



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

NOV 18 2008

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Assignment of Code "B9" for Fiscal Year (FY) 2009 Authorities Relating to Section 1206 Programs and the Capacity to Build the Pakistan Frontier Corps (Section 1201), DSCA Policy 08-37 [SAMM E-Change 121]

Reference: (a) Assignment of Code "B8" for Fiscal Year (FY) 2008 Section 1206 Programs, DSCA Policy 08-02 [SAMM E-Change 88], dated 07 Jan 2008
(b) Assignment of Code "B8" for Fiscal Year (FY) 2008 Section 1206 of P.L. 110-181 for the Pakistan Frontier Corps Program, DSCA Policy 08-17 [SAMM E-Change 109]

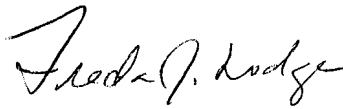
Effective immediately, Security Assistance Management Manual (SAMM), Table C4.T2., Country, International Organization and Regional Codes, and FMS Eligibility, is updated to add code "B9" to track funds provided for all Section 1206 Programs and the capacity to build the Pakistan Frontier Corps (Section 1201), authorized by the National Defense Authorization Act, Public Law 110-417, FY2009, hereinafter referred to as "Section 1201/1206 Programs". The Defense Security Cooperation Agency must authorize 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	Term of Sale - Dependable Undertaking Authorized	Accel. Case Closure Eligible
National Defense Authorization Act for Fiscal Year 2009 (P.L. 110-417), all Section 1206 for foreign military forces and Section 1201 for the Pakistan Frontier Corps	B9	NR	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 121.

LOA Procedures for FY 2009 Section 1201/1206 Programs are the same as those followed for the FY 2008 Section 1206 programs and the capacity to build the Pakistan Frontier Corps under reference (a) and reference (b). Attached are specific LOA notes and instructions for Section 1201/1206 Programs Pseudo LOAs funded with appropriations available to the Department of Defense for obligation in FY 2009.

If you have any questions concerning the attached guidance for preparing Section 1201/1206 Programs Pseudo LOAs, please contact Mr. Kidd Manville, STR/POL, kidd.manville@dscamilitary.com, (703) 604-6594. The overall point of contact for section 1201/1206 Programs is Mr. Gonzalo Gonzalez, PGM/FTE, gonzalo.gonzalez@dscamilitary.com, (703) 603-1090.



Freda J. Lodge
Principal Director
Strategy

Attachment:
As stated

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**Instructions for Preparing Pseudo Letters of Offer and Acceptance (LOAs)
Section 1201/1206 Programs (P.L. 110-417), FY 2009**

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 Section 1201/1206 (P.L. 110-417) Pseudo LOAs
1. Case Identifier. DSCA (Strategy Directorate) will assign a case identifier composed of country code (e.g., "B9" for Section 1201/1206 Programs), 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., Bandaria, P.L. 110-417, Sec [insert 1201 or 1206], (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 the written request pursuant to Section [insert 1201 or 1206] of P.L. 110-417 from [insert Program Originator's name (e.g., Department of State, Combatant Commands, etc.)] to Defense Security Cooperation Agency, dated [insert date of written request]. The legal authority is [insert section 1206 for other foreign military forces or section 1201 for Pakistan Frontier Corps], P.L. 110-417. See Note [insert LOA note number for Authority for Sale note] for additional information."
4. Terms of Sale Field. The Term of Sale for Section 1201 or 1206 Programs Pseudo LOAs is Cash with Acceptance, Public Law 110-417.
5. Authority Field. Insert "FY09, Sec 1201/1206, PL110-417" (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., Section [insert 1201 or 1206] Program, P.L. 110-417 (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 Section 1201 or 1206 Programs of P.L. 110-417 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 110-417 Pseudo LOAs

Note Name	Note Usage	Note Text
Authority for Sale – Section 1201/1206 of P.L. 110-417 Programs	Mandatory for all programs under Section 1201/1206 of P.L. 110-417 Pseudo LOAs for FY 2009.	“This sale is made under the authority of [insert section 1201 or section 1206] of P.L. 110-417. 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 [insert section 1201 or section 1206] of P.L. 110-417 and to 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 – Section 1201/1206 of P.L. 110-417 Programs	Mandatory for all programs under Section 1201/1206 of P.L. 110-417 Pseudo LOAs for FY 2009.	“This case must be fully reconciled and closed by 30 September 2014.”
Funds, Purpose, Availability and Amount – Section 1201/1206 of P.L. 110-417 Programs	Mandatory for all programs under Section 1201/1206 of P.L. 110-417 Pseudo LOAs for FY 2009.	<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 [insert section 1201 or section 1206] of P.L. 110-417. The funds provided are in support of authority to build the capacity of foreign military forces and carry the same time, purpose, and availability restrictions associated with fund source 9790100, DoD Operations and Maintenance (O&M) or other funds that may be available for use in FY 2009.</p> <p>a. Failure to obligate FY 2009 O&M 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>
Title and Custody Transfer - Section 1201/1206 of P.L. 110-417 Programs	Mandatory for all programs under Section 1201/1206 of P.L. 110-417 Pseudo LOAs for FY 2009.	“The U.S. Government will retain title to and custody of the defense articles to be transferred under the authority of [insert section 1201 or section 1206] of P.L. 110-417 until delivery to the recipient country. A designated U.S. Government representative will confirm and document delivery of the 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 Deputy Under Secretary of the Air Force/ International Affairs].”

LOA Notes for PL 110-417 Pseudo LOAs

Note Name	Note Usage	Note Text
Nonrecurring Costs – USG Appropriation	<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) line items are added and the NC charge has been established for the new line items; or (2) quantities are increased on line items for which NC charges have been established. See Chapter 9, C9.4.5.</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.”