



DEFENSE SECURITY COOPERATION AGENCY

201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

JUL 31 2009

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assignment of Code "G3" for Iraq Security Forces Fund (ISFF) Letters of Offer and Acceptance (LOAs), DSCA Policy 09-35, [SAMM E-Change 140]

SAMM Chapter 4, Table C4.T2., Country, International Organization, and Regional Codes and FMS Eligibility is updated to add code "G3" to track ISFF funds provided under the Supplemental Appropriations Act, 2009 (P.L. 111-32). These funds will remain available until September 30, 2010.


The Defense Security Cooperation Agency must authorize and will assign use of this code for Pseudo LOA documents. The following information applies:

Organization	FMS Code	Combatant Command 1	Regional Grouping 2	FMS AECA Eligible 3	Accel. Case Closure Eligible
Supplemental Appropriations Act, 2009 (Public Law 111-32) Iraq Security Forces Fund (FY2009 Supplemental Funds)	G3	CE	NR	AECA Only	N/A

This change will be included in the automated version of the SAMM found on the DSCA Web Page as SAMM E-Change 140.

The procedures for Pseudo LOAs authorized and funded pursuant to P.L. 111-32 are similar to those found in SAMM, Chapter 11, C11.3., Counter-Narcotics Assistance National Defense Authorizations Acts, Sections 1004 and 1033. Attached are specific LOA notes and instructions for Pseudo LOAs funded with ISFF under Supplemental Appropriations Act, 2009 (P.L. 111-32).

If you have any questions concerning the attached guidance, please contact Mr. Kidd Manville, DSCA-STR/POL, kidd.manville@dscamilitary.com, (703) 604-6594.


Scott Schless
Principal Director
Strategy

Attachment:
As stated



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Instructions for Preparing Pseudo Letters of Offer and Acceptance (LOAs)
Iraq Security Forces Fund cases, 2009 (P.L. 111-32)

If using other than full and open competition, since these Pseudo LOA documents 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 (U.S.C.) section 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 found in title 10 U.S.C. using procedures applicable to United States Government appropriated-funded purchases.

Instructions for Preparing P.L. 111-32 Pseudo LOAs
1. Case Identifier. DSCA (Strategy Directorate) will assign a case identifier composed of country code (e.g., "G3" for Iraq Supplemental Funds) and Implementing Agency code of the DoD Component providing the support. Implementing Agencies may request unique designators to meet their requirements as identified in SAMM Figure C5.F5.
2. Nickname Field. The country/organization receiving the support and the Pseudo case authority and the text "(Non-FMS)" (e.g., ISFF, P.L. 111-32, (Non-FMS)) are identified in the "nickname" field on the Pseudo LOA.
3. Purchaser's Reference Field. Include the following statement below in the Purchaser's Reference Field of the Customer Request: "Based on funds provided and the request of Program Originator [insert Program Originator's name (e.g., MNSTC-I, Combatant Commands, etc.) and MOR reference number] to the Defense Security Cooperation Agency, dated [insert date of written request]. The legal authority is P.L. 111-32, Supplemental Appropriations Act, 2009. See Note [insert LOA note number] for additional information."
4. Terms of Sale Field. The Term of Sale for ISFF Pseudo LOAs is Cash with Acceptance, Public Law 111-32.
5. Authority Field. Insert "ISFF Supp Act, PL111-32" (in DSAMS only).
6. Authority Fiscal Year. Insert "FY 2009" (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., P.L. 111-32 (Non-FMS - No Purchaser Signature Required)).
8. Purchaser Mailing Address. Insert "Department of Defense".
9. MASL. Use valid existing MASLs for items being transferred or contact DSCA to approve new MASLs, if required.
10. Delivery Term Code. For Supplemental Appropriations Act, 2009 (P.L. 111-32) Pseudo LOAs, use the Delivery Term Code (DTC) for Defense Transportation System that will provide shipment all the way into recipient country. This is generally accomplished through DTC 7, unless DTC 9 suffices.
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.
12. Benefitting Country. Iraq (IQ)

LOA Notes for P.L. 111-32 Pseudo LOAs		
Note Name	Note Usage	Note Text
Authority for Sale – P.L. 111-32 Programs	Mandatory for all P.L. 111-32 Pseudo LOAs.	“This sale is made under the authority of P.L. 111-32 and the Arms Export Control Act (AECA). Any reference in this Letter of Offer and Acceptance to the United States AECA, to defense articles, and to defense services shall be construed instead to be a reference to P.L. 111-32 and the United States Arms Export Control Act. Any reference in this LOA to “purchaser” shall be construed as a reference to the Department of Defense.”
Case Closure – P.L. 111-32 Programs	Mandatory for all P.L. 111-32 Pseudo LOAs.	“This case must be fully reconciled and closed by 30 September 2015.”
Funds, Purpose, Availability and Amount P.L. 111-32 Programs	Mandatory for all P.L. 111-32 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 P.L. 111-32. The Supplemental funds provided carry the same time, purpose, and availability restrictions associated with fund source 21 9/10 2092.</p> <p>a. Failure to obligate the funds during the period of availability ending on 30 September 2010 will render them unavailable for new obligations after that date.</p> <p>b. All funds must be expended on or before 30 September 2015.</p> <p>c. Total funds available for expenditure against this Pseudo LOA are limited to the value of [insert dollar value].</p> <p>d. Amendments or Modifications to this Pseudo LOA are only authorized with DSCA written approval.”</p>

<p>Nonrecurring Costs – USG Appropriation</p>	<p>Mandatory for LOAs when an NC charge has been established, 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 (1) lines items are added and the NC charge applies to the new lines; or (2) quantities are increased on line items for which NC charges have been established. See Chapter 9, C9.4.5.</p>	<p>“Nonrecurring Costs (NC) have been established for line item(s) [insert line item numbers] of this case. These charges are not included on this case because the case is financed with a USG appropriation.”</p>
<p>Title and Custody Transfer - P.L. 111-32 Programs</p>	<p>Mandatory for all P.L. 111-32 Pseudo LOAs for FY 2009</p>	<p>“The U.S. Government will retain title to and custody of the defense articles to be transferred under the authority of P.L. 111-32 until delivery to the recipient country. A designated U.S. Government representative will confirm and document delivery of the P.L. 111-32 program materiel to an authorized recipient country representative or agent. This U.S. Government representative will keep documentation showing when, where, and to whom delivery was made and will provide a copy of this documentation to the [insert U.S Army Security Assistance Command, U.S. Army Corps of Engineers, Navy International Programs Office, Deputy Under Secretary of the Air Force/ International Affairs, or Air Force Center for Engineering and the Environment].”</p>