



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

In reply refer to:
USP000290-08

FEB 28 2008

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assignment of Codes "E3" and "E4" for Afghanistan Security Forces Fund (ASFF) and Iraq Security Forces Fund (ISFF) Letters of Offer and Acceptance (LOAs), DSCA Policy 08-05, [SAMM E-Change 101]

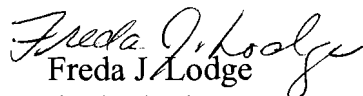
This memorandum updates SAMM Chapter 4, Table C4.T2., Country, International Organization, and Regional Codes and FMS Eligibility, to add codes "E3" and "E4" to track funds provided under the Consolidated Appropriations Act, 2008 (PL 110-161). The Defense Security Cooperation Agency must authorize use 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
Consolidated Appropriations Act, 2008 (Public Law 110-161) Afghanistan Security Forces Fund	E3	CE	NR	No	No	N/A
Consolidated Appropriations Act, 2008 (Public Law 110-161) Iraq Security Forces Fund	E4	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 101.

Procedures for Pseudo LOAs authorized and funded pursuant to PL 110-161 are similar to those followed for the FY 2007 program under PL 109-289, as supplemented by PL 110-28. Attached are specific LOA notes and instructions for Pseudo LOAs funded with ASFF and ISFF under PL 110-161.

If you have questions concerning the attached guidance, please contact Ms. Kathy Robinson, DSCA-STR/POL, kathy.robinson@dsc.mil, (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 110-161 Afghanistan and Iraq Security Forces Funds
(ASFF/ISFF)

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 110-161 Pseudo LOAs
1. Case Identifier. DSCA (Strategy Directorate) will assign a case identifier composed of country code (e.g., “E3” for Afghanistan; “E4” for Iraq), 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., ASFF or ISFF, PL 110-161, (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 110-161 (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 110-161, Consolidated Appropriations Act, 2008. 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, Public Law 110-161.
5. Authority Field. Insert “Cons Approp Act, Public Law 110-161” (in DSAMS only).
6. Authority Fiscal Year. Insert “FY 2008” (in DSAMS only).
7. Purchaser Signature Field (Customer Signatory Name on Distribution Tab of Case Detail). Insert the authority and the statement that no purchaser signature is required (e.g., PL 110-161 (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 Consolidated Appropriations Act, 2008 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.

LOA Notes for PL 110-161 Pseudo LOAs		
Note Name	Note Usage	Note Text
Authority for Sale – PL 110-161 Programs	Mandatory for all PL 110-161 Pseudo LOAs.	“This sale is made under the authority of PL 110-161 and the Arms Export Control Act (AECA). 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 110-161 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 – PL 110-161 Programs	Mandatory for all PL 110-161 Pseudo LOAs.	“This case must be fully reconciled and closed by 30 September 2014.”
Funds Purpose, Availability and Amount PL 110-161 Programs	Mandatory for all PL 110-161 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 110-161. The funds provided carry the same time, purpose, and availability restrictions associated with fund source [insert 21 8/9 2091 for Afghanistan Security Forces Fund], or [21 8/9 2092 for Iraq Security Forces Fund].</p> <p>a. Failure to obligate the funds during the period of availability ending on 30 September 2009 will render them unavailable for new obligations after that date.</p> <p>b. All funds must be expended on or before 30 September 2014.</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 - PL 110-161 Programs</p>	<p>Mandatory for all PL 110-161 Pseudo LOAs for FY 2008.</p>	<p>“The U.S. Government will retain title to and custody of the defense articles to be transferred under the authority of PL 110-161 until delivery to the recipient country. A designated U.S. Government representative will confirm and document delivery of the PL 110-161 program materiel to an authorized recipient country representative or agent. This U.S. Government representative will keep documentation showing when, where, and to whom delivery was made and will provide a copy of this documentation to the [insert U.S Army Security Assistance Command, Navy International Programs Office, or Secretary of the Air Force/International Affairs].”</p>