U.S. Embassy leadership by evaluating an LOR and developing a coordinated position in support of the proposed sale. Normally the SCO prepares the CTA submission and staffs it with the various members of the country team.

In accordance with the SAMM C5.1.4, a CTA is required if any of the following circumstances apply:

- The LOR is likely to result in a Congressional notification pursuant to section 36(b) of the AECA. Congressional notification will be addressed in detail later in this chapter.
- Regardless of cost, the proposed sale would result in the introduction of a new capability in the country.
- The LOR requests defense articles or services of a sensitive nature (as identified in the SAMM C5.1.4.2).

- If DSCA (Operations Directorate) requests a CTA. For example, there could be a proposed sale that doesn't meet one of the above criteria, yet is controversial enough (perhaps politically sensitive) to warrant the level of review and analysis required for a CTA.

In accordance with Table C5.T1 of the SAMM, all CTAs must address certain factors pertaining to the proposed sale of defense articles/services. These factors include the planned end use, contribution to the defense/security goals of the U.S. and the recipient nation, impact on the recipient's military capabilities, source of financing and economic impact on the recipient nation, the recipient's ability to account for and safeguard sensitive technology, and the recipient's human rights record. In addition to these common CTA elements, DSCA requires additional information when the LOR is for any defense article or service of a sensitive nature as listed in the SAMM, Table C5.T1a. For each specific sensitive item listed in C5.T1a, there is a separate table identifying the supplemental information required in the CTA (see Tables C5.T1b through C5.T1g). Note that some of this additional information may require an input from the appropriate Combatant Commander.

### **Negative Responses to Letters of Request**

If the IA believes that an LOR should be disapproved, the IA must first contact DSCA. DSCA will then coordinate with DoS/PM and other relevant agencies before formally notifying the customer of the disapproval. Refer to SAMM C5.2.2 for more details.

## **CASE DEVELOPMENT: OFFER**

The IA must process the LOR so case development can begin. The individual responsible for doing this is generally found at the headquarters element of the IA's security assistance organization. This person may be referred to as the country director, country program director (CPD), country program manager (CPM), command country manager (CCM), or country desk officer. For ease of discussion in this text, the term "country director" will be used. Normally, the country director will process all LORs the IA receives for a given country or region. However, for large and complex FMS programs, there may be more than one country director assigned. Attachment 5-1 of this chapter contains additional information about the IA organizations that process LORs.

### **Initial Processing of the Letter of Request by the Implementing Agency**

Within five days of LOR receipt, the IA must validate the LOR to confirm that the purchaser is eligible for FMS and that there are no sanctions in place, ensure the item may be sold, ensure the request was received through proper channels, and confirm that the country is authorized Dependable Undertaking. Chapter 12 of this textbook, "Financial Management" addresses Dependable Undertaking and other terms of sale used on LOAs. The IA loads the LOR data into the Defense Security Assistance Management System (DSAMS), the DSCA-managed data system used for case development and implementation, and acknowledges receipt of the LOR to the purchaser. DSAMS is described in appendix 1 of this textbook, "Security Cooperation Automation." Within ten days of LOR receipt, the IA establishes the case in DSAMS and tasks organizations to compile the LOA data (LOAD) that will be used in preparing the LOA.

Country directors at the IAs often have a checklist of tasks or questions to answer in order to complete the processing of the LOR. Information for evaluating LORs can be found in SAMM C5.1.7 and table C5.T3. Typical country director checklist items can include, but are not limited to:

- Did copies of the LOR go to the proper USG organizations for action/review?
- Is the LOR complete and does it comply with TPA policy?
- Does the LOR contain an identifiable customer reference or serial number?
- Is the LOR a result of a foreign solicitation?

- Are there additional LOR references, such as an MOU or pre-negotiated conditions?
- Is the request for a valid military requirement?
- Was DSCA provided with Congressional notification data within ten days?
- Is this a sensitive technology request?
- Is the request for missile related technology or classified information?
- Will production be in-country?
- Will any production be used for third country sales?
- For standard U.S. materiel, was a valid national stock number (NSN) provided?
- If the request is for nonstandard materiel, has a military specification (MILSPEC) package or engineering data description been included?
- What initial spare parts are required to be delivered with the end items?
- Is sufficient information included to process a sole source request?
- Was the request screened to determine if there is a concurrent commercial bid?
- Does a quality inspection team need to inspect materiel upon delivery?
- Does the customer require any special USG or contractor services such as an in-country weapon system logistics officer?
- Does the customer require a not to exceed (NTE) or firm fixed price (FFP) response?
- Does the LOR contain unique customer budget or payment schedule requirements?
- Is a site survey required?
- Does the request indicate that FMF will be used as a method of financing?
- Has a negative response been coordinated with DSCA?

### **Letters of Request Requiring Special Processing**

There may be many USG agencies not identified in this chapter that need to review an LOR and a proposed offer. The type and breadth of the USG reviews vary to a large extent depending on the items being requested. It is the responsibility of the IA to ensure that the correct USG organizations have the opportunity to review the LOR. To the extent possible, the required reviews should occur concurrently to minimize the response time to the FMS customer.

### ***LOR Advisory and LORs Requiring Unique Review***

In some instances, DSCA may need to prepare an LOR Advisory to notify the Under Secretary of Defense for Acquisition, Technology, and Logistics [USD (AT&L)] and the Chairman of the Joint Chiefs of Staff of certain proposed sales. The SAMM C5.1.8 describes LOR Advisories and how they are processed. Table C5.T4 of the SAMM identifies the types of defense articles requiring either an LOR Advisory or some other type of special review. Each entry in the table provides a hyperlink to either a specific form or to a specific section of the SAMM explaining the unique review process for that item. An LOR Advisory does not replace required disclosure or releasability actions being worked by the MILDEPs. Examples of the types of items requiring an LOR Advisory or unique review include:



- First introduction of MDE into the purchaser's country
- MDE that is expected to require Congressional notification
- Coproduction or licensing agreements for MDE
- MDE that has not yet completed Operational Test and Evaluation (OT&E)
- Night Vision Devices (NVDs)
- Ballistic Missile Defense capability
- Command, Control, Communications, Computer, Intelligence, Surveillance, and Reconnaissance (C4ISR)
- Communications Security (COMSEC) equipment
- Nonstandard Significant Military Equipment (SME)
- Integration of non-U.S. subsystems
- Other defense articles and services of a sensitive nature

### **Letters of Request Requiring Congressional Notification**

If the IA estimates that an LOR will result in an LOA that meets or exceeds certain dollar thresholds (as specified in section 36(b) of the AECA), the IA must provide Congressional notification data to DSCA within ten days of LOR receipt. SAMM figures C5.F7 through C5.F10 are templates for the information to be provided by the IA. Upon receipt of the information, DSCA prepares the notification package and coordinates with DoS/PM and Congressional staff personnel to ensure potential concerns and sensitivities are resolved prior to providing the notification package to Congress. After this preliminary review period and upon DoS/PM concurrence, DSCA submits a numbered certification to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate. The financial reporting thresholds and Congressional review periods, which vary by country, are summarized in figure 5-3 of this textbook. A more detailed outline of Congressional notification requirements and criteria is provided in the SAMM Table C5.T13.

**Figure 5-3  
Foreign Military Sales Notification to Congress**

<p><b><u>Reporting Threshold</u></b></p> <p>NATO countries, Japan, Australia, New Zealand, Israel, Jordan, and Republic of Korea</p> <ul style="list-style-type: none"> <li>• \$100M total case value</li> <li>• \$25M major defense equipment (MDE)</li> <li>• \$300M design and construction services</li> </ul> <p>All other countries</p> <ul style="list-style-type: none"> <li>• \$50M total case value</li> <li>• \$14M major defense equipment (MDE)</li> <li>• \$200M design and construction services</li> </ul> <p><b><u>Congressional Review Period</u></b></p> <p>NATO, NATO countries, Japan, Australia, New Zealand, Israel, Jordan, and Republic of Korea</p> <ul style="list-style-type: none"> <li>• 15 days statutory (formal) notification</li> </ul> <p>All other countries</p> <ul style="list-style-type: none"> <li>• 30 days statutory (formal) notification</li> </ul>
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Unless other prior arrangements are made, Congress must be in session at the start of the statutory notification period. Therefore, it is important for partner nations, SCOs, and IAs to consider the Congressional calendar when planning key milestones for FMS programs. Congressional notification data is considered classified until DoS specifically authorizes (through DSCA) “For Official Use Only (FOUO)” handling or until formal notification to Congress occurs. At the start of the statutory notification period, the notification data becomes public domain information and is posted in the Federal Register and on DSCA’s web site. Also, when the statutory notification period begins, the IA may, with DSCA approval, give the purchaser an advance copy of the LOA. However, this advance copy must be unsigned and annotated as a draft, and is therefore not considered an official offer.

Congress can object to a proposed LOA by passing a joint resolution. In the absence of a joint resolution prior to expiration of the statutory notification period, DSCA may electronically countersign the LOA at the end of the notification period and then release it to the IA for official offer to the partner nation. The SAMM C5.5 provides details about the Congressional notification criteria, data handling, information to be provided by the IA (including sample formats), and the notification process itself. Chapter 2 of this textbook, “Security Cooperation Legislation and Policy,” also addresses Congressional notification.

### **Compilation of the Letter of Offer and Acceptance Data by the Implementing Agency**

In order for USG to be as responsive as possible to a partner nation’s LOR, LOA development should run concurrently with the Congressional notification process. To initiate LOA development, the country director tasks preparation of the LOAD using DSAMS. Every LOA has an assigned case manager, and it is normally the case manager who has primary responsibility for the overall LOA content. Case management will be addressed in more depth later in this chapter.

For major system sales, the case manager must coordinate with weapon system program managers and item managers to determine the LOA line items to be included on the case to meet requirements identified in the partner nation’s LOR. Cost and availability estimates are developed for all articles and services included in each LOA line. These estimates may be based on current DoD inventories or on information from U.S. defense contractors. IA personnel also prepare LOA notes that pertain specifically to the LOA lines and FMS case being developed. If the partner nation has requested any waivers, the IA will staff the waiver request(s) and ensure it is appropriately reflected in the LOA document.

As the data is being developed, the case manager and country director should both be alert for issues that may require further coordination, not only within the IA and other DoD organizations, but also with DoS and other non-DoD agencies. When outside coordination is required, the time required and the level at which it should occur will depend on a number of political, technical, and financial factors. For example, a routine follow-on support case will likely require little or no coordination with organizations outside the IA. Cases involving more than one proponent MILDEP (e.g., U.S. Navy helicopters with U.S. Army electronics) require coordination across service lines. More complex sales involving political issues, such as basing rights, may require participation by DSCA, the Office of the Deputy Under Secretary of Defense for Policy, the CCMD, or DoS. Unique or complex financial or other business arrangements may also require coordination with the Departments of Commerce and Treasury.

### **Correlating the Letter of Request with the Military Articles and Service List**

During LOA development, the IA will construct a separate LOA line item for each generic category of materiel or services to be provided. The IA will assign the appropriate materiel *Military Articles and Services List* (MASL) number to each LOA line item. The complete materiel MASL, which is substantial, resides in DSAMS. Key elements of the MASL data include generic codes, MASL

numbers, and MASL descriptions. A table of generic codes can be found in the SAMM, appendix 4. A MASL handbook is also available on the DSCA web site.

It is important to note that there are two separate and distinct MASLs; one for materiel and services and another for training. They should not be confused. Each contains different kinds of information and has different uses. DSCA maintains the materiel MASL with input from the MILDEPs. The security assistance training activities of the MILDEPs maintain the training MASLs, which are accessed via the Security Cooperation Training Management System (SC-TMS).

### **Developing a Complete Offer with the Total Package Approach**

When compiling LOAD, case managers should adhere to the policy of TPA mentioned earlier in this chapter and in the SAMM C4.3.2. TPA ensures that FMS purchasers are afforded the opportunity to acquire the full complement of articles and services necessary to field, maintain, and utilize major items of equipment efficiently and effectively. To a large degree, TPA depends on receiving a comprehensive LOR. In addition to the weapon system itself, an LOA that follows the TPA concept will address areas such as training, technical assistance, publications, initial support, and follow-on support.

As part of the TPA, IAs should ensure that LOAs for equipment include at least one year's supply of spare parts. See SAMM C5.4.7.10 for more information. These packages are referred to as concurrent spare parts (CSP) or initial spare parts (ISP). LOAs should include CSP or ISP for all support and ancillary equipment listed on the LOA, as well as for major weapon systems. IAs normally require that a significant portion of CSP and ISP be in country before they will release major end items for delivery. CSP and ISP are often identified by category and total value rather than itemized on the LOA.

### **Defense Security Cooperation Agency Review and Countersignature**

In addition to the IA, the DSCA Case Writing Division (DSCA-CWD) plays a key role in case development. The IA notifies DSCA-CWD via DSAMS when LOAD development is complete. SAMM C5.4.14 and DSCA policy 16-03 describe the documents and information the IA must provide DSCA-CWD, along with the draft LOA for document writing. DSCA-CWD then completes the LOA writing process by accomplishing a quality review for policy compliance and by adding the payment schedule and the standard LOA notes. After finalizing the LOA document, DSCA-CWD staffs it for IA, headquarters DSCA, and legal reviews as appropriate. When this coordination process is complete, DSCA-CWD forwards the LOA document to DoS/PM for final review. Upon DoS concurrence, DSCA-CWD electronically countersigns the LOA, indicating that the IA can sign the case and officially offer it to the purchaser. A more complete description of the IA and DSCA-CWD roles in the case development process is shown in figure 5-4 and table C5.T8 of the SAMM.

The single digit alpha codes reflected in figure 5-4 are case status codes found in a database called the Security Cooperation Information Portal (SCIP). These status codes are defined in the *DISCS Practical Exercises and Handbook, Security Cooperation Information Portal Case Information Community*. Additional information about SCIP can be found in appendix 1 to this text book, "Security Cooperation Automation."

**Figure 5-4  
Case Development Responsibilities**

<b>Implementing Agency (IA)</b>	<b>DSCA Case Writing Division (CWD)</b>
<b>Develop LOA</b>	<b>Assemble the LOA</b>
<b>Development “D” Status</b>	<b>Write “W” Status</b>
<ul style="list-style-type: none"> <li>• Act as primary interface with stakeholders</li> <li>• Review releasability/foreign disclosure</li> <li>• Prepare Congressional notification input</li> <li>• Develop LOA line item structure</li> <li>• Obtain cost information</li> <li>• Develop LOA line item pricing</li> <li>• Prepare line item description notes</li> <li>• Prepare case unique/non-standard notes</li> <li>• Develop program delivery schedules</li> <li>• Prepare payment schedule analysis</li> <li>• Process/coordinate waivers</li> <li>• Identify manpower requirements</li> <li>• Conduct MTCR review</li> <li>• Identify EUM requirements</li> <li>• Approve LOA and send to DSCA-CWD</li> </ul>	<ul style="list-style-type: none"> <li>• LOA quality assurance review</li> <li>• Policy review</li> <li>• Case standard notes</li> <li>• Payment Schedule preparation</li> </ul>
<b>Review “R” Status</b>	<b>Review “R” Status</b>
<ul style="list-style-type: none"> <li>• Review/sign CWD LOA package (“R”)</li> </ul>	<ul style="list-style-type: none"> <li>• IA final review of LOA package</li> <li>• DSCA HQ review</li> <li>• Legal review</li> </ul>
<b>Offered “O” Status</b>	<b>Proposed “P” Status</b>
<ul style="list-style-type: none"> <li>• Offer LOA after DSCA countersigns (“O”)</li> </ul>	<ul style="list-style-type: none"> <li>• State (RSAT) review</li> </ul>
	<b>Offered “O” Status</b>
	DSCA countersignature
	<ul style="list-style-type: none"> <li>• “D,” “P,” “W,” “R” and “O” status appear in SCIP</li> <li>• “W” and “R” visible to USG only - rolled up as “D” for non-USG</li> </ul>

### **Letter of Offer and Acceptance Response Time**

The time required to respond to an LOR with an LOA depends on the type of case being prepared and the complexity of the program. The policy time frame for a USG response to an LOR is based on the Anticipated Offer Date (AOD). An AOD is assigned for every LOR based on the group categories identified in figure 5-5. Depending on the AOD group assigned, the IA has between 45 and 150 days from LOR receipt to prepare the LOA for offer. Receiving comprehensive LORs that accurately reflect partner nation requirements is crucial to successful accomplishment of these goals. Refer to chapter 6 of this textbook, “Types of LOAs,” for more information about the different types of cases referenced in figure 5-5. More details regarding the LOA response time policy can be found in SAMM C5.4.2 and table C5.T6.

**Figure 5-5  
Letter of Request to Letter of Offer and Acceptance  
Response Time Anticipated Offer Date Groups**

<b>Group</b>	<b>Description</b>
A	45 days for Blanket Order LOAs, training LOAs, Cooperative Logistics Supply Support Arrangements (CLSSAs), and associated Amendments and Modifications. The IA can change the date to less than 45 calendar days if appropriate.
B	100 days for Defined Order LOAs and associated Amendments and Modifications. The IA can change the date to less than 100 calendar days if appropriate.
C	<p>150 days for Defined Order LOAs and associated amendments that are considered “purchaser-unique” in nature. The IA can change the date to less than 150 calendar days if appropriate. Associated Modifications to this group will be placed in Group B.</p> <p>The IA must identify why the LOA document is “purchaser unique” by selecting one of the below 8 factors:</p> <ol style="list-style-type: none"> <li>1. First-time purchase of a defense article or service by an FMS purchaser</li> <li>2. First-time FMS purchase by a specific country or international organization with limited experience or knowledge of FMS processes/procedures</li> <li>3. Case requires engineering, system integration, or special acquisition</li> <li>4. Requested use of the system is different from its use by U.S. military forces (e.g., Navy ship missile to be fired from an Army or foreign country’s helicopter)</li> <li>5. Detailed release/disclosure coordination required</li> <li>6. Complex pricing effort required</li> <li>7. Extraordinary coordination required inside or outside the IAs</li> <li>8. Other (must be explained by detailed milestone comments in DSAMS)</li> </ol>
D	60 days for all Pseudo LOAs and associated Amendments and Modifications. The IA can change the date to less than 60 calendar days if appropriate.

### **CASE DEVELOPMENT: ACCEPTANCE**

Once DSCA-CWD countersigns and releases the LOA, the IA prints a copy from DSAMS, signs it, and offers it to the purchaser for acceptance. Every LOA includes an offer expiration date (OED) on the cover page. Generally the OED is computed as eighty-five days from IA approval in DSAMS. This OED period is generally based on twenty-five days for U.S. administrative processing and sixty days for country review. SAMM figure C5.F6 identifies those countries with DSCA-approved OEDs longer than eighty-five days. To officially accept the LOA, the partner nation must fill in the “purchaser provided information” at the bottom of the LOA cover page, sign the case by the OED, and send signed copies to the IA and to the Defense Finance and Accounting Service in Indianapolis (DFAS–SCA). The purchaser must also send the initial deposit (as reflected on the LOA) to DFAS–SCA. Payment must be in U.S. dollars and may be paid via check or wire transfer. Distribution instructions are found in the LOA following the payment schedule.

Partner nations should strive to accept an LOA by the offer expiration date (OED). If this is not feasible, the purchaser may request an extension from the IA. If an extension is required, the purchaser should notify the IA as soon as possible, preferably in the LOR. Many considerations, such as contract deadlines for multi-country programs or policy concerns, may preclude granting an extension. Partner nations should note that even if an extension is granted, cost and delivery estimates are perishable and will tend to degrade over time. An extended time period between the LOA offer and LOA acceptance may result in less accurate cost and delivery estimates. Occasionally, the USG will give the purchaser

a shorter than authorized OED, generally in conjunction with contractual requirements. When this occurs, the USG should advise the partner nation in advance and must include a special note in the LOA explaining the reason for the short OED.

## CASE EXECUTION

### Implementation

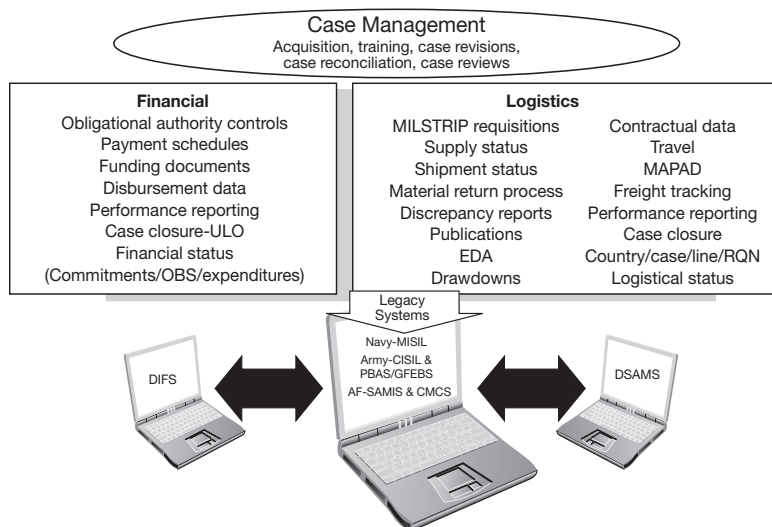
After receiving the initial deposit, DFAS–SCA releases obligation authority (OA) to the cognizant IA. OA is forwarded via DSAMS to the unique MILDEP FMS management financial computer systems. The OA is evidence of proper case acceptance, including receipt of initial deposit, and signals that the case may be implemented. OA is not money, but it provides financial authority allowing the IA case manager to implement the case. Upon receipt of OA, the IA may begin to incur obligations against the case (i.e., negotiate a contract, submit requisitions, schedule training, etc.). There is no standard metric or time frame for case implementation; however, it is generally accomplished within ten to fifteen days.

Although an LOA provides basic information and authority for an FMS case, it may have insufficient information for case implementation. A case manager may issue internal supplemental guidance (e.g., a case directive) in order to provide more detailed case logistical and financial implementation instructions to line managers and supporting organizations. The term “FMS case directive” has several definitions, depending on the variations of case directive documents. In the broadest context, a case directive is a document, or an assortment of documents, used to implement an accepted LOA. The case directive is also known as the project directive for the Navy and the international program directive for the Air Force. Case directives should be revised as appropriate whenever LOAs are modified or amended.

### Execution

Implementation ends and Execution begins when orders for the LOA materiel and services are processed against the case. Execution is the longest phase in the life cycle of an FMS case. It can last many years for a major system sale case. During case execution, there are many actions that occur in the areas of acquisition, finance, logistics, and training. There are separate chapters in this textbook dedicated to each of these important functional areas. Figure 5-6 depicts many of the financial and logistics transactions that occur during the life of an FMS case.

**Figure 5-6  
Foreign Military Sales Case Execution**



## ***Military Department Security Assistance Computer Systems***

The MILDEPs use DSAMS to develop, write, and implement LOAs. Once implemented, a single FMS case can generate thousands of logistical and financial transactions. With approximately 13,000 implemented cases for countries worldwide, effectively accounting for all the transactions during case execution can be a daunting task. Each MILDEP has dedicated FMS data systems to provide internal control and management of security assistance transactions. These systems are used to monitor the supply and financial performance of the implemented cases. They are also used to report case status to the purchasers and to DFAS–SCA. These systems interface with DSAMS and with the DFAS-managed Defense Integrated Financial System (DIFS). These MILDEP systems are often referred to as legacy systems and are scheduled to be replaced by a standardized database management system called the Security Cooperation Enterprise Solution (SCES). Phased implementation began in calendar year 2015, and is now being tested by the U.S. Navy. The case execution data systems currently used by the MILDEPs are as follows:

### ***U.S. Army***

- Centralized Integrated System for International Logistics (CISIL)
- Program, Budget, and Accounting System (PBAS)
- General Funds Enterprise Business System (GFEBS)

### ***U.S. Navy***

- Management Information System for International Logistics (MISIL)
- Security Cooperation Enterprise Solution (SCES)

### ***U.S. Air Force***

- Case Management Control System (CMCS)
- Security Assistance Management Information System (SAMIS)

## ***Security Cooperation Information Portal (SCIP)***

SCIP is a web-based portal that enables the security cooperation (SC) community to view logistical and financial case data from various SA data systems. SCIP was initially developed to provide the FMS purchaser with visibility into the MILDEP legacy systems mentioned above, but has become so popular that its scope, capabilities, and user base are continuously being expanded. SCIP is discussed in more detail in appendix 1, “Security Cooperation Automation,” of this textbook. The DISCS practical exercises and handbook, *Security Cooperation Information Portal Practical Exercises and Handbook*, is another excellent resource containing valuable SCIP information and numerous practical exercises.

## ***Foreign Military Sales Case Management Policy, Procedures, and Concepts***

The management of FMS programs and their associated cases, like the concept of management itself, is often regarded by some as more of an art than a science. While it is beyond the scope of this chapter to assess that contention, an argument can be made that FMS program and case management follows the same universal management principles of other DoD and USG programs or even nongovernmental ventures for that matter (for example, the principles of planning, organizing, coordinating, communicating, and directing). Because of the large number of USG organizations involved in SA, communication is vital to effective program and case management. Some organizations play a role in the up-front policy decisions, some are involved in case development, and others actually execute the programs. It is therefore critical that managers of FMS programs understand the overall

process and be familiar with the key players involved. It is not an understatement to say that FMS has a language of its own and that learning and communicating with the numerous acronyms, special terms, and organizational symbols is very often half of the battle.

SAMM C6.3.1 dictates that acquisition in support of FMS cases will be conducted in the same manner as it is for U.S. requirements, thus affording the purchaser the same benefits and protection that apply to DoD procurement. This is one reason why partner nations often prefer to buy via FMS. Accordingly, procurement and supply actions for FMS cases are normally carried out in the same manner by the same DoD procurement and logistics activities that support U.S. forces, although IAs may establish offices or positions within these organizations, specifically to coordinate and monitor FMS support. A typical FMS case includes items from both U.S. supply stocks and from new procurement. FMS procurement requirements may be consolidated on a single contract with U.S. requirements or may be placed on a separate contract, whichever is most expedient and cost effective.

### ***Case Manager***

An FMS case is not generally under the sole domain of any one organization. Many organizations can touch or impact an FMS case during its life cycle. As such, many organizations and people can be involved in the management of an FMS case. However, as indicated earlier in this chapter, there should be one person assigned as the case manager for each LOA. Prior to case implementation, the IA assigns a case manager to integrate and manage all aspects of the case. The SAMM table C2.T1 identifies the following specific responsibilities of a case manager:

- Serves as the central point of contact for matters related to the case. Establishes and publishes initial and long-range goals, objectives and plans for case management and execution. Issues and maintains a program master plan with key program milestones as the case is implemented.
- Ensures program goals and objectives are in accordance with approved foreign disclosure and technology transfer requirements.
- Considers customer transportation preferences during LOA development. Ensures transportation documents are in place (e.g., transportation plan, DSP-94, CISMOA, etc.)
- Ensures contracting milestones are met.
- Ensures appropriate integration of requirements, such as supply requisitions, contracts, training, etc., are accomplished with internal and external organizations.
- Ensures funding is in place and financial requirements are met.
- Ensures material and services performance is met in relation to required performance specifications. Ensures that appropriate actions are taken to maintain accountability of training events, to include DSAMS-TM entry.
- Ensures that delivery and performance reports are timely and accurate. Checks that automated records and data sources, such as SCIP, reflect accurate information.
- Maintains a case file of significant events, documents, and decisions. Ensures that case records are retained for a period of 10 years after final closure in accordance with DoD 7000.14.-R volume 15, chapter 6.
- Reconciles the case throughout its lifecycle starting with implementation, and prepares the case for closure.



- Becomes familiar with policies, management information systems, internal and external organizational elements and the stages of the FMS process.

The case manager is accountable for all aspects of assigned FMS cases in compliance with applicable laws and regulations. This includes planning and execution functions as well as all financial, logistical, and acquisition matters associated with each program. The objective is to provide all articles and services within the cost and schedule estimated on the LOA. The case manager must stay on top of the assigned program and be aware of any problems that could impact the estimated cost or schedule. The case manager develops a program master plan that separates the case into management components, indicates significant activities in the execution of the case, and establishes an implementation schedule. Depending on the size or nature of the case, the plan covers: case description, key milestones (contract status, transportation plan, delivery schedule, training, contractor support, etc.); status, issues/risk; along with key points of contact and responsibilities. The case manager provides the master plan to higher authority and to the FMS customer to forecast events and track progress. The master plan will be updated and reissued after significant project milestones, prior to Program Management Reviews, and as part of the development of amendments to the FMS case. Master plans are discussed in SAMM C2.2.5.

The case manager cannot accomplish all these objectives alone. Effective case management requires frequent communication with the weapon system program manager, the contracting officer, and numerous other key personnel in other organizations. When potential cost overruns or delays are identified, the case manager is expected to consult with the program manager, the contractor, and the partner nation to ensure all potential options are explored and informed decisions can be made. LOA amendments and modifications should be processed promptly to ensure the case reflects up-to-date estimates and descriptions for the program. After all articles and services have been provided, the case manager ensures that cases are closed in a timely manner.

Case management organizations and procedures vary among the MILDEPs. The case manager for blanket order or Cooperative Logistics Supply Support Arrangement (CLSSA) cases normally resides at the applicable MILDEP International Logistics Control Organization (ILCO). The case manager for defined order cases may be in the ILCO or in the MILDEP weapon system program office. The case manager for training cases resides at the MILDEP security assistance training organization.

The case manager serves as the central point of contact, and acts as the U.S. representative to the FMS customer and to the SCO for questions and problem resolution.

### ***Foreign Military Sales Reviews***

DSCA requires that FMS case reviews be conducted at least annually. Case reviews can also involve reviewing all FMS cases associated with a particular country. Case reviews have various names (depending on the country and the MILDEP) and can be attended by USG, purchaser, and contractor personnel, depending on program, case size, and complexity.

In addition to case reviews, Program Management Reviews (PMRs) are effective tools for U.S. case managers and purchasers to assess the overall program status relative to its objectives. PMRs focus on a specific weapon system sale and may include several related FMS cases. These program reviews, which usually involve face-to-face discussions with the partner nation, identify problems as early as possible so that resolution can be accomplished before program milestones are impacted or compromised. PMRs also provide USG and purchaser representatives with updates and exchanges of information. The frequency and the location of PMRs should be indicated in the LOA notes.

SAMM C6.5 provides more comprehensive information on FMS reviews. Table C6.T5 of the SAMM identifies various types of reviews, as well as the typical USG representatives, frequency, and timing for each. The manpower funding matrix in chapter 9 of the SAMM helps identify the appropriate

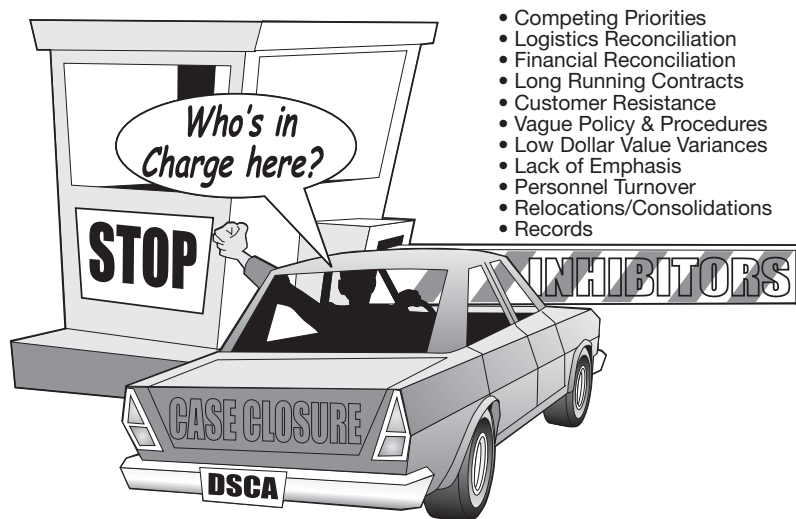
source of funding for each type of review. Depending on the type of review and the country/program involved, the following topics may be addressed during a case or program review as applicable:

- Major item contract status
- Major item delivery status
- Supply Discrepancy Reports (SDRs)
- Critical/urgent requirements and procedures
- Spares, supply, and shipment status
- Configuration issues
- Case financial status (commitments, obligations, and expenditures)
- Payment schedule adjustments
- Price increases and funding issues
- Transportation/shipping problems
- Training program
- Case closure

### Case Closure

As the delivery of articles and services listed on an LOA nears completion, the case manager should begin making preparations to complete reconciliation and close the case. Figure 5-7 illustrates many of the potential inhibitors to case closure. The key players in FMS case closure are the IA, DFAS-SCA, and the partner nation. But ultimately the responsibility for successful case closure falls on the shoulders of the case manager at the IA.

**Figure 5-7  
Case Closure Inhibitors**



## **Reconciliation**

While closure is the final phase in the FMS life cycle, reconciliation should occur throughout the life of the case starting with implementation. As indicated earlier in this chapter, a single case can generate thousands of requisitions and procurement actions. Closing out all these transactions requires aggressive planning and continuous follow-up. Reconciliation can include the following:

- The financial and logistical actions that ensure proper accounting
- Accuracy and thoroughness of data
- Currency of schedules
- Timeliness and completeness of reporting

Case managers must reconcile cases at least annually. Case managers who defer reconciliation until the end of a case are setting themselves up for failure. Conversely, thorough and continuous reconciliation starting at implementation helps facilitate a successful case closure.

## **Supply and Services Complete**

It is DSCA policy to close an FMS case as soon as it is feasible to do so. Timely closure reduces the administrative distraction of monitoring dormant cases that are logistically, but not financially, complete. This allows case managers to focus on executing and reconciling active cases. Additionally, closing cases promptly expedites the release of excess case funds back to the partner nation. An IA declares that a case is a candidate for closure when it is Supply and Services Complete (SSC) and meets the following criteria:

- All materiel has been delivered
- All services have been performed
- For a blanket order case, no orders placed against it for 180 days or more
- Purchaser has confirmed that there will be no new orders
- Purchaser has not submitted a request to keep the case open
- All supply discrepancy reports (SDRs) are resolved
- All warranty periods have elapsed

Chapter 16 of the SAMM is dedicated to policies and procedures applicable to case reconciliation and closure. SAMM C16.4.3 requires IAs to include a note in most LOAs identifying an estimated closure date. After a case is declared SSC, the IA will reconcile the case logistical and financial records and submit a case closure certification to DFAS–SCA within a specified time frame depending on the applicable case closure procedure used (types of case closure procedures are addressed in the next section). DFAS will then complete the case closure/reconciliation process and ultimately provide the customer with a final bill. An FMS case is considered closed when the purchaser receives the final bill or a final statement of account (DD Form 645).

## **Procedures for Case Closure**

There are two methods of case closure: Accelerated Case Closure Procedures (ACCP) or non-ACCP. ACCP is the standard case closure method for FMS cases. ACCP is voluntary, except for those partner nations whose programs are financed with Foreign Military Financing (FMF). SAMM table C4.T2 identifies which countries participate in ACCP. If a purchaser participates in ACCP, then all of that country's FMS cases will be closed under that program, including those implemented

prior to the date the partner nation decided to participate in ACCP. Since most purchasers participate in ACCP, it is now considered the standard for case closure. ACCP requires cases be closed within twenty-four months after the case is SSC. The ACCP methodology allows a case to be closed even if there are outstanding unliquidated obligations against the case. Examples of an obligation include a work request for services, a procurement contract, or an inventory requisition. Under ACCP, the case manager, with assistance from contract and financial management personnel, estimates the unliquidated obligation (ULO) value. The ULO value is the difference between the estimated final-case obligations and the current cumulative case expenditures. The ULO amount is billed and collected from the purchaser and placed by DFAS–SCA into a customer-owned, country level Case Closure Suspense Account (CCSA). At this point, the case is considered “Interim Closed” and the partner nation receives a final bill (DD 645) indicating that the case is closed. Subsequent case disbursements for the ULOs will be processed against the CCSA, thus enabling cases closed by ACCP to remain closed. Purchasers receive regular CCSA statements as part of their quarterly DD Form 645 FMS Quarterly Billing Statement. If the CCSA balance exceeds anticipated ULOs, the partner nation may receive a refund. However, if the CCSA balance is in arrears \$100,000 or more for longer than six months, DFAS–SCA may require payment of the entire balance owed. Even though the purchaser receives a “final bill” when a case is interim closed under ACCP, eventually the case has to be “Final Closed.” An Interim Closed case is not moved into Final Closed status until all outstanding obligations equal the final disbursements. If there are excess ULO collections at final closure, the partner nation may receive a reimbursement from the CCSA.

Non-ACCP is used for partner nations that have elected not to participate in ACCP and whose programs are wholly financed with national funds. Normally, the estimated closure date for a non-ACCP LOA is thirty-six months after the completion of the longest underlying contract. Under non-ACCP, cases may be closed when there are no unliquidated obligations (ULO) against the underlying open contracts. If no contracts apply, then the estimated closure date is normally thirty-six months from the last scheduled delivery or service. Since closing a case under non-ACCP can be cumbersome and time-consuming, most purchasers elect to participate in ACCP. Non-ACCP procedures are used to close all pseudo LOAs supporting Building Partner Capacity (BPC) programs, and many FMS cases for organizations, regions and NATO specific programs.

### **Processing Transactions After Case Closure**

Although final closure marks the end of the life cycle of an FMS case from a practical and operational standpoint, cases never really close from a DoD accounting perspective. DoD policy requires that all charges or credits against a case be processed, regardless of when they arise. Thus, although very infrequent, it is possible for a case to be considered closed for many years, only to be reopened when a final audit finds a lost expenditure. If the partner nation participates in the ACCP, this newly discovered expenditure will be processed against the CCSA. If the purchaser is a non-ACCP participant, then the affected case could be reopened.

Reopening a case is undesirable for both the partner nation and the IA. For the partner nation, it may mean trying to justify a new expenditure for a case reported as delivered and complete years before. At a minimum, reopened cases distract all concerned from the important business of processing, implementing, managing, reconciling, and closing currently active cases.

## **IMPLEMENTING AGENCY ORGANIZATIONS IN SUPPORT OF FOREIGN MILITARY SALES**

### **Implementing Agency (IA)**

A partner nation may request a LOA for U.S. defense articles or services through Foreign Military Sales (FMS). A LOR for a LOA is forwarded through the channels described in this chapter. The action addressees should be the IA and the DSCA. An IA is a DoD organization authorized to receive and respond to LORs with an LOA.

Although most open FMS cases are managed by the three MILDEPs (Army, Navy, and Air Force), a number of other agencies also function as IAs.

**Implementing Agency (IA) Codes**

DSCA has assigned each of the IAs a one-letter code that identifies the cognizant organization for a given FMS case. This code is reflected in the middle position of the FMS case identifier. For example, the Bandaria case shown in attachment 6-1 (chapter 6) of this textbook is identified by the case identifier BN-B-ULY. The “B” in the middle position of the case identifier is called the IA Code. Below is a list of active IA codes. SAMM table C5.T2 includes a comprehensive list of IAs, along with applicable IA codes, e-mail and mailing addresses, currently authorized to receive LORs and prepare LOAs.

**Table 5-2  
Implementing Agency Codes**

<b><u>IA Code</u></b>	<b><u>Organization</u></b>
B	Department of the Army
C	Defense Information Systems Agency (DISA)
D	Department of the Air Force
F	Defense Contract Management Agency (DCMA)
I	Missile Defense Agency (MDA)
M	National Security Agency (NSA)
P	Department of the Navy
Q	Defense Security Cooperation Agency (DSCA)
R	Defense Logistics Agency (DLA)
U	National Geospatial-Intelligence Agency (NGA)
Z	Defense Threat Reduction Agency (DTRA)

**Military Departments**

The three MILDEPs manage approximately 95% of FMS and Building Partner Capacity (BPC) pseudo cases. Accordingly, the offices that support Security Assistance for the most part overlay the existing domestic infrastructure. As one might expect from such an arrangement, the policies, databases, and organizational elements used to manage FMS vary among MILDEPs. Still, the MILDEP FMS organizations are similar in that each has:

- A dedicated FMS headquarters element
- An International Logistics Control Office (ILCO) that is responsible for support equipment, spare parts, and repair services.
- An FMS training activity that manages both stand-alone schoolhouse training, such as Professional Military Education (PME), and training in support of systems sales

Additionally, all MILDEPs and other IAs use DSAMS to task and prepare LOAs. Normally, the headquarters element is the point of entry for materiel LORs. DSAMS is then used to designate a lead organization for the preparation of the P&A or LOA data. The lead organization is responsible for obtaining data from other relevant organizations to prepare the P&A/LOA.

Read chapter 3, “U.S. Government Organizations for Security Cooperation,” chapter 10, “Logistics Support of Security Cooperation Materiel Transfers,” and chapter 14, “International Training,” of this textbook for more discussion of the overall MILDEPFMS organizational structure, ILCOs, and training activities. See appendix 1 of this textbook and SAMM, chapter 13, for a discussion of DSAMS and other security cooperation information management systems.

### **United States Army (IA Code “B”)**

The U.S. Army is the largest implementing agency, both in terms of total cases written. In the last ten years, the U.S. Army has implemented nearly 8,000 cases, totaling over \$190B, which includes nearly 3,000 BPC pseudo LOAs.

Two organizations share FMS headquarters responsibilities for the U.S. Army. The Office of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation (DASA-DE&C) has management oversight for Army Security Assistance policy, as well as for international armaments cooperation, foreign disclosure, technology transfer, and munitions export licensing. Headquarters, U.S. Army Security Assistance Command (USASAC) located at Huntsville, Alabama (Redstone Arsenal), receives all Army LORs for materiel and OCONUS training, which it then tasks out via DSAMS. USASAC has a branch organization at New Cumberland, Pennsylvania (USASAC-NC) that acts as the Army ILCO and writes/manages cases for follow-on support. Central case managers for the Army are found at USASAC-NC.

The Security Assistance Training Field Activity (SATFA), located at Ft. Eustis, Virginia, is the Army organization that writes and manages cases for CONUS training. SATFA may receive tasks from USASAC-Huntsville or may receive LORs directly.

Another U.S. Army organization connected to FMS training is the Security Assistance Training Management Organization (SATMO) at Fort Bragg, North Carolina. SATMO is responsible for selecting, training, and supporting mobile training teams (MTTs) that deploy overseas to support security cooperation training requirements. There is no comparable organization in the other two MILDEPs. SATMO works closely with SATFA and with SCOs.

The U.S. Army Corps of Engineers (USACE) in Washington DC, is the organization responsible for receiving LORs and writing/managing FMS cases for Army design and construction services. The USACE may receive tasks from USASAC-Huntsville or may receive LORs directly. The USACE is the Army’s principal organization for civil engineering, design and construction. USACE supports the combatant commands (CCMDs) in designing and executing engineering projects and water resource management in over one hundred countries and currently has offices in thirty countries. Some of the construction and public works projects USACE has provided under security cooperation programs in the last decade include construction of maintenance and storage facilities in support of major systems and stand-alone projects such as the construction of piers, seawalls, firing ranges, schools, barracks, water wells, health clinics, simulation and training facilities, munitions storage bunkers, dining facilities, prisons, roads, and runways.

### **United States Navy (IA Code “P”)**

The U.S. Navy has implemented over 4,000 cases in the last 10 years, totaling over \$117B, which includes nearly 700 BPC pseudo LOAs.

The Navy International Programs Office (Navy IPO) is the Security Cooperation headquarters element in the U.S. Navy. Navy IPO handles not only FMS, but also other international programs such as international armaments cooperation and technology transfer. It also acts as the executive agent for security cooperation matters related to the U.S. Marine Corps and U.S. Coast Guard. Accordingly, Navy IPO is the action addressee/point of entry for all LORs related to U.S. maritime articles and

services. The Navy ILCO is the Naval Supply Systems Command Weapons Systems Support (NAVSUP WSS-N52), located in Philadelphia, Pennsylvania. Navy IPO tasks NAVSUP WSS-N52 to write cases for follow-on support.

The Naval Education and Training Security Assistance Field Activity (NETSAFA) in Pensacola, Florida, is the agency that has oversight for FMS maritime training. Almost every LOA for the sale of a major maritime system will include a training line prepared by NETSAFA. However, unlike its counterparts in the Army and Air Force, NETSAFA is not authorized to receive LORs directly. Instead, LORs for maritime training must go to Navy IPO who will in turn task them to NETSAFA via DSAMS.

Navy IPO, NAVSUP WSS-N52, and NETSAFA also work closely with counterpart offices in the U.S. Marine Corps and U.S. Coast Guard to access resources to meet FMS maritime requirements.

### **United States Air Force (IA Code “D”)**

The U.S. Air Force has implemented over 3,000 cases in the last ten years, totaling nearly \$230B, which included over 300 BPC pseudo LOAs.

The Office of the Deputy Under Secretary of the Air Force for International Affairs (SAF/IA) is the Air Force headquarters element for security cooperation. In addition to headquarters functions performed by Army DASA DE&C and Navy IPO, SAF/IA also has extensive political and military responsibilities. SAF/IA receives LORs for major system programs but generally tasks the Air Force Security Assistance and Cooperation (AFSAC) Directorate at Wright-Patterson AFB, Ohio, to prepare the LOA. AFSAC is also the Air Force ILCO in that it receives LORs and writes, signs, and manages cases for follow-on support.

The Air Force Security Assistance Training Squadron (AFSAT) at Randolph Air Force Base, Texas, receives LORs and writes, signs, and manages cases for Air Force training. Air Force training via FMS may be included as a line on an LOA for a system sale or may be provided via a separate FMS case.

### **Independent Implementing Agencies**

In addition to the three MILDEPs there are eight defense agencies that receive LORs and write/manage LOAs for their products and services. These independent IAs are responsible for approximately 5% of the total FMS and BPC pseudo LOAs executed by the DoD.

#### **National Security Agency (IA Code “M”)**

The National Security Agency (NSA) is the largest of the independent IAs, both in terms of total cases written, and total case value. The NSA currently has over 200 active FMS cases, totaling over \$220M. The NSA writes cases for special communications systems, communications security (COMSEC) devices and cryptographic equipment. This equipment may be provided to the MILDEPs for incorporation into major systems, or they may be provided as standalone systems to partner nations. The NSA is the national manager and the FMS authority for all encryption equipment. MILDEPs must coordinate with and obtain approval from NSA before committing to selling products containing encryption equipment.

#### **Defense Logistics Agency (IA Code “R”)**

The Defense Logistics Agency (DLA) has inventory management responsibility for over 90% of consumable items and spare parts in the DoD supply system. These are provided to FMS customers through LOAs written and managed by the MILDEPs. However, DLA writes and manages LOAs for catalog data and excess property, managed by two of its service centers.

DLA manages the Federal Logistics Information System (FLIS), which is the repository of all national stock numbers and part numbers used by the DoD and other federal agencies. DLA provides catalog data and cataloging services to partner nations through the DLA Logistics Information Service, which serves as the national codification bureau for the U.S.

DLA also manages surplus property disposal of non-lethal equipment, which may be granted to or purchased by partner nations through the DLA Disposition Services.

Both the DLA Logistics Information Service and the DLA Disposition Services receive LORs and write and manage LOAs for their respective products. At the end of 2016, DLA had about 200 active LOAs, totaling just over \$72M, including 14 BPC pseudo LOAs.

### **National Geospatial-Intelligence Agency (IA Code “U”)**

The National Geospatial-Intelligence Agency (NGA) provides geospatial intelligence (GEOINT), to include aeronautical, hydrographic, topographic, geodesy and enhanced targeting data products, for security and capacity-building capabilities. NGA is both an Implementing Agency (IA) that writes/manages LOAs for GEOINT products and services, and is frequently a line item manager for MILDEP-managed cases.

Many military articles, including fighter aircraft, helicopters, naval vessels, and border security monitoring systems, rely on NGA-produced GEOINT to function. For these systems to function effectively for foreign partners, NGA must authorize disclosure and/or release of GEOINT data. MILDEPs must coordinate with and obtain approval from NGA before committing to selling products containing GEOINT.

At the end of 2016, NGA had approximately 150 active standalone LOAs valued at over \$525M. NGA participates in pre-LOR discussions and negotiations to determine the level of support that NGA is able to provide, and to coordinate the releasability of GEOINT data. NGA also conducts site surveys to determine a country’s GEOINT production capabilities, as well as its ability to conduct precision point measurements for use in deploying precision-guided munitions.

### **Defense Information Systems Agency (IA Code “C”)**

The Defense Information Systems Agency (DISA) is a combat support agency that provides, operates, and assures command and control and information-sharing capabilities and a globally accessible enterprise information infrastructure in direct support to joint warfighters, national level leaders, and other mission and coalition partners across the full spectrum of military operations. DISA provides internet connection services, networking systems, command and control systems, software, and information assurance support services through FMS LOAs to coalition partners. DISA’s nearly 70 active LOAs at the end of 2016 were valued at over \$78M.

### **Defense Contract Management Agency (IA Code “F”)**

The Defense Contract Management Agency (DCMA) provides Contract Administration Services (CAS) to partner nations who elect to purchase their defense articles and/or services through Direct Commercial Sales (DCS). Foreign purchasers’ government representatives may possess all the skills and abilities to negotiate a favorable contract with U.S. industry, but the subsequent process for DCS contract administration, quality control, inspection, acceptance, and audit functions may present both a logistical and financial barrier. The U.S. contractor may perform work at multiple geographically dispersed locations. As such, it may be difficult and expensive for partner nations to conduct these functions throughout the U.S. DCMA provides a cost-effective option to the partner nation by providing contract administration, oversight and quality inspection services. At the end of 2016, DCMA had over 30 active LOAs, providing CAS valued at over \$31M to 17 partner nations’ DCS.



## **Defense Threat Reduction Agency (IA Code “Z”)**

The Defense Threat Reduction Agency (DTRA)/U.S. Strategic Command Center for Combating Weapons of Mass Destruction (SCC-WMD) is the DoD’s Combat Support Agency for countering weapons of mass destruction. For nearly two centuries, the U.S. has played a leading role in international agreements that restrict the development, production, stockpiling, distribution and usage of weapons, especially weapons of mass destruction. DTRA/SCC-WMD assists partner nations in the destruction of weapons, and verification of weapons destruction that countries do themselves. DTRA also conducts vulnerability assessments on weapon storage facilities. At the end of 2016, DTRA had written/managed over 30 active FMS LOAs valued at \$77.2M for weapons destruction and related services.

## **Missile Defense Agency (IA Code “I”)**

The Missile Defense Agency (MDA) is the newest IA, having been established in 2011. Prior to 2011, MDA was a subordinate activity of the U.S. Army. The MDA is responsible for developing, testing, and fielding the U.S. Ballistic Missile Defense System (BMDS), and works with combatant commanders and partner nations to protect against hostile ballistic missile attacks. The MDA provides AN/TPY-2 Radar Systems and Terminal High Altitude Area Defense (THAAD) ballistic missile defense systems to partner nations through FMS LOAs. Since becoming an independent IA, MDA has written and managed two FMS LOAs valued at nearly \$6M, and is attracting interest from several countries who are considering future FMS cases for MDA-managed products and services.

## **Defense Security Cooperation Agency (IA Code “Q”)**

The Defense Security Cooperation Agency (DSCA) reserves the right to write and manage FMS cases, but has not done so since 2002. At the time of this publication, DSCA has no implemented LOAs.

## **LOR Submission**

Refer to SAMM table C5.T2 for a comprehensive list of IAs, e-mail, and mailing addresses, currently authorized to receive LORs and prepare LOAs.

## **SUMMARY**

The process of FMS management follows a logical sequence of steps over a prescribed timeline. A purchaser initiates the FMS process by identifying defense requirements and submitting an LOR for U.S. defense articles and/or services. As emphasized throughout this chapter, it is very important for the LOR to be complete, i.e., contain sufficient information for the USG response to accurately reflect the partner nation’s requirements. Failure to provide a complete LOR can delay processing while requirements are being clarified, and can impact program cost and schedule. Both the LOR and the USG response should comply with the TPA philosophy that many partner nations view as an advantage of the FMS process.

Whether an LOR is initiated in country or by a country’s representative in the U.S., the action addressees should be the IA and the DSCA. The U.S. embassy/SCO and the applicable CCMD should see information copies of LORs. DoS/PM should receive copies of LORs for SME. Further, a CTA may be required to accompany an LOR. It is the IA’s responsibility to ensure that the appropriate USG agencies receive the LOR.

Depending on the nature of the partner nation’s requirements, a purchaser may request either P&A data or an LOA. P&A is not an official USG offer, but may be needed by the foreign government for rough estimates on prices and delivery time frames. When a partner nation requests an LOA, the USG response time is based on an Anticipated Offer Date which is described in figure 5-5.

The LOA is an official offer for the USG to provide defense articles and services to a partner nation or international organization. The LOA is considered implemented when the customer accepts it and provides the required initial deposit to DFAS–SCA. The information in the accepted LOA, including associated amendments and modifications, provides the basis for the IA case manager to execute the FMS program. As the program is executed, the resulting financial and logistical documents and transactions are tracked by FMS unique computer systems. As the LOA requirements are delivered, they are reported to DFAS–SCA and the purchaser receives a quarterly billing statement. When all the materiel has been delivered and the services completed, the case becomes Supply and Services Complete (SSC). Under ACCP, the case should be Interim Closed within two years of becoming SSC. The case will remain Interim Closed until all the final expenditures have been processed. Eventually a case will move into “Final Closed” status.

Within the three stages of the foreign military sales process, the U.S. Government and the international purchaser have specific responsibilities, as shown in attachment 5-1. Some responsibilities are concurrent and some are done sequentially. The USG’s FMS activities involve many different organizations. Many of the functions shown here are discussed in detail in the following chapters.

## REFERENCES

- DSCA Manual 5105.38-M. *Security Assistance Management Manual* (SAMM). <http://www.samm.dsca.mil/>.
- DoD 7000.14, *Financial Management Regulation* (FMR), volume 15. “Security Assistance Policy and Procedures.”
- U.S. Army generic LOR checklist and commodity specific checklists. <http://www.usasac.army.mil/fmscustomerwschecklist.aspx>.
- U.S. Air Force commodity specific checklists and an LOR preparation tool. <https://afsac.wpafb.af.mil/>
- International Traffic in Arms Regulations* and *U.S. Munitions List*. [http://www.pmdtc.state.gov/regulations\\_laws/itar\\_official.html](http://www.pmdtc.state.gov/regulations_laws/itar_official.html)

# Attachment 5-1 Foreign Military Sales Process

