



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

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BY DSCA/STRIPOL
TO CITE CORRECT
PUBLIC LAW

NOV 13 2006

In reply refer to:
I-06/014529-POL

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assignment of Codes "B6" and "B7" for Afghanistan Security Forces Fund (ASFF) and Iraq Security Forces Fund (ISFF) Letters of Offer and Acceptance (LOAs), DSCA Policy 06-50 [SAMM E-Change 69]

Effective immediately, SAMM Table C4.T2., Country, International Organization, and Regional Codes and FMS Eligibility, is updated to add code "B6" to track funds provided under the Fiscal Year 2007 Department of Defense Appropriations Act, Public Law 109-289, September 29, 2006, for the Afghanistan Security Forces Fund (ASFF). Code "B7" will be used to track funds provided under this law for the Iraq Security Forces Fund (ISFF). The Defense Security Cooperation Agency must authorize the use of and assign the designators for these codes for preparation of LOAs.

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	EDA Grant Eligible (FY06)
Fiscal Year 2007 DoD Appropriations Act (Public Law 109-289) (Sep 29, 2006) Afghanistan Security Forces Fund	B6	CE	NR	No	No	N/A	N/A
Fiscal Year 2007 DoD Appropriations Act (Public Law 109-289) (Sep 29, 2006) Iraq Security Forces Fund	B7	CE	NR	No	No	N/A	N/A

This change will be included in the automated version of the SAMM found on the DSCA Web Page as SAMM E-Change 69.

Procedures for pseudo LOAs to be authorized and funded using ASFF and ISFF 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 case preparation instructions, to include LOA notes, for these requirements using the ASFF and ISFF, which are available for obligation until 30 September 2008.

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

Freda J. Lodge
Principal Director
Strategy

Attachment
As Stated

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Instructions and LOA Notes for Preparing Pseudo Letters of Offer and Acceptance (LOAs)
Public Law 109-289, Afghanistan and Iraq Security Forces Fund

Procedures for Public Law 109-289 pseudo LOAs are similar to those in SAMM, Chapter 11, C11.3., Counter-Narcotics Assistance National Defense Authorizations Acts, Sections 1004 and 1033, and will follow the same format as section 1206 pseudo LOAs. 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 109-289 Pseudo LOAs
1. Case Identifier. DSCA (Strategy Directorate) will assign a case identifier composed of country code (e.g., “B6” for Afghanistan; “B7” 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-AECA)” (e.g., ASFF or ISFF, PL 109-289, (Non-AECA)) 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 109-289 (Non-AECA).
3. Purchaser’s Reference Field. Include the following statement below in the Purchaser’s Reference Field of the Customer Request: “Based on funds provided, the Arms Export Control Act (AECA) does not apply. The legal authority is PL 109-289 (FY 07 Department of Defense Appropriations Act). See Note [insert LOA note number] for additional information.”
4. Terms of Sale Field. The Term of Sale for ASFF and ISFF pseudo LOAs is Cash with Acceptance.
5. Authority Field. Insert “Public Law 109-289, FY 07 Bridge Supplemental.”
6. Authority Fiscal Year. Insert “FY 2007/2008.”
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 109-289 (Non-AECA - 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) through final destination for PL 109-289 pseudo LOAs, unless the written request specifies otherwise.
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 109-289 Pseudo LOAs		
Note Name	Note Usage	Note Text
Authority for Sale PL 109-289 Programs	Mandatory for all PL 109-289 Pseudo LOAs.	“This sale is made under the authority of PL 109-289. 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 109-289. Any reference in this LOA to “purchaser” shall be construed as a reference to the Department of Defense.”
Case Closure PL 109-289 Programs	Mandatory for all PL 109-289 Pseudo LOAs.	“This case must be fully reconciled and closed by 30 September 2013.”
Funds Purpose, Availability, and Amount PL 109-289 Programs	Mandatory for all PL 109-289 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 109-289. 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> <p>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.</p> <p>b. All funds must be expended on or before 30 September 2013.</p> <p>c. Total funds available for expenditure against this Pseudo LOA are limited to the value of [insert dollar value].</p> <p>d. Amendments or Modifications to this Pseudo LOA are only authorized with DSCA written approval.”</p>

Memo updated February 5th, 2007 to cite correct public law in the “Funds Purpose, Availability, and Amount PL 109-289 Programs” note from Public Law 109-234 to Public Law 109-289.