



DEFENSE SECURITY COOPERATION AGENCY JUL 18 2007
WASHINGTON, DC 20301-2800

In reply refer to:
I-07/009693-POL

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assignment of Codes "B8" and "B9" for Afghanistan Security Forces Fund (ASFF) and Iraq Security Forces Fund (ISFF) Letters of Offer and Acceptance (LOAs), DSCA Policy 07-25, [SAMM E-Change 82]

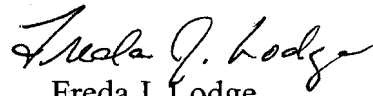
Effective immediately, SAMM Table C4.T2., Country, International Organization, and Regional Codes and FMS Eligibility, is updated to add codes "B8" and "B9" to track funds provided under the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (PL 110-28). The Defense Security Cooperation Agency must authorize use of these codes 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
U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations, 2007 (Public Law 110-28) Afghanistan Security Forces Fund	B8	CE	NR	No	No	N/A
U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations, 2007 (Public Law 110-28) Iraq Security Forces Fund	B9	CE	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 82.

Procedures for pseudo LOAs authorized and funded pursuant to PL 110-28 are similar to those followed for the FY 2007 program under PL 109-289; however, certain references to the Arms Export Control Act have been revised. Attached are specific LOA notes and instructions for pseudo LOAs funded with ASFF and ISFF under PL 110-28.

If you have questions concerning the attached guidance, please contact Ms. Kathy Robinson, DSCA-STR/POL, kathy.robinson@dscamil, (703) 601-4368.



Freda J. Lodge
Principal Director
Strategy

Attachment:
As stated

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Instructions for Preparing Pseudo Letters of Offer and Acceptance (LOAs)
PL 110-28 Afghanistan and Iraq Security Forces Funds
(ASFF/ISFF)

Procedures for Public Law 110-28 pseudo LOAs are similar to those in SAMM, Chapter 11, C11.3., Counter-Narcotics Assistance National Defense Authorizations Acts, Sections 1004 and 1033. If using other than full and open competition, since these pseudo LOAs are not signed by the FMS purchaser and do not involve an agreement with the foreign government, the authority of Title 10 United States Code 2304 (c) (4), implemented by the Federal Acquisition Regulation (FAR) 6.302-4, International Agreement (directed source), cannot be used to justify sole source requirements. Any sole source purchases must be justified and approved in accordance with other statutory authority such as Title 10 U.S.C. 2304(c)-1 or Title 10 U.S.C. 2304(c)- 2 using procedures applicable to United States Government appropriated-funded purchases.

Instructions for Preparing PL 110-28 Pseudo LOAs	
1	Case Identifier. DSCA (Strategy Directorate) will assign a case identifier composed of country code (e.g., “B8” for Afghanistan; “B9” for Iraq), 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., ASFF or ISFF, PL 110-28, (Non-FMS)) are identified in the “nickname” field on the pseudo LOA. Since ASFF has three internal customers, Afghanistan National Army (ANA), Afghanistan National Police (ANP), and Detainee Operations (DO), ASFF cases should be identified as ASFF/ANA, ASFF/ANP, or ASFF/DO, PL 110-28 (Non-FMS).
3	Purchaser’s Reference Field. Include the following statement below in the Purchaser’s Reference Field of the Customer Request: “Based on funds provided and the request of Program Originator [insert Program Originator’s name (e.g., MNSTC-I, CSTC-A, Combatant Commands, etc.)] to the Defense Security Cooperation Agency, dated [insert date of written request]. The legal authority is PL 110-28, FY 07 Supplemental Appropriations Act. See Note [insert LOA note number] for additional information.” (Note: We have removed the phrase “The Arms Export Control Act (AECA) does not apply”).
4	Terms of Sale Field. The Term of Sale for ASFF and ISFF pseudo LOAs is Cash with Acceptance, FY07 Supp Appr Act, PL 110-28.
5	Authority Field. Insert “FY 07 Supplemental, Public Law 110-28” (in DSAMS only)
6	Authority Fiscal Year. Insert “FY 2007” (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., PL 110-28 (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. Use Delivery Term Codes for Defense Transportation System (DTS) that provide shipment through final destination.
11	Offer Expiration Date. The Offer Expiration Date on the LOA should be no later than the last date the funds are required to ensure they are obligated prior to the funds expiring.

LOA Notes for PL 110-28 Pseudo LOAs		
Note Name	Note Usage	Note Text
Authority for Sale – PL 110-28 Programs	Mandatory for all PL 110-28 Pseudo LOAs.	“This sale is made under the authority of PL 110-28. 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 PL 110-28. Any reference in this LOA to “purchaser” shall be construed as a reference to the Department of Defense.”
Case Closure – PL 110-28 Programs	Mandatory for all PL 110-28 Pseudo LOAs.	“This case must be fully reconciled and closed by 30 September 2013.”
Funds Purpose, Availability and Amount PL 110-28 Programs	Mandatory for all PL 110-28 Pseudo LOAs.	<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 PL 110-28. The funds provided carry the same time, purpose, and availability restrictions associated with fund source [insert 21 7/8 2091 for Afghanistan Security Forces Fund], or [21 2007 2092 for Iraq Security Forces Fund].</p> <ul style="list-style-type: none"> a. Failure to obligate the funds during the period of availability ending on 30 September 2008 will render them unavailable for new obligations after that date. b. All funds must be expended on or before 30 September 2013. c. Total funds available for expenditure against this Pseudo LOA are limited to the value of [insert dollar value]. d. Amendments or Modifications to this Pseudo LOA are only authorized with DSCA written approval.”
Nonrecurring Costs – USG Appropriation	<p>Mandatory for LOAs when an NC charge applies but the case is financed by a USG appropriation.</p> <p>Mandatory for Amendments or Modifications when the case is financed by a USG appropriation and:</p> <ul style="list-style-type: none"> (1) lines 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. <p>See Chapter 9, C9.4.5.</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.”