



Headquarters
Department of the Army
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***Army Regulation 12-1**

Effective 29 March 2024

Security Assistance and International Logistics
Security Assistance, Training, and Export Policy

By Order of the Secretary of the Army:

RANDY A. GEORGE
General, United States Army
Chief of Staff

Official:


MARK F. AVERILL
Administrative Assistant to the
Secretary of the Army

History. This publication is a major revision.

Authorities. This regulation implements Department of Defense Directive 5132.03 and Defense Security Cooperation Agency Manual 5105.38-M as directed by the Secretary of the Army. It prescribes responsibilities of the Army Secretariat, the Army Staff, Army Commands, and other Army organizations for management and execution of Army participation in security assistance programs.

Applicability. This regulation applies to the Regular Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve, unless otherwise stated. It also applies to Department of the Army Civilians.

Proponent and exception authority. The proponent of this regulation is the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling laws and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency, in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the policy proponent. Refer to AR 25-30 for specific requirements.

Army internal control process. This regulation contains internal control provisions in accordance with AR 11-2 and identifies key internal controls that must be evaluated (see appendix B).

Suggested improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation (SAAL-ZNE), 2530 Crystal Drive, Suite 1100, Arlington, VA 22202-3934.

Distribution. This regulation is available in electronic media only and is intended for the Regular Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve.

*This regulation supersedes AR 12-1, dated 18 February 2021.

SUMMARY of CHANGE

AR 12–1
Security Assistance, Training, and Export Policy

This major revision, dated 29 February 2024—

- Aligns Army security assistance objectives with the Department of Defense objectives (para 1–7).
- Updates command and staff relationships, coordination, and reporting (para 1–9).
- Clarifies Army Force Modernization proponent (paras 1–9a(3) and 2–2c(4)(b)).
- Adds responsibilities for implementation of the Security Cooperation Workforce Development Program (para 2a(3)).
- Clarifies responsibilities of implementing agency and implementing activity (paras 2–2c and 2–18).
- Adds policy for Special Defense Acquisition Fund (paras 2–2c(2)(e), 2–15n, 2–17g, 3–11d, 6–1a(1), 6–2c, 6–3d, 6–7i, and 8–5).
- Clarifies responsibilities for end-use monitoring (paras 2–2c(3)(w) and 2–17f).
- Clarifies roles concerning security assistance teams (para 2–8m).
- Adds responsibilities for Chief, U.S. Army Corps of Engineers (para 2–11).
- Adds responsibilities for the Commanding General, U.S. Army Forces Command (para 2–13).
- Adds responsibilities for Army service component commanders (para 2–16).
- Clarifies responsibilities for program executive officer and program manager (para 2–17).
- Adds policy for international weapons competitions (para 3–7).
- Clarifies policy for requests for other than full and open competition (para 3–11).
- Updates policy previously published in paragraph 5–9, to limit use of security assistance resources (para 3–12a).
- Adds policy for non-program of record (para 3–13).
- Adds policy for transition to sustainment (para 3–14).
- Adds asset accountability policy (para 4–9).
- Provides an overview of foreign military sales manpower and personnel (para 5–1).
- Updates the timeline for projection of foreign military sales activity and security assistance funding targets (para 6–7a).

- Clarifies role of Army Staff for drawdown responsibilities (para 8–1c(2)).
- Adds General Services Administration Exchange or Sale of Obsolete and Non-Excess Items (para 8–8).
- Establishes information management advocacy and budget (paras 9–2 and 9–3).
- Clarifies and integrates security assistance training responsibilities and policies (throughout).
- Adds responsibilities for audit (throughout).
- Adds responsibilities for notification of negative impacts (throughout).

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Chapter 1

Introduction

1–1. Purpose

This regulation establishes Army policy and prescribes responsibilities and procedures for the planning, integration, programming, budgeting, and execution of Army security assistance programs. It also establishes Army export policy. This regulation authorizes the publication of an Army pamphlet which, in conjunction with this regulation, ensures that the Army's security assistance efforts are integrated and support guidance from higher authorities.

1–2. References, forms, and explanation of abbreviations

See appendix A. The abbreviations, brevity codes, and acronyms (ABCAs) used in this electronic publication are defined when you hover over them. All ABCAs are listed in the ABCA directory located at <https://armypubs.army.mil/>.

1–3. Associated publications

This section contains no entries.

1–4. Responsibilities

Responsibilities are listed in chapter 2.

1–5. Records management (recordkeeping) requirements

The records management requirement for all record numbers, associated forms, and reports required by this publication are addressed in the Records Retention Schedule–Army (RRS–A). Detailed information for all related record numbers, forms, and reports are located in Army Records Information Management System (ARIMS)/RRS–A at <https://www.arims.army.mil>. If any record numbers, forms, and reports are not current, addressed, and/or published correctly in ARIMS/RRS–A, see DA Pam 25–403 for guidance.

1–6. Authority

a. Security assistance is a group of programs authorized by the Foreign Assistance Act (FAA) of 1961 and the Arms Export Control Act (AECA) of 1976 or other related statutes by which the United States (U.S.) provides defense articles, military training, and other defense-related services by grant, loan, credit, or cash sales in furtherance of national policies and objectives. Security assistance is one element of security cooperation, which is funded and authorized by the Department of State (DOS) and administered by the Defense Security Cooperation Agency (DSCA) in accordance with Department of Defense Directive (DoDD) 5132.03.

b. The legal authorities under these two Acts have been delegated by the President through executive orders to the DOS and the Department of Defense (DoD). The Secretary of Defense (SECDEF) has been specifically delegated the functions conferred upon the President by the AECA to perform most of the essential executory responsibilities of security assistance.

c. The delegation of authority to fulfill the related responsibilities to security assistance is derived from DoDD 5132.03 and as directed by the Secretary of the Army (SECARMY).

d. The Electronic-Security Assistance Management Manual (E–SAMM), also known as DSCA Manual 5105.38–M, provides additional information pertaining to authorities for security assistance.

e. AR 11–31 provides additional policy pertaining to Army security cooperation programs.

f. AR 70–41 provides additional policy pertaining to Army armaments cooperation programs.

g. AR 12–7 provides additional policy pertaining to Army security assistance teams (SAT).

h. AR 12–15 provides additional policy pertaining to joint security cooperation training.

1–7. Objectives of Army security assistance

The security assistance program is an important instrument of U.S. foreign and national security policy. The principal objectives of security assistance and security cooperation are to—

a. Develop allied and partner defense and security capabilities and capacity for self-defense and multinational operations.

- b. Provide U.S. forces with peacetime and contingency access to allied and partner nations.
- c. Build defense relationships that promote specific U.S. security interests.
- d. Take other actions in support of U.S. objectives.

1–8. Scope

- a. The Army conducts security assistance programs and activities in compliance with law and higher-level guidance. These programs include—
 - (1) Foreign military sales (FMS) programs which transfer defense articles and services (to include training) to eligible countries and international organizations under authority of the AECA, Sections 21 and 22 (Title 22, United States Code, Section 2761 and 2762 (22 USC 2761 and 22 USC 2762)).
 - (2) Foreign military construction services (FMCS) that provide for the construction of requisite military installations and facilities in support of a foreign military activity under the authority of the AECA, Section 29 (22 USC 2769).
 - (3) Leases of equipment for specified missions and for specific periods of time under the authority of the AECA, Section 61 (22 USC 2796).
 - (4) International military education and training (IMET) that provides training and education under the authority of the FAA, Section 541 (22 USC 2347).
 - (5) Drawdowns which allow for the transfer of items from U.S. stockpiles to a foreign military under the authority of the FAA, Section 506 (Presidential Drawdown, 22 USC 2318) and Section 516 (Excess Defense Articles (EDAs), 22 USC 2321j).
- b. Other special programs and services addressed in this regulation include security assistance logistics and production programs.
- c. This regulation does not address the direct commercial sales of military or military-related end items sold by the U.S. defense industries to foreign customers except as noted in chapter 3 of this regulation.

1–9. Command and staff relationships, staffing, and coordination

- a. *Command and staff relationships.*
 - (1) *Assistant Secretary of the Army (Acquisition, Logistics and Technology).* The ASA (ALT) is the single office in Headquarters, Department of the Army (HQDA) responsible for setting the strategic direction for and overseeing policies and programs related to acquisition, logistics and technology, procurement, intellectual property, the industrial base, and security cooperation not otherwise delegated (including security assistance, armaments cooperation, and direct commercial sales).
 - (2) *Deputy Assistant Secretary of the Army for Defense Exports and Cooperation.* The DASA (DE&C) is responsible to the ASA (ALT) for oversight and program management of the Armywide security assistance program and is the focal point for developing, staffing, and publishing Army security assistance strategy, policy, and guidance.
 - (3) *Deputy Chief of Staff, G–3/5/7.* The DCS, G–3/5/7 sets the Army security cooperation policy as the force modernization proponent in accordance with AR 5–22 and reviews and provides feedback to DASA (DE&C) regarding the nesting of Armywide security assistance programs in accordance with The Army Plan, Army Campaign Plan, Army Strategy for Allies and Partners and the Implementation of Security Cooperation for Allies and Partners.
 - (4) *Army commands, Army service component commands, and direct reporting units.* The ACOM/ASCC/DRU commanders are responsible to HQDA for compliance with applicable laws, DoDDs, ARs, and policy as they apply to the administration, implementation, and execution of assigned security assistance programs.
- b. *Coordination.*
 - (1) Coordination between Army security assistance personnel at all levels and between Army and DoD personnel is required when these contacts facilitate the mission. The coordinating organization should keep its chain of command and all concerned informed of changing situations. Official coordination will be accomplished for all Army policy issues by authorized personnel through appropriate channels.
 - (2) Coordination between Army, other DoD, and interagency organizations should include HQDA, ASA (ALT) and/or DASA (DE&C) as appropriate, to ensure a whole-Army response and appropriate visibility to the chain of command.
 - (3) Relationships should be developed and maintained between the U.S. Army, U.S. industries, and potential purchasers of defense articles and services. Every effort should be made to develop these relationships at the level most appropriate to the activities being conducted, while ensuring compliance with

U.S. laws, DoD policy and guidance, and ARs. Official coordination through the chain of command must occur whenever discussions broaden outside the organization's area of responsibility.

c. Headquarters, Department of the Army oversight and coordination. Actions that require HQDA oversight and coordination through DASA (DE&C) are—

(1) Development and/or submission of a military assessment (politico-military and national security) related to a specific security assistance requirement.

(2) Actions that affect coalition operations, such as standardization and interoperability of equipment, doctrine, training, and commitment.

(3) Letter of offer and acceptance (LOA) and related actions requiring Congressional notification or approval.

(4) Diversion or withdrawal of equipment and munitions from Army stocks or procurements and diversion of equipment from approved security assistance commitments.

(5) Notification of negative impacts, which put at risk the United States Government (USG) ability to meet a commitment made to a foreign partner, as defined in the E-SAMM, chapter 6.

(6) Actions that affect Army resources and assets, including production, training base, and personnel.

(7) Transfer of sensitive technologies to ensure compliance with Army export policies, and any applicable Army, DoD, and DOS guidance.

(8) All LOAs or actions for release of technical data packages.

(9) Initial introduction of major defense capability to a region.

(10) Leases of materiel to industry to support air and trade shows or foreign countries.

(11) Financial information pertaining to the planning, programming, budgeting, and execution (PPBE) for operations and maintenance, Army Management Decision Package (MDEP) VFMS (Technology Export Control), foreign military financing (FMF) and FMS funds. Financial data include, but are not limited to, the security assistance program budget review (SAPBR), program objective memorandum (POM), the President's Budget submission, year of execution reports, and manpower data.

(12) Actions staffed to the Office of the Secretary of Defense (OSD), DSCA, and/or other Services.

(13) Strategic engagement plans that include FMS or leverage security assistance programs to enhance Army access, presence, and influence.

d. Reporting requirements.

(1) *General.* Army organizations with security assistance responsibility for administering, implementing, and executing security assistance programs submit reports to DASA (DE&C) as required. Some reports may not lend themselves to formal or structured reporting and will be furnished on an as-requested basis.

(2) *Reporting responsibility.* The U.S. Army Materiel Command (AMC) has designated the U.S. Army Security Assistance Command (USASAC) as responsible for reporting on materiel and defense services cases, including training delivered or contracted by AMC organizations. The U.S. Army Training and Doctrine Command (TRADOC) has designated the Security Assistance Training Field Activity (SATFA) responsible for reporting on training administered by SATFA. The U.S. Army Corp of Engineers (USACE) is responsible for reporting on separate military design and/or construction cases, as well as USACE lines with other implementing activities.

(3) *Manpower reporting.* Each ACOM, ASCC, DRU, or separate agency retains responsibility for manpower reporting. Army organizations that receive FMS and/or FMF administrative funding also provide DASA (DE&C) with fiscal year end manpower reports for military, Civilian, and contractor FMS personnel according to AECA, Section 25(a)(6) (22 USC 2765).

1-10. Program implementation

Execution of the roles and responsibilities in this regulation to achieve the objectives listed in paragraph 1-7 requires extraordinary coordination between organizations throughout the Army, other DoD, and interagency organizations. Procedures to implement Army security assistance policy are published in DA Pam 12-1. To facilitate development and staffing of DA Pam 12-1, the following roles are assigned:

a. Headquarters, Department of the Army. The ASA (ALT), as proponent for AR 12-1 and DA Pam 12-1, assigns the DASA (DE&C) responsibility for staffing, reviewing, and promulgating AR 12-1 and DA Pam 12-1.

b. Materiel programs. AMC develops and coordinates all sections of DA Pam 12-1 regarding program initiation, administration, implementation, and execution of security assistance materiel and defense services programs including non-institutional training.

c. Institutional training programs. TRADOC develops and coordinates all sections of DA Pam 12–1 regarding program initiation, administration, implementation, and execution of security assistance institutional training programs, exercises, and continental United States (CONUS) non-institutional travel and living allowance (TLA) support.

d. Engineering and construction programs. USACE develops and coordinates all sections of DA Pam 12–1 regarding program initiation, administration, implementation, and execution of security assistance engineering and construction programs.

e. Executing and supporting agencies. All other Army Security Assistance Enterprise (ASAE) agencies and offices, including but not limited to program executive officers (PEOs), program managers (PMs), commanders of ACOMs, ASCCs, DRUs, the Office of the General Counsel (OGC), the Office of the Surgeon General, and so forth, will provide input and coordinate on all areas of DA Pam 12–1 appropriate to their area of responsibility.

Chapter 2 Responsibilities

Within the DoD, the Under Secretary of Defense for Policy (USD (P)) is the SECDEF's principal security assistance representative. The Deputy Assistant Secretary of Defense for Security Cooperation oversees Building Partner Capacity (BPC) programs for the DoD. With respect to security assistance, the USD (P) is assisted by the Assistant Secretary of Defense for International Security Affairs (ASD (ISA)). The ASD (ISA) exercises authority, direction, and control over the Director, DSCA. The DSCA is the DoD's principal organization for security assistance and provides overall security assistance guidance to each military department (MILDEP). The Director, DSCA is the proponent for the E-SAMM.

2–1. Secretary of the Army

The SECARMY is the senior official of the Department of the Army (DA) and is responsible for the effective and efficient functioning of the Army. The SECARMY will—

a. Develop, direct, and foster policy, doctrine, and concepts mutually gainful to the DA, the U.S., allied and partner nations.

b. Carry out approved and funded security assistance programs, acting under the policy guidance of the SECDEF.

c. In consultation with the relevant geographic combatant command (GCC), negotiate and conclude international agreements according to Department of Defense Instruction (DoDI) 5530.03, when authorized.

2–2. Assistant Secretary of the Army (Acquisition, Logistics and Technology)

The ASA (ALT) is responsible for setting the strategic direction for and ensuring that DA policies, plans, and programs related to acquisition, logistics, technology, procurement, the industrial base, security cooperation (including security assistance, armaments cooperation, commercial sales and related technology transfer, foreign training and select exchange programs), are executed consistent with law, regulation, and policy. The ASA (ALT) is designated the single office for the acquisition function in HQDA and is responsible for security cooperation, FMS, and general export matters and their implementation. The ASA (ALT) will—

a. Armywide policy formulation. Formulate Armywide policy including strategy, guidance, and planning for—

(1) The Army's acquisition policy; including—

(a) Planning for FMS and partner nation interoperability throughout the acquisition lifecycle.

(b) Informing all Army materiel developers of congressionally mandated or other restrictions on the acquisition of foreign defense materiel or technology.

(c) Ensuring PEOs, PMs, and direct reporting PMs are compliant with approved Army initiatives for fielding and maintaining interoperable systems, as well as other policies or directives that affect interoperability.

(2) The Army's logistics policy; including life-cycle logistics, performance-based logistics, and related acquisition logistics policies, processes, and functions.

(3) The Security Cooperation Workforce Development Program (SCWDP) and Certification Program, as co-proponent for the program with DCS, G–3/5/7.

- (4) Technology transfer; including—
 - (a) Providing export policy oversight and direction, including to the DCS, G–2 on technology transfer.
 - (b) Overseeing disclosure of technical controlled unclassified information (CUI) to foreign governments and international organizations and provide general guidance, advice, and assistance to Army officials in determining the suitability of technical CUI identified for sharing under established international programs for direct commercial sales, FMS, and armaments cooperation.
- (5) Integration of international considerations and requirements in Armywide technology base strategy, policy, guidance, and planning.
- (6) Modeling and Simulation release approvals with DCS, G–8.
 - b. *Lead/supervise.*
 - (1) Serve as the Army’s single executive for providing export policy oversight.
 - (2) Serve as the Army’s single point of contact for endorsing the delegation of disclosure authority for technical CUI, required by AR 380–10, to proponents or originators of the technical CUI (see disclosure procedures in DA Pam 70–3).
 - (3) Conclude (sign) international agreements as delegated signature authority on behalf of the USG, the DoD, and/or DA for science and technology; research, development, test, and evaluation (RDT&E); acquisitions; professional military education (PME) agreement annexes; and/or life-cycle logistics cooperation.
 - (4) Provide overall supervision of research, development, engineering, and acquisition programs, including the Munitions Control Program (MCP), security assistance, and cooperative research and development programs.
 - (5) For Acquisition:
 - (a) Manage the Army industrial base and industrial preparedness programs.
 - (b) Develop materiel and interoperability solutions for the Army.
 - (6) The Army Acquisition Corps, Army Acquisition Workforce, and Army security cooperation workforce (SCW).
 - (7) For logistics life-cycle management:
 - (a) Validate integrated logistics support requirements.
 - (b) Include validated requirements in the materiel acquisition process to support type classification, full materiel release, and total package fielding of systems, equipment, and associated training.
- c. *Deputy Assistant Secretary of the Army for Defense Exports and Cooperation.* Subject to the authority, direction, and control of the ASA (ALT), the DASA (DE&C) is delegated responsibility for select security cooperation activities. The DASA (DE&C) leads, manages, resources, and directs assigned elements of the Army’s global security cooperation activities, including policy and strategy, for FMS, foreign military and foreign national training and education, non-special access program (SAP) technology transfer, and export policy. The DASA (DE&C) is also the PM for the Army MCP. The DASA (DE&C) ensures that all ASA (ALT) managed security cooperation programs are conducted according to law and policy and has direct tasking authority over the Army’s designated commands for the execution of their delegated security cooperation responsibilities. The DASA (DE&C), as the Army implementing agency, will—
 - (1) Formulate Armywide policy including strategy, guidance, and planning for—
 - (a) FMS.
 - (b) Export policy, including munitions case review, Non-SAP technology transfer & related exceptions.
 - (c) Training of foreign personnel by DA entities.
 - (d) Resourcing the ASAE security assistance administrative funds: Develop annual BPC and FMS administrative funding letters, consolidate obligation plan submissions, and monitor execution of the security assistance program budgets; Serve as the single point of contact for Army security assistance program resources.
 - (e) Resolving security assistance policy issues applicable to specific country programs.
 - (f) Facilitating the administration of the SCWDP and its primary component, the SCW Certification Program. In this capacity, the DASA (DE&C) will perform co-proponent functions with DCS, G–3/5/7 and act as the office of primary responsibility/component certification authority for the programs.
 - (2) In support of PPBE—
 - (a) Monitor expenditures and conduct periodic reviews regarding the use of security assistance funds to include FMS case funding.
 - (b) Ensure that personnel requirements for Army security assistance compete in the programming and budgeting process.

- (c) Review security assistance budget submissions from Army organizations. Submit the consolidated security assistance budget request to DSCA.
- (d) Manage the security assistance-related MDEPs for the Armywide Title 10 funding and manpower support to the Army security assistance mission.
- (e) Oversee the Army's special defense acquisition fund (SDAF) program management and funds management functions.
- (3) In support of security cooperation and security assistance integration (for direct commercial sales, FMS, and armaments cooperation):
- (a) Conduct and synchronize Pre-Letter of Request (LOR) activities with ASAE stakeholders as applicable to assist partner nations in developing solutions to operational requirements or capability gaps.
- (b) Coordinate with designated OSD and Army Staff (ARSTAF) on all required input for GCC and Theater Campaign Plans as it relates to events and activities for FMS, foreign military training, direct commercial sales, technology transfer, drawdowns, and exports.
- (c) Coordinate, in conjunction with the DCS, G-3/5/7, all required input and support for Army Campaign Support Plan events and activities in support of GCC requirements, including IMET, FMS, direct commercial sales, technology transfer, drawdowns, and exports.
- (d) Participate as ASAE lead at security cooperation training, prioritization, and planning conferences.
- (e) Participate in OSD prioritization meetings related to Army security assistance programs (such as the DSCA-led prioritizations with the GCCs).
- (f) Engage and liaise with USD (P), Under Secretary of Defense for Acquisition and Sustainment (USD (A&S)), DSCA, and the Defense Technology Security Administration (DTSA) regarding DASA (DE&C) areas of responsibility that impact GCCs and their plans related to: FMS, foreign military training, direct commercial sales, technology transfer, drawdowns, and exports.
- (g) Provide export guidance and advice to Army, OSD, and industry.
- (h) Develop Armywide input to specific country security cooperation and security assistance programs in support of HQDA missions.
- (i) Analyze, in coordination with all applicable Army offices and agencies, specific requests from foreign countries for defense articles and defense services and ascertain whether the requests are in consonance with U.S. strategic plans, objectives, and law.
- (j) Notify DSCA, in writing, when any situation arises that puts at risk the USG ability to meet a commitment made to a foreign partner or may result in an operational, political, or readiness impact to the international partner. Refer to "negative impacts" as defined in the E-SAMM, chapter 6.
- (k) In coordination with the GCC, AMC, DCS, G-3/5/7, and other Army agencies, develop Army positions on security assistance materiel and training allocations and/or diversions and distribution priorities for allied and partner nations.
- (l) Recommend, as appropriate, to DCS, G-3/5/7 the modification of force activity designator (FAD) assignment for specific FMS to the DA master priority list.
- (m) Coordinate Army security assistance urgent operational requirements with appropriate officials within OSD, GCCs, HQDA, other MILDEPs, and USG agencies.
- (n) Provide to USD (A&S) the project information required as part of the Congressional certification for cooperative projects authorized under 22 USC 2767 and 10 USC 2350a.
- (o) Supervise the development, coordination, and implementation of Army export policy.
- (p) Manage the MCP in accordance with law and policy including guidance from Departments of State, Commerce, Defense, and Army, based upon International Traffic in Arms Regulations (ITAR), Export Administration regulations (EARs) and licensing precedence.
- (q) Refer to the DCS, G-2 security assistance requests for Army-managed items and technologies that require exceptions to national disclosure policy (NDP).
- (r) Establish Army procedures for requesting ITAR exemptions for which DASA (DE&C) has been delegated authority by the DTSA.
- (s) Receive, staff, and formulate the Army position regarding above-threshold supply discrepancy reports (SDRs).
- (t) Maintain list controlling the export of software defined radio waveforms integrated into hardware.
- (u) Manage actions to sell, rent, or lend government equipment or materiel to any person or entity for use in demonstrations to an allied or partner government for the purpose of potential sales to that government under authority of 10 USC 4892.
- (v) Serve as the Army security assistance programs lead audit point of contact.

(w) Serve as the MILDEP primary point of contact for the Golden Sentry Program for end-use monitoring and enhanced end-use monitoring (EEUM). Identify and provide DSCA recommendations on sensitive technologies and defense articles to be considered for EEUM or removed from EEUM management. Assist PEOs in providing courses of action to mitigate uncertified or failed EEUM physical security inspections for certifications of partner nation storage facilities.

(x) Coordinate Modeling and Simulation release approvals with DCS, G–8.

(y) Provide oversight, resourcing, and overall policy guidance for Army security assistance matters and activities supporting Army divestiture. Coordinate with DCS, G–4 and the CG, AMC to make recommendations on Army position for divestiture utilizing security assistance.

(z) Oversee and coordinate the ASAE input for the annual Foreign Military Training Report (FMTR) to Congress.

(4) Lead/supervise with the following additional responsibilities:

(a) Serve as the Army designated entry point for weapons system information and security assistance-related requests from USD (P), USD (A&S), DTSA, and DSCA.

(b) Serve on behalf of the ASA (ALT) as the Army force modernization proponent for security assistance, armaments cooperation, and export control in accordance with AR 5–22.

(c) Serve on behalf of the ASA (ALT) as the joint proponent for the Joint Security Cooperation and Training regulation/instruction AR 12–15/SECNAVINST 4950.4B/AFI 16–105.

(d) Lead integration of all security assistance strategic planning as part of the Army Strategic Planning System, and coordinate with OSD personnel, the DCS, G–3/5/7 and ACOM/ASCC/DRU commanders on alignment of Title 10 and Title 22 strategic efforts as part Army security cooperation.

(e) Lead government-to-government and interagency interaction with the Departments of State, Commerce, Homeland Security, and the National Security Staff in support of direct commercial sales, armaments cooperation, and FMS.

(f) Formulate strategy, direct Army participation, and advise DSCA regarding Army attendance in international air and trade shows.

(g) Resolve discrepancies that occur between USACE, TRADOC, AMC, PEOs/PMs, or security assistance executing agencies on LOR, LOA, execution, contracts, and other issues.

(h) Exercise final HQDA decision authority for resourcing requests for Army SATs from authorized command and agencies.

(i) Provide oversight of International Military Student security vetting and adjudication processes.

(j) Exercise approval authority for requests for, and direct the participation of, Army members on joint survey teams to analyze foreign military objectives, threats, force requirements, doctrine, and tactics. Review team reports and recommendations.

(k) Designate and exercise direct tasking authority over the Army's designated implementing activities and commands for the execution of their delegated security cooperation responsibilities and other actions as required to execute the authorities in this regulation.

(l) Task PEOs/PMs with providing supporting information on weapons systems, consolidate all PEO/PM data calls, and provide this information to USD (P), USD (A&S), DTSA, and DSCA.

(m) Task AMC, TRADOC, USACE, and PEO/PMs to develop Army training inputs to Defense Security Cooperation University curriculum as required.

(n) Review and approve/endorse requests for exceptions to policy such as policy memorandums, regulations, and the E–SMMM, and forward for final action, as required.

(o) Gather and provide technical information and data to USD (P), USD (A&S), DTSA, and DSCA for FMS, foreign military training, direct commercial sales, technology transfer, drawdowns, exports, and related policy guidance and law.

(p) Act as point of contact for Army security assistance matters including procedural and operational concerns with foreign attachés or embassies in the Washington, DC area.

(q) Act as Army point of contact to the DTSA for all export policy, Non-SAP technology transfer, and MCP/direct commercial sales matters.

(5) Support/enabler roles—

(a) Coordinate with the DCS, G–3/5/7 to task responsible Army agencies and commands for execution of approved SAT requests.

(b) Review SAT reports and recommendations.

(c) Review capabilities documents developed under the Joint Capabilities Integrated Development System and other DoD requirements processes for international considerations.

(d) Coordinate requests for third-party information transfers.

(e) Develop Army positions on the President of the U.S. directed drawdowns and coordinate with DCS, G-3/5/7; DCS, G-4; DCS, G-8; and OSD.

2-3. Assistant Secretary of the Army (Civil Works)

The Assistant Secretary of the Army (Civil Works) will direct the foreign activities of USACE, except those foreign activities that are exclusively in support of U.S. military forces overseas.

2-4. Assistant Secretary of the Army (Financial Management and Comptroller)

The ASA (FM&C) has the principal responsibility for exercising the Army's financial management functions to include financial oversight of security assistance programs. The ASA (FM&C) will—

- a. Oversee the financial aspects of security assistance programs.
- b. Provide policy guidance on financial aspects of implementing and reporting on the acquisition or transfer of logistics supplies, support, or services under the acquisition and cross-servicing agreement (ACSA) authorities.
- c. Provide guidance to ensure security assistance accounts are auditable, to include fund and asset accountability.

2-5. General Counsel

The General Counsel will determine the Army's position on any legal question with regard to security assistance, armaments cooperation (to include cooperative research and development), MCP (to include export controls), implementing statutes and regulations, or implementation issues arising from this regulation. The General Counsel will provide legal support for DASA (DE&C). The General Counsel will furnish or designate legal counsel for negotiation of Army co-production agreements.

2-6. Deputy Chief of Staff, G-1

The DCS, G-1 is responsible for developing and implementing policy and leading programs that build sustained personnel readiness for the Army. The DCS, G-1 will—

- a. Provide guidance throughout the Army on the availability and provision of military (except Army Medical Department officers) and DA civilian personnel to support permanent change of station (PCS) SATs.
- b. Recommend policy to procure, distribute, manage, retain, and separate U.S. military and civilian personnel specifically in support of Army security assistance.
- c. Work and coordinate with DASA (DE&C) to validate manpower adjustments submitted by Army organizations in MDEPs.

2-7. Deputy Chief of Staff, G-2

The DCS, G-2 is responsible for executing responsibilities for the SECARMY as the principal foreign disclosure authority for the Army and for technology protection (counterintelligence, intelligence, security, and foreign disclosure) support to the technology transfer program. The DCS, G-2 will—

- a. For classified military information (CMI), develop policy and procedures and provide delegated disclosure authority for the disclosure of CMI to foreign governments and international organizations.
- b. Exercise oversight of CUI disclosure authorizations issued by ACOMs, ASCCs, DRUs, and DA elements. (The ASA (ALT) is the proponent for technical CUI. Guidance for technical CUI is found in DA Pam 70-3, chap 1, sec VIII.)
- c. Administer, manage, and execute the Army's International Visits Program.
- d. Serve as the Army member to the NDP Committee.
- e. Provide guidance and assistance to implementing activities for all military intelligence type security assistance training programs, both CONUS and outside the continental United States.
- f. Coordinate, review, and submit all Army exceptions to NDP-1.
- g. Monitor unit exchanges and advise the ARSTAF and ACOMs on security implications.
- h. Administer, manage, and execute the Foreign Liaison Officer Program.
- i. Review Army export policies developed by DASA (DE&C).

2-8. Deputy Chief of Staff, G-3/5/7

The DCS, G-3/5/7 is responsible for Army operations and planning functions. The DCS, G-3/5/7 will—

- a. Serve as the principal advisor to the Chief of Staff of the Army on politico-military aspects of international affairs.
- b. Coordinate with DASA (DE&C), as part of the Army Strategic Planning System, on the development and implementation of the Army Strategy, Army Campaign Plan, Army Strategy for Allies and Partners, Global Prioritization Assessment, and the Implementation of Security Cooperation with Allies and Partners.
- c. Support DASA (DE&C) in reconciling Army security assistance program issues and foreign requests for defense articles and services with U.S. strategic plan and policy objectives.
- d. Assess the readiness impact of all diversions of assets managed by the Army.
- e. Coordinate on prioritization of the distribution of FMS materiel to foreign countries when required.
- f. Include IMET and FMS CONUS training requirements in the Army Program for Individual Training and task Army trainers to accomplish the training.
- g. Allocate foreign training spaces to the U.S. Army Command and General Staff College course.
- h. Coordinate and recommend to the Chief of Staff of the Army; foreign attendees to the U.S. Army War College, International Fellows Program, and the Sergeants Major Academy.
- i. Prioritize constrained training courses by either program or country.
- j. Prioritize primary and alternate seats for Army senior PME by country.
- k. Review Army export policies developed by DASA (DE&C).
- l. Act as co-proponent with ASA (ALT) for the SCWDP and SCW Certification Program and advise ASA (ALT) on SCWDP and SCW Certification Program issues outside the Army Security Assistance and International Armaments Cooperation enterprises.
- m. Task responsible Army agencies and commands for execution and support of approved SAT requests, as coordinated with DASA (DE&C).
- n. Manage assigned personnel that are part of the SCWDP in accordance with DoDI 5132.15 and Army guidance.

2-9. Deputy Chief of Staff, G-4

The DCS, G-4 provides advice and assistance to the ASA (ALT) in addition to responsibilities and authorities as DCS, G-4 on the ARSTAF. The DCS, G-4 will—

- a. Serve as the principal military advisor to the ASA (ALT) in the functional area of logistics.
- b. Ensure that the sustainment functions of security assistance are fully integrated and properly balanced between acquisition and logistics.
- c. Oversee logistics operations associated with the ASA (ALT) security cooperation staff to include DASA (DE&C).
- d. Ensure that international logistics support activities are coordinated according to AR 11-31.
- e. Receive and process Army-only requests to designate new countries as eligible for cross-servicing agreements. (Multiservice requests are processed through GCC channels.)
- f. Support DASA (DE&C) in routing specific requests for support under the ACSA authorities that may be referred to the Army by a GCC or ACOM to the appropriate Army materiel or logistics organization for execution.
- g. Coordinate with DASA (DE&C) on potential impacts of U.S. modernization decisions on international partners.
- h. In conjunction with DCS, G-3/5/7, assess the readiness impact of all diversions of munitions managed by the Army.
- i. Support ASA (ALT) in their audit role for Army security assistance programs.

2-10. Deputy Chief of Staff, G-8

The DCS, G-8 is responsible for the programming, analysis, and materiel integration to achieve Army transformation goals to field the future force. The DCS, G-8 will—

- a. Review Army export policies developed by DASA (DE&C).
- b. Coordinate with DASA (DE&C) on potential impacts of U.S. modernization decisions on international partners.
- c. Serve as final release authority for Army models and simulations to foreign governments or international organizations.
- d. In conjunction with DCS, G-3/5/7, assess the readiness impact of all diversions of munitions managed by the Army.

2–11. Chief, U.S. Army Corps of Engineers

The Chief, USACE will—

- a. Conduct Pre-LOR activities as required to develop solutions to operational requirements or capability gaps for allied and partner nations.
- b. Receive, process, and execute requests for all engineering activities associated with, and in support of, assigned security assistance programs and projects.
- c. Employ standard FMS procedures as outlined in the E–SAMM and this regulation.
- d. Manage, distribute, and report upon allocated program surcharges in accordance with policy guidance for each program executed under FMS.
- e. Manage assigned personnel that are part of the SCWDP in accordance with DoDI 5132.15 and Army policy and guidance.
- f. Manage and report upon case funds executed through FMS.
- g. Establish and maintain a case and/or program management system that—
 - (1) Provides life-cycle management for all security assistance activities from pre-LOR to FMS case closure; and report same to HQDA stakeholders.
 - (2) Maintains the master records and/or files for all Army security assistance programs.
- h. Coordinate project/program milestones, critical path, estimates, integrated schedules with weapon systems/other projects/programs, and scope of work with internal and external stakeholders.
- i. Coordinate with stakeholders within the Army and DSCA to ensure appropriate alignment and execution of program requirements within USACE authorities, regulations, fiscal and accounting requirements.
- j. Provide life-cycle management of all programs executed via FMS from pre-LOR to FMS case closure; including collaboration with DASA (DE&C), other Army implementing activities, and DSCA to institutionalize agreed upon program improvements through revision of policy, processes, and procedures.
- k. Support the security assistance community in assessing foreign disclosure and export licensing requirements.
- l. Provide input to DASA (DE&C) as required for annual FMTR to Congress.

2–12. The Surgeon General

TSG is responsible for development, policy direction, organization, and overall management of an integrated Armywide health services system. TSG will—

- a. Exercise overall ARSTAF oversight and consultation for medical security cooperation and security assistance as it pertains to providing medical materiel, training, related services, and health care to personnel of recipient countries.
- b. Provide medical security cooperation policy, program, budget, and executive guidance and/or oversight to organizations that provide medical support to security cooperation activities/programs.
- c. Process all financial reimbursements and payments for health care provided to foreign nationals and their authorized dependents under security cooperation programs.
- d. Manage assigned personnel that are part of the SCWDP in accordance with DoDI 5132.15 and Army policy and guidance.
- e. Provide input and consultation for all medical materiel and related services for security cooperation customers according to standard FMS, FMF, Presidential drawdown, and EDA procedures. As such—
 - (1) Maintains a reporting process that provides periodic performance and status data on medical materiel and training cases.
 - (2) Advises on medical technology transfer and foreign disclosure review and support for security cooperation.
 - (3) Serves as the medical PM and medical subject matter expert for the ASAE.
- f. Provides input and consultation for all medical training and related training services for security cooperation training programs. As such—
 - (1) Serves as the Army point of contact on medical security cooperation training and related medical training policies and issues.
 - (2) Maintains reporting process that provides periodic performance and status data on medical training.
 - (3) Provides oversight and supervision of individual medical training to foreign personnel to include development and staffing of medical training policy. Also validates, and where possible, approves, synchronizes, and monitors medical security cooperation training programs (formal courses, on-the-job training, and observer training in CONUS). This includes surveys and exportable training.

2–13. Commanding General, U.S. Army Forces Command

The CG, FORSCOM will—

- a. Manage assigned Regular Army conventional force personnel that are part of the SCWDP in accordance with DoDI 5132.15 and Army policy and guidance.
- b. Train and prepare Army units to support GCC security cooperation and security assistance requirements.
- c. Train security forces assistance brigades upon allocation to a GCC, theater-specific training to include directed security force assistance, security cooperation, and/or security assistance missions (reference AR 11–31).
- d. Provide qualified personnel to fill request for forces requirements for GCC security assistance missions.

2–14. Commanding General, U.S. Army Training and Doctrine Command

The CG, TRADOC will—

- a. Conduct Pre-LOR activities as required to develop solutions to operational requirements or capability gaps for allied and partner nations.
- b. Review foreign country requests for training to determine if Army-managed institutional training is appropriate, assess availability, and formulate costs of the training involved.
- c. Receive, process, and execute requests for FMS institutional training, exercises, and CONUS non-institutional TLA support.
- d. Provide centralized financial management of all training related security assistance and security cooperation program funds within TRADOC's purview.
- e. Develop security assistance training options for TRADOC institutional training that best satisfy GCC requirements or meets the total package approach (TPA).
- f. Administer Army-sponsored training provided to international partners under security cooperation and security assistance authorities as described in the E–SAMM, AR 12–15, and this regulation.
- g. Develop training plans to support equipment purchases that ensure training is time-phased with equipment delivery dates and that unique career-skill requirements requested by the customer are met as required for TPA. Coordinate with other ASAE elements to assist in developing TPA training solutions for materiel cases.
- h. Submit course and training costs for inclusion in the Training Military Articles and Services Listing (T–MASL) to DSCA for maintenance and update of the Army training section of the Military Articles and Services List.
- i. Provide life-cycle management of all programs executed via FMS pre-LOR to case closure; including collaboration with other Army implementing activities, DASA (DE&C), and DSCA to institutionalize agreed upon program improvements through revision of policy, processes, and procedures.
- j. Coordinate with HQDA and other commands, as required, to support the approved training programs.
- k. Coordinate DCS, G–2 foreign disclosure approval for training literature, training aids, and training devices.
- l. Provide input to DASA (DE&C) as required for annual FMTR to Congress.
- m. Represent ASAE training interests at security assistance training conferences.
- n. Manage assigned personnel that are part of the SCWDP in accordance with DoDI 5132.15 and Army policy and guidance.

2–15. Commanding General, U.S. Army Materiel Command

The CG, AMC will—

- a. Conduct and synchronize pre-LOR activities with ASAE stakeholders as applicable to assist partner nations in developing solutions to operational requirements or capability gaps.
- b. Receive, process, and execute requests for defense articles and services to include training and technical assistance.
- c. Provide financial distribution of FMS administrative funds to the major subordinate commands (MSCs).
- d. Manage FMS case funds throughout their lifecycle.
- e. Establish and maintain a case and/or program management system that—
 - (1) Provides life-cycle management for all security assistance activities from pre-LOR to FMS case closure.

- (2) Maintains the master records and/or files for all Army security assistance transactions.
- (3) Satisfies FMS customer requests as prescribed in the E–SAMM and this regulation.
- (4) Synchronizes integration efforts and associated activities across the ASAE to develop requirements that meet the customer’s needs and ensures delivery as specified in the LOA.
- (5) Ensures LOAs are processed using a TPA, including consideration of ancillary equipment, initial and sustaining support, maintenance support, facilities, and training support where appropriate.
- (6) Ensures that a foreign disclosure review is accomplished and release approval is granted by a designated disclosure authority prior to providing price and availability (P&A) data or an LOA.
 - f.* Conduct periodic reviews of security assistance programs.
 - g.* Gain HQDA approval from DASA (DE&C) prior to initiating dialogue with a country on the potential introduction of a new weapon system into the country or region.
 - h.* Coordinate with DASA (DE&C) prior to initiating dialogue with a country on a requirement for a permanent advisory team with U.S. uniformed or government civilian personnel.
 - i.* Publish management reports on FMS and FMF and/or grant activities as required by HQDA.
 - j.* Provide input to DASA (DE&C) as required for the annual FMTR to Congress.
 - k.* Manage the Army information technology (IT) systems used for FMS case development and execution.
 - l.* Review IT systems requirements.
 - m.* Execute specific requests for logistics support under the ACSA authorities when directed by HQDA.
 - n.* Develop SDAF proposals and oversee program management and funds management functions of AMC MSCs managed items in coordination with the HQDA SDAF PM.
 - o.* Assess equipment under consideration for divestiture, coordinate recommendations with DASA (DE&C), and coordinate with AMC MSCs, PEOs, and DASA (DE&C) on messaging to foreign partners.
 - p.* Serve as Army central manager for SDRs.
 - q.* Represent ASAE non-institutional training interests at security assistance training conferences.
 - r.* Manage assigned personnel that are part of the SCWDP in accordance with DoDI 5132.15 and Army policy and guidance.

2–16. Commanders of Army service component commands

The ASCC commanders will—

- a.* Serve as the Land Forces integrator for synchronizing all security assistance/cooperation activities, including security force assistance activities.
- b.* Support GCC in identification of allied and partner nation capability gaps relevant to U.S. Army and partner nation interests.
- c.* Determine availability of ASCC forces to support training and education as identified in Combined Education and Training Program Plans or at the GCC request in accordance with the E–SAMM, AR 11–31, AR 12–7, AR 12–15, and this regulation.
- d.* Review GCC Security Cooperation Education and Training requests, resource as required from organic assets, and forward un-resourced requests to HQDA in accordance with AR 12–7.
- e.* Manage assigned personnel, teams, and units that support security cooperation activities under their command, which include security assistance missions and security force assistance missions.
- f.* Manage assigned personnel that are part of the SCWDP in accordance with DoDI 5132.15 and Army policy and guidance.

2–17. Program executive officer and program manager

The PEO and PM are responsible for cost, schedule, and performance of DoD acquisition programs. They are required to assess international acquisition & exportability (IA&E) requirements early in the acquisition lifecycle and complete an IA&E assessment of a program’s international involvement before the first milestone or decision point as well as subsequent milestones in accordance with DoDI 5000.02. The PEO and PM will—

- a.* Support the ASAE in the development and execution of approved FMS cases. This assistance will include—
 - (1) Conducting Pre-LOR activities as required to assist allied and partner nations in developing solutions to operational requirements or capability gaps.
 - (2) Developing system presentations or providing releasable system information as requested by a foreign country, security cooperation organization (SCO), GCC, or higher headquarters and approved by the

PEO foreign disclosure officer (FDO) in accordance with delegation of disclosure authority letters (DDL), and security classification guides (SCGs), and approved by DASA (DE&C) and DSCA when required.

(3) Providing initial releasability assessments and recommendations based on the Program Protection Plan (PPP), SCG, and DDL.

(4) Developing P&A data and LOA data as requested.

(5) Assisting the appropriate AMC MSC in LOA development using the TPA, setting achievable time-lines for fulfillment of LOA articles and services, and managing customer relationships and expectations.

(6) Coordinating with the appropriate ASAE stakeholders responsible for institutional and non-institutional training to ensure training requirements are considered together with materiel requirements.

(7) Identifying and aligning international requirements with U.S. requirements to include training.

(8) Advising the appropriate AMC MSC with cost, schedule, and performance data during all phases of case execution.

(9) Conducting acquisition management for assigned case lines to include development, production, deployment, product support planning, new equipment, and other contracted training, and initial sustainment for those systems and services within the PEO/PM portfolio and other related non-standard procurements as assigned.

(10) Advising the appropriate AMC MSC with logistics data during the execution of FMS cases.

b. Assess Congressional funding changes to PEO systems with related FMS efforts and notify DASA (DE&C) of any negative impacts to security assistance partnerships.

c. Provide input for PEO and/or PM managed technologies and systems to DASA (DE&C) regarding vendor requests to transfer items or technology regulated by the U.S. Munitions List (USML) or commerce control list (CCL).

d. Inform DCS, G-8 Staff Synchronization Officers and ASA (ALT) (SAAL-ZS) Defense Acquisition System Coordinators of FMS demand in order to analyze how changes to Army planning and programming may impact FMS requirements and how changes to FMS may impact Army requirements to include impacts on institutional training.

e. Advise and support the security assistance community in assessing foreign disclosure and export licensing requirements. Initiate releasability process for PEO technologies as required.

f. Conduct physical security inspections for certification of partner nation storage facilities before EEUM-designated weapons systems and EEUM case-unique weapons systems are delivered or moved to a new or uncertified facility.

g. Develop SDAF proposals and oversee program management and funds management functions of PEO-managed items in coordination with the case implementing activity and HQDA SDAF PM.

h. Provide PEO/PM position regarding EDA designation.

i. Manage FMS case funds distributed by AMC MSCs and provide financial management and distribution of FMS administrative funds to subordinate and matrix organizations as required.

j. Manage assigned personnel that are part of the SCWDP in accordance with DoDI 5132.15 and Army policy and guidance.

2-18. Security assistance implementing activities

a. The commanding generals of the following Army organizations are designated as implementing activities:

(1) The CG, AMC for approved security assistance materiel programs (including defense articles, non-institutional training, and technical assistance). The AMC also provides FMS administrative support for the development and processing of medical FMS cases in support of the U.S. Army Medical Materiel Agency.

(2) The CG, TRADOC for approved security assistance institutional training, exercises, and CONUS non-institutional TLA support.

(3) The CG, USACE for approved security assistance (design/engineering and construction of infrastructure and facilities) executed through FMS.

b. Security assistance implementing activities are responsible for collaborating, synchronizing, and integrating pre-LOR, case development, and execution efforts. Implementing activities are authorized to receive and respond to requests for information, pre-LOR requests, and LORs. The implementing activities will—

(1) Respond to HQDA direction regarding the development, approval, and execution of security assistance programs.

- (2) Conduct Pre-LOR activities as required to develop solutions to operational requirements or capability gaps for allied and partner nations.
- (3) Provide materiel and/or related services, to include training, to approved foreign countries or international organizations.
- (4) Coordinate with other ACOM/ASCCs/DRU, MILDEPs, USG agencies, and private industry as necessary to support approved programs.
- (5) Establish and maintain professional contacts with representatives of foreign governments and international organizations in the performance of approved programs.
- (6) Obtain DASA (DE&C) approval on actions that affect the programs, funding, and budgeting of other commands, agencies, and activities prior to implementation.
- (7) Refer requests for waivers and clarification of policy to DASA (DE&C) with appropriate background, discussion of alternatives, and recommendations for resolution.
- (8) Keep DASA (DE&C) informed of sensitive actions that may be of concern to senior Army leadership and pertinent to the mission and oversight responsibilities of HQDA.
- (9) Notify DASA (DE&C), in writing, when any situation arises that puts at risk the USG ability to meet a commitment made to a foreign partner or may result in an operational, political, or readiness impact to the international partner. Refer to "negative impacts" as defined in the E-SAMM, chapter 6.
- (10) Provide essential articles, services, and training using established FMS procedures when tasked to support peacekeeping and humanitarian assistance operations.
- (11) Submit financial and manpower data required for the SAPBR, POM, President's budget, and year of execution reporting according to PPBE processes and milestones.

Chapter 3

Foreign Military Sales

3-1. Eligibility

- a. The FAA of 1961, as amended FAA, Section 505(a) (22 USC 2314), and AECA, Section 3(a) (22 USC 2753) require the President to make a determination that prospective purchasers are eligible for grant, lease, or sales of USG defense articles or services. For information on eligibility criteria and eligibility tables, see the E-SAMM, chapter 4.
- b. Under this authority, grants, leases, or sales are made to the national defense establishment of the foreign partner, under the direction and control of the ministry responsible for defense matters. Grants, leases, or sales to other foreign government organizations must be approved by DSCA and DOS Bureau of Political-Military Affairs, Office of Regional Security and Arms Transfer (PM/RSAT) for FMS and by DSCA and DOS Bureau of Political-Military Affairs, Office of Security Assistance for grant items.
- c. The implementing activities listed in paragraph 2-18a will review each LOR to ensure that the request is from an eligible FMS recipient, that the defense article or defense service may be sold to the customer, and that the request was received through proper channels.
- d. Eligibility does not guarantee that a sale can be made. Export control/technology transfer review, State Department review, and Congressional review can result in individual systems, technologies, or cases being held or denied, or units, MILDEPs, or entire countries being suspended. Procedures governing suspension or cancellation of security assistance to a country are provided in the E-SAMM, chapter 6.

3-2. General policies

- a. *Total package approach.*
 - (1) Application of the TPA ensures that a customer has opportunity to plan for and obtain all support items and services such as training, technical assistance, ammunition, and publications necessary to operate, maintain, employ, and sustain a major end item or system (see the E-SAMM, chapter 4). Development of an offer requires a coordinated and tailored approach based on an in-depth assessment of the training, maintenance, and supply capabilities of the recipient, the adequacy of its trainable labor base, logistics infrastructure, support base, experience with similar equipment, and facilities (training, operational, maintenance, storage, and so forth). The information used in developing the assessment will be drawn from a variety of sources, such as checklists prepared by the in-country SCO, in-country surveys, and security assistance reviews.

(2) Responses to requests for P&A data and LOAs will include known requirements under the TPA concept. The response may consist of multiple LOAs that offer materiel, training, and sustainment separately.

(3) Customers must be made aware of the consequences of not accepting the total package. Army policy is to resist pressures to provide equipment that is likely to be inadequately supported or improperly used, either because of financial limitations or a desire to accelerate delivery. If the partner rejects a TPA, the consequences should be made clear to the foreign partner prior to writing an LOA, if possible, and coordinated at all levels of the ASAE.

b. False impressions. The Army avoids giving foreign countries or international organizations any false impressions about the willingness of the USG to provide defense articles and services for security assistance. In this respect, information will be provided only when the Army has received a positive policy determination from DSCA that the USG is willing to provide the specific items requested and has received all necessary policy and releasability approvals. The Army uses such authority or determination in responding to requests for P&A, LOA, and similar contractual proposals.

c. Normal allocation. Under normal conditions, the Army fills security assistance materiel requirements from DoD stocks, program rebuild, or new production using normal production lead times. To the extent possible, the Army integrates security assistance requirements, to include training, with other Army and DoD requirements and fulfills these requirements through the same Army and DoD systems, facilities, and procedures. The Army policy is to acquire defense articles or defense services for an FMS customer using the same contract administration and acquisition practices that it uses to procure for itself. Exceptions to this policy are authorized in the Federal Acquisition Regulation, Defense Federal Acquisition Regulation Supplement (DFARS) and Army Federal Acquisition Regulation Supplement. However, defense articles and defense services procured, stocked, or planned for FMS may be diverted to meet higher priority requirements (see para 3–8 for more information). Priority for operator and maintenance training requests from an FMS customer will be accorded to countries that have acquired or are acquiring the platform via FMS.

d. Denial of requests. Any proposal to deny a potential FMS customer request must be sent to DASA (DE&C) for review. If DASA (DE&C) concurs with proposal to deny, DASA (DE&C) will forward the proposal to DSCA for final denial determination. Final review and denial of FMS customer requests is the sole responsibility of DSCA.

e. Exceptions to policy. Requests for exception to established policy are to be submitted to DASA (DE&C). If required, DASA (DE&C) will forward to DSCA for adjudication/approval.

3–3. Pre-letter of request activities and/or initiatives

a. Policy. Pre-LOR discussions with foreign partners are limited to publicly available information unless a previous determination has been made regarding releasability of the system to that specific partner. Similarly, during the pre-LOR phase, U.S. Army personnel will not participate in discussions between a foreign country and U.S. defense contractor that may suggest the U.S. will approve a sale, unless previously approved or directed by HQDA or DSCA. These guidelines are not intended to limit the Army's ability to assist the foreign partner or SCO with the development of actionable LOR requirements. General discussions surrounding requirements generation may occur at the unclassified level, provided that it is explicitly communicated and acknowledged that exploratory discussions do not constitute a U.S. commitment to finalize the sale of any defense article or defense service.

b. Approval. Requests to initiate substantive discussions with a foreign country or organization on the potential sale of U.S. defense articles or services must be approved by the organization(s) holding delegated disclosure authority for the articles or services being requested. For major weapons systems, this is typically held at the PEO. Requests for review from organizations outside of the PEO should be routed through the appropriate FDO at the AMC MSCs, TRADOC, USACE, or DASA (DE&C) for review, staffing, and approval. Discussions regarding institutional training requires engagement with TRADOC. Discussions regarding non-institutional training requires engagement with the AMC MSCs. Discussion regarding PCS advisory services involving uniformed or USG civilian personnel must be addressed to DASA (DE&C).

c. False impressions. In accordance with AR 380–10, it is policy to avoid creating false impressions of the USG's willingness to make available classified materiel, technology, or information. As a result, it is Army procedure to seek prior disclosure approval for defense articles or defense services whose eventual sale would ultimately require an Exception to the National Disclosure Policy (ENDP) prior to having substantive discussions with foreign partners. In order to coordinate prior approval for Pre-LOR events, to

include live fire demonstrations, for defense articles or defense services that require an ENDP, the SCO should submit a Pre-LOR Assessment Request, in accordance with the E-SAMM, chapter 3, for the implementing activity to initiate applicable foreign disclosure and technology security release processes.

3-4. Congressional notification requirements

a. Specific requirements for Congressional notification, pursuant to AECA, Section 36(b)(1) (22 USC 2776(b)(1)), are addressed in the E-SAMM, chapter 5.

b. Implementing activity personnel will prepare and forward supporting data required for congressional notification through DASA (DE&C) to DSCA.

c. Implementing activity personnel may issue LOAs—

(1) To North Atlantic Treaty Organization (NATO) organizations, members of NATO, Australia, Israel, Japan, the Republic of Korea, or New Zealand unless the Congress adopts a Joint resolution stating that it objects to the proposed sale within 15 calendar days after receiving formal notification.

(2) To any other country or international organization, unless the Congress adopts a Joint resolution stating that it objects to the proposed sale within 30 calendar days after receiving formal notification.

(3) After the President states in their certification that an emergency exists which requires such sale in the national security interests of the U.S.

3-5. Direct commercial sales

a. *U.S. Army preference.* The Army has no preference for the modality of transfer (FMS or direct commercial sales) for Army-managed defense articles or defense services. If a foreign country desires to purchase an Army defense article or defense service commercially, the Army considers such a request. Favorable consideration will be based on the following conditions:

(1) An approved export license exists.

(2) An existing Army export policy does not prohibit such a sale.

(3) There are no DoD or interagency prohibitions against direct commercial sales.

b. *Contractor preference.*

(1) *Procedures.* The procedures for considering and recognizing contractor preference for direct commercial sales are not required by law; rather, they constitute a process by which the DoD tries to accommodate U.S. industry preferences. These procedures are contained in the E-SAMM, chapters 2 and 4. To prevent the direct commercial sales of specific items, the DoD normally makes the appropriate recommendation on the contractors' requests for advisory opinions on munitions licenses.

(2) *Foreign military sales-only determination.* The AECA gives the President the discretion to designate defense articles or defense services that must be sold through FMS channels exclusively. This discretion is delegated to the SECDEF and executed by DSCA in coordination with the DTSA and the MILDEP or the DoD component responsible for the defense article or defense service. The DOS approves or disapproves all sales and is responsible for continuous supervision and general direction of all sales. There are times when the DoD requires that a transaction be accomplished via FMS. Four general criteria are used to determine if a sale is required to proceed through the FMS process. The criteria are: Legislative and/or Presidential restrictions; DoD and/or MILDEP policy, directive, or regulatory requirement (for example, the NDP-1); government-to-government agreement requirements; and interoperability and/or safety requirements for U.S. forces. Each MILDEP or DoD component develops the FMS-only designation considering the criteria outlined in the E-SAMM, chapter 4. Army field activity personnel forward FMS-only defense article and defense service designations with rationale to DASA (DE&C) for review. DASA (DE&C) will forward to DSCA (Directorate for Security Assistance Weapons Division). Specific exclusions for direct commercial sales preference are listed in the E-SAMM, chapter 4.

(3) *Hybrid determination.* Subsystems or portions of a larger system can be designated as direct commercial sales or FMS when the majority or portions of the system are designated otherwise. This includes FMS-only hardware on a platform which is primarily direct commercial sales, platforms with direct commercial sales hardware and FMS software (or vice-versa), and other hybrid cases.

c. *Commercial source responsibility.* The U.S. manufacturer must inform DSCA that it prefers to sell significant military equipment (SME) it manufactures on a direct commercial basis; that it is the sole U.S. manufacturer or supplier of the articles; and that it prefers that these articles not be sold through FMS.

d. *Processing industry requests for direct sale preference designation.*

(1) Based on the request from the U.S. manufacturer and the information provided by AMC and the PEO/PM through DASA (DE&C), DSCA determines whether the article or service is to be designated for

direct sale preference. DASA (DE&C) provides AMC with an information copy of the response (containing the DSCA determination) to the U.S. manufacturer. AMC then notifies the responsible command.

(2) Those defense articles or defense services approved for direct sales preference will normally not be sold through FMS.

e. Comparison studies. The Army will not, unless approved by DSCA, engage in comparison studies requested by FMS customers of an FMS offer versus direct commercial sales (see the E–SAMM, chapter 4).

f. Army position. The Army will offer defense articles or defense services for sale under FMS until it has been notified that the article or service has been approved for direct commercial sales preference. However, the ASAE (DASA (DE&C), AMC, PEO/PMs) is not responsible for initiating investigation or soliciting information on the potential for commercial preference prior to such notification.

3–6. Operational test and evaluation

Concurrence of the Under Secretary of Defense for Acquisition and Sustainment (USD (A&S)) is required before offering P&A data, issuing a LOA, or preparing a memorandum of understanding (MOU) or memorandum of agreement (MOA) for co-production for any major defense equipment (MDE) item that has not successfully completed operational test and evaluation (see the E–SAMM, chapter 5).

3–7. International weapons competitions

a. Policy. A foreign solicitation for an international competition can be accepted as an LOR when submitted through appropriate channels (see the E–SAMM, chapter 4). As a matter of policy, the USG does not compete FMS against direct commercial sales from U.S. companies. Prior to developing an LOA in response to a solicitation for an international competition, the implementing activity personnel should confirm there are no U.S. companies offering competing bids. DSCA is the DoD focal point for policy regarding U.S. participation in international competitions. The U.S. Department of Commerce (DOC) is the lead USG agency for policy regarding advocacy of U.S. offerings to foreign governments. The SCO/Office of Defense Cooperation in country may also coordinate with the U.S. Commercial Services representatives and the DOC Center for Advocacy on a USG recommendation to pursue the international competition via FMS.

b. Multiple U.S. systems in competition. When an international partner requests weapon systems from multiple Services, or multiple Services propose an FMS solution to a solicitation for an international competition, DSCA assigns a DoD lead to manage the response and facilitate all USG proposals impartially.

3–8. Diversions and Withdrawals

a. Policy. The DoD policy calls for a determination to be made that the transfer or sale of a defense item will not degrade U.S. Army efforts by taking needed equipment from U.S. stocks (withdrawals) or by disrupting deliveries of critical items from production for U.S. forces (diversions), unless security or foreign policy requirements are such that transfer or sale of the item is in the overall U.S. national interest. If the Army or OSD identify such an impact, USD (P) requests a MILDEP assessment through DSCA. The SECDEF will make the final determination.

b. Impact on readiness. High-priority security assistance needs may be met by diverting assets from production, or withdrawing equipment from U.S. forces, provided the operational readiness posture is not significantly lowered and payback can be accomplished within a reasonable time. The Army develops a position on any impacts, which must include inputs from AMC, HQDA, and ASA (ALT). The HQDA approval is required if the withdrawal of equipment will have an impact on readiness.

c. Diversion of foreign military sales materiel. Materiel being procured or stocked for FMS may be diverted to meet higher priority requirements with the prior concurrence of DSCA, who will, as appropriate, obtain policy guidance from the USD (P). See the E–SAMM, chapter 6, for more information on authorities and requirements.

d. Approval. Diversion or withdrawal requests will be sent to DASA (DE&C) for approval. Decisions to support a diversion or withdrawal request will be made on a case-by-case basis after evaluating the impact on the Army. The HQDA approval is required for diversion or withdrawal of the following:

- (1) Ammunition.
- (2) Major end items and/or MDE.
- (3) Withdrawals from war reserves, Regular Army, Army National Guard, or Army Reserve.
- (4) Diversions from procurement for the Army National Guard or Army Reserve.

e. *Requests.* The cognizant implementing activity representative will submit requests for diversions or withdrawal to DASA (DE&C). Each request will address why a diversion or withdrawal is proposed, where the items will come from (source of supply), and the impact of such a diversion or withdrawal on Army operational requirements. These requests will also include a complete analysis of the supply position (assets on hand) of the item to be diverted or withdrawn, a projected time frame for payback, and production and overhaul schedules. If the submission does not already include a coordinated AMC position, DASA (DE&C) coordinates with AMC and HQDA to prepare the whole-of-Army position.

f. *Payback.* In the absence of other HQDA guidance, the terms of the diversion payback will be agreed upon and documented between the losing (diverting) organization and the gaining (payback) organization. Terms will include the payback timeframe, pricing considerations, the condition of repaid materiel, and any government furnished materiel required to complete production of the repaid assets. The system to track payback, to include internal controls, will be established and maintained by the applicable AMC MSC or Product Manager as appropriate.

3–9. Withdrawing security assistance assets for Army use

Materiel offered to security assistance recipient countries, either from Army inventories or projected acquisition, may be reserved to fulfill the security assistance commitment. The Army may meet urgent or emergency needs by withdrawing or diverting materiel being stocked or procured specifically for security assistance if specifically approved by DASA (DE&C). Before recommending such action, the Army will consider the views of the intended recipient as expressed through the SCO of the country. Recommendations to divert or withdraw assets designated for security assistance will be forwarded to DASA (DE&C) for decision. DASA (DE&C) is responsible for informing DSCA of the Army's decision, and DSCA will facilitate coordination with DOS.

3–10. Recovery of stocks upon suspension or termination of a security assistance program

In cases where a security assistance program (country program) has been suspended or terminated, Army-controlled stocks should be returned rapidly to Army inventories with the least loss and minimum handling, storage, and transportation expenses. The goals are to conserve resources and to make the recovered assets immediately available to support U.S. forces and other security assistance programs.

3–11. Requests for Other than Full and Open Competition

a. *Policy.* DoD policy governing requests for other than full and open competition (commonly referred to as “sole source”) pursuant to 10 USC 3204(a)(4) is addressed in the E–SAMM, chapter 6. While full and open competition is the preferred method of procurement, a specific source can be considered when a foreign country makes a specific written request. Justification of the request is not required. When the sole source request is approved, the applicable LOA, amendment, or modification must specifically identify the country sole source designation in a LOA note.

b. *Non-repayable grant/foreign military financing.* Country requests for sole source procurement when utilizing non-repayable grant/FMF must be coordinated through DASA (DE&C) and approved by DSCA.

c. *Title 10-funded/Building Partner Capacity programs.* The above exemption is not available for Title 10-funded/BPC programs.

d. *Special Defense Acquisition Fund.* The above exemption is not available for the SDAF. See the E–SAMM, chapter 11.

3–12. Army initiatives involving the offer of obsolescent or excess ammunition, missiles, equipment, and components

a. It is Army policy to limit use of security assistance resources (manpower, assets, or funding) directly or indirectly to develop, promote, or execute the reutilization or remanufacture of Army excess or obsolescent ammunition, missiles, equipment, and/or components into nonstandard, hybrid, or appliqué configurations for transfer, co-production, or co-development to or with foreign governments or international organizations unless an exception has been granted by the DASA (DE&C). Requests for exception will be forwarded through channels to DASA (DE&C). Such a request will provide—

- (1) A detailed technical description of the project.
- (2) Scope of effort.
- (3) Projected security assistance resources required to ensure programmatic success over the life of the program.

- (4) Availability of technical support.
- (5) Operator and maintenance training plan.
- (6) Logistics support.
- (7) Projected customer base.
- (8) Projected source of funding.

b. All requests will be considered for approval by DASA (DE&C) after the AMC and the TRADOC assessment of life-cycle supportability and commitment of command resources to long-term success of project and/or program has been completed and after DCS, G-4 has concurred with items as EDA.

3-13. Non-Program of Record

a. *Non-Program of Record activities.* NPOR activities include non-standard Programs of Record (POR), prior POR, NPOR systems in U.S. Inventory, POR competitors, Early Adopter systems, and Industry developed solutions. These are capabilities and systems that usually require tailored development, testing, and/or USG acquisition to ensure the technology security and foreign disclosure, interoperability, cyber security, training, sustainment, airworthiness, and any unplanned or un-resourced support is addressed by the implementing activity.

b. *Policy.* The Army policy is to satisfy FMS customer NPOR requests that further the national and strategic interests of the U.S. and do not negatively impact current Army programs or degrade Army readiness. In cases where there is no clear national or strategic interest for the Army to pursue or execute a NPOR requested by a foreign partner, DASA (DE&C) coordinates with the Army Acquisition Executive, PEO, implementing activity, and relevant HQDA offices to determine the Army position. Negative responses to NPOR requests will be coordinated in accordance with the E-SAMM, chapter 5. NPORs will be managed in a manner that aligns scope of work from FMS customer NPOR requests with responsibilities consistent with organizational missions, portfolios, and competencies.

c. *Foreign weapon systems and munitions.* Requests for non-personnel technical services involving assembly, installation, maintenance, redesign or reengineering, or the provisioning of parts to support other than U.S.-manufactured weapon systems or munitions should be processed through normal FMS procedures. The implementing activity representative will forward requests for foreign weapon systems or munitions through DASA (DE&C) for coordination with DSCA. All LOAs for support of foreign weapon systems or munitions or other equipment must be coordinated with the DSCA prior to submission for countersignature.

d. *Subsystems.* Requests to provide integration or certification services, under FMS procedures, for installation of non-U.S. subsystems in U.S. or foreign weapon systems should be examined carefully to assess any potential negative effects upon the U.S. defense industrial base. Requests for integration or certification services to install foreign subsystems in U.S. platforms or U.S. subsystems in foreign platforms will be forwarded to DASA (DE&C) for coordination with the DSCA Weapons Division. All LOAs for integration or certification services of non-U.S. subsystems must be coordinated with the DSCA prior to submission for countersignature.

3-14. Transition to sustainment

Transition to sustainment activities that support FMS customer requests will be managed in a manner that aligns scope of work from FMS customer requests with responsibilities consistent with organizational missions, portfolios, and competencies.

3-15. Warranties

The USG normally includes a warranty provision in its contracts only when appropriate. With respect to any existing warranties included in a contract, the USG, upon request of the FMS purchaser, exercises, in addition to warranties, any contractual rights that the USG may have under the contract for benefit of the FMS purchaser. Further, if the FMS purchaser requests a warranty, the USG attempts to obtain contract provisions to provide the requested warranties. The FMS purchaser will be responsible for any additional costs resulting from the exercise of obtaining the contractual warranties.

3-16. Research, development, test, and evaluation

a. *Research, development, test, and evaluation projects.* The Army may undertake RDT&E projects in support of security assistance requests. The Army does so when it is in the interests of the Army to do so.

The RDT&E projects are undertaken only if the Army is to be fully reimbursed and the project will not interfere with Army programs.

b. Export models. The Army does not normally develop or significantly modify weapons systems solely for export. However, when requested by a customer, or when critical technologies must be protected, an export model may be developed.

c. Product improvements. Product improvements of MDE initiated, developed, and adopted by the Army are usually offered to foreign recipients of the equipment. This policy encourages continued standardization, interoperability, and use of U.S. support services. However, this policy does not supersede any requirement for determining exportability, technology transfer, or other standard requirements which need to be deliberately approved prior to release.

Chapter 4

Security Assistance Logistics

4–1. Presale considerations

a. Policy. The Army must be prepared to provide logistics support for those defense articles sold or transferred under Army security assistance to a foreign country or international organization. This support will normally be offered for as long as the major item remains standard in the Army inventory. Once the Army decides to phase out a major item from its inventory, potential recipients will be advised of this decision and of the time frame the equipment will remain supportable. The Army also offers those countries that received the item before the decision was made to phase it out the opportunity to take part in a final purchase of repair parts, components, and related services. The projected support termination date will be provided, when possible, during the initial discussions with the potential recipient.

b. Planning. Logistics planning is crucial when offering defense articles to a foreign country. Care must be taken to ensure that the potential recipient is offered a total package as described in chapter 3 of this regulation and is aware of continued support requirements. This concept is intended to provide complete (initial and follow-on) support of U.S. defense articles. This entails identifying essential repair parts, tools, maintenance capabilities, facilities, training requirements, and ammunition support. Lead times must also be considered and built into the plan to ensure that deliveries of the major item coincide with the delivery of the ancillary equipment, ammunition, repair parts, tools, and training. Planners must not exclude or delay necessary support to accelerate deliveries. Exceptions to this policy will be sent to DASA (DE&C) for staffing and decision.

c. Support of foreign military sales. Support of items common to U.S. forces and foreign countries is normally provided through the U.S. Army logistics system. The following principles must be considered in planning for logistics support of allied and partner nations.

(1) *Support to foreign forces.* The level and scope of support furnished to foreign forces should be like that provided to U.S. forces, unless otherwise agreed to between the USG and foreign governments.

(2) *Non-supported items.* An item not supportable by the U.S. Army may be offered if the USG can obtain nonstandard support through a commercial vendor or if the country agrees to obtain support directly. In such cases, the offer must clearly state that the recipient country provides support of the item and that no USG support other than advice on other sources of support will be expected.

4–2. Force activity designator

a. Authority. The SECDEF retains the authority to assign a FAD I to a foreign country force. Assignment of FAD II through FAD V are the responsibility of the Joint Chiefs of Staff. The Joint Materiel Priorities and Allocation Board acts on behalf of the Chairman, Joint Chiefs of Staff to establish, modify, or recommend priorities and allocation matters of foreign countries.

b. Specific authority. Army requests for temporary FAD adjustments for allies and partners will be sent to DASA (DE&C) for DASA (DE&C) to staff with DCS, G–3/5/7. For specific LOAs, DCS, G–3/5/7 may approve a temporary FAD that is higher than the assigned FAD, not to exceed FAD II, for a period not to exceed 1 year. Appropriate coordination will be made with other affected MILDEPs and the GCC whose geographical area of responsibility encompasses the foreign country affected.

c. Factors for assigning force activity designator. Policy and guidance on assignment of FADs to foreign countries is found in CJCSI 4110.01F. See also AR 71–32 and AR 725–50 for further information.

d. Cooperative logistics supply support arrangements. FAD assignments reflected in FMS order II LOAs will not exceed the approved FAD assignments.

4-3. Types of support cases

Refer to the E-SAMM, chapter 5, for information on the types of support cases available, to include Blanket Order Cases, Defined Order Cases, and Cooperative Logistics Supply Support Arrangements (CLSSAs). Refer to the E-SAMM, chapter 6, for information on Maintenance Support Arrangements, to include Repair and Return and Direct Exchange.

4-4. Supportability and support termination

a. Supportability. The Army's goal is to provide materiel to FMS customers that will be supportable for at least 10 years from time of delivery. Supportability statements will be reviewed before offering equipment and will verify that adequate support is available from the DoD logistics system and training bases. If projected DoD support is less than 10 years, the country will be advised so that it may explore other support arrangements.

b. Annual review. At least annually, the major item manager will conduct a review to determine system supportability. The total system supportability must be reviewed, to include materiel composed of multiple subsystems and for systems using the resources of other services, Defense Logistics Agency, and General Services Administration (GSA). Subsystems include armaments, ammunition, communications, mobility equipment, generators, air conditioners, and training.

c. Cancellation or suspension of a country program or case. Implementing activity representatives must ensure timely, effective measures to cancel requisitions, stop procurement and supply actions, and return stocks in the security assistance pipeline to Army control when an FMS program or case is terminated. The Army policy and procedural guidance for terminations of defense articles is found in AR 725-50, chapter 11.

d. System support buyout.

(1) The CG, AMC, in coordination with the applicable PEO/PM, will notify those countries with U.S. manufactured and/or supported major end items or major weapons systems at least 2 years prior to the planned termination of support. This notification of a final buy for a specific repair part, component, or assembly normally occurs when a weapon system becomes obsolete to U.S. forces.

(a) The notification will request the customer to advise whether an existing Blanket Order or CLSSA LOA is to be used or a new Blanket Order LOA is to be prepared.

(b) The parts listing provided with the system support buyout (SSBO) will include all interchangeable common and peculiar items. Peculiar items are those that are being phased out of the logistics systems of the Army, other MILDEPs, Defense Logistics Agency, and GSA.

(2) When modifications or replacements of a component or assembly are planned, the CG, AMC, in coordination with the applicable PEO/PM, will advise user countries and offer those countries the choice of modifying or replacing their major end item/weapon system or requesting a SSBO.

e. Materiel notices and surveys. Every effort will be made to inform customers of known items which will affect their ability to acquire or support an item through FMS. To accomplish this, it is necessary to gather data from the manufacturer on the anticipated termination date and determine customer support requirements for the programmed life and/or use of the major item or weapon system.

(1) Notices and surveys may be considered when—

(a) There is an indication that the DoD capability to support future foreign logistics requirements is being reduced or eliminated.

(b) The U.S. production for the item is scheduled to end in the near future.

(c) The U.S. makes periodic buys of items known to have foreign demand.

(d) A minimum procurement quantity is required for items known to have foreign demand.

(e) There is a need to exercise contract add-on options.

(f) There is an indication that items will not be available due to a change in the U.S. force structure.

(g) Adequate Army training resources may not be available to meet customer requirements.

(2) The proposed notice and survey message will be forwarded by AMC, in coordination with the applicable PEO/PM, through DASA (DE&C) to DSCA for approval before being sent to those customers that have the item or system and/or have previously indicated an interest in acquiring the item planned for future termination. The message will include rationale for issuing the notice and survey, and will—

(a) Provide information on future DoD capabilities to meet purchaser requirements.

(b) Identify actions the customer must take to purchase the item.

(c) Provide P&A data. The message should mention that the P&A data included in the notice and survey does not constitute a commitment or an offer to sell on the part of the USG. P&As should be provided

with an expiration date to ensure pricing is valid and can be updated as necessary prior to LOA development.

4–5. Actions upon cancellation or suspension of a country program or case

The Army policy and procedural guidance for terminations of defense articles is found in AR 725–50, chapter 11. For policy and procedures on termination of training programs, see AR 12–15. Implementing activities must ensure timely, effective measures to cancel requisitions, stop procurement and supply actions, and return stocks in the security assistance pipeline to Army control when an FMS program or case is terminated. Such measures should—

- a. Recover significant quantities of U.S. defense materiel.
- b. Prevent the U.S. materiel from coming under the control of unauthorized parties.
- c. Reduce costly program termination.

4–6. Quality assurance in support of foreign military sales

a. Normally materiel will be inspected by a Quality Assurance Team (QAT) at the U.S. depot or contractor facility where title is passed to the purchaser. Requirements and costs of the QAT will be included as a line item on the LOA.

b. The QAT should be offered whenever a new system or major end item is provided to an FMS customer, whether through procurement, diversion, or overhaul. The QAT may also be offered for high dollar or sensitive items—at the customer’s request or at the decision of AMC.

c. The determination as to whether or not to sell materiel without a QAT will be made by AMC according to the appropriate MSC.

4–7. Concurrent spare parts

Concurrent spare parts are programmed as an initial stockage related to the acquisition of a major item or system. Concurrent spare parts will be offered as part of the TPA when selling or transferring major end items to an FMS customer. For concurrent spare parts, when included in an FMS case, ensure initial support of major end items and components pending availability of replenishment stocks through the establishment of a Blanket Order case, a Defined Order case, or a CLSSA. The concurrent spare parts are normally shipped in advance of the release of the major item system.

4–8. Leases

a. 10 USC 4892, as implemented by AR 700–131, paragraph 2–1, authorizes the lease of defense articles to defense contractors and industrial associations for sales demonstrations to foreign governments in the U.S or outside the U.S. DASA (DE&C) is the approval authority for these types of leases. Leases under 10 USC 2667 are not available for a foreign country or international organization.

b. All requests for leases of DoD equipment under 10 USC 2667, from U.S. industry, will be endorsed by the PM and then sent to DASA (DE&C) for processing and approval not less than 45 days before the commencement of the lease according to AR 700–131 and DoDI 7230.08. The responsible logistics activity representative will prepare, coordinate, and execute the lease agreement with U.S. industry after DASA (DE&C) obtains ASA (ALT) approval as appropriate.

c. For leases to foreign partners under 22 USC 2796, the AECA, the CG, AMC will task the responsible logistics activity to prepare the lease agreement and an assessment on whether or not there will be an impact on the industrial base during the lease period. The lease agreement and assessment will be staffed to DASA (DE&C) to obtain the concurrence of the appropriate Army elements (DCS, G–2; DCS, G–3/5/7; DCS, G–4; DCS, G–8; ASA (ALT); and OGC) and to forward the lease package to DSCA for approval and countersignature. Leases exceeding 1 year must be notified to Congress.

(1) Lease renewals will be submitted to DASA (DE&C). If the original lease period was less than 1 year and the renewal causes the total lease period (original plus renewal) to exceed 1 year, Congress must be notified. If the renewal itself exceeds 1 year, Congress must be notified regardless of the length of the original lease. For renewals that meet the congressional reporting requirement, the CG, AMC will provide the required data to DASA (DE&C) at least 60 days before the projected date of renewal.

(2) The CG, AMC will submit a report on leases to DASA (DE&C) for review and forwarding to DSCA and Defense Finance and Accounting Service no later than 15 days after the end of each quarter. All open leases will be accounted for, to include United Nations leases and expired, but not closed, leases.

(3) All costs associated with a lease must be captured on a LOA.

4–9. Asset Accountability

The Army policy and procedures for requisitions of security assistance defense articles is found in AR 725–50. Implementing activity representatives must ensure the accountability of security assistance assets through use of codes such as AMC MSC FMS and PEO FMS owner routing identifier codes, ownership codes, purpose codes, and project codes.

4–10. Third-party transfers

Security assistance recipients must agree not to transfer title or possession of any U.S.-supplied defense article or defense service, such as components, technical data, or training, without prior consent of the USG. The DOS PM/RSAT has approval authority over third-party transfer requests. Further guidance on third-party transfers and information required from the foreign partner can be found in the E–SAMM, chapter 8.

4–11. Foreign military sales shipments

a. Policy. Transportation of FMS materiel is based on delivery at origin unless the DSCA approves other delivery points, as circumstances warrant. The FMS shipment policy and procedures relating to point of delivery and transfer of title are described in the E–SAMM, chapter 7.

b. Shipment cost. The cost of transportation is determined by the delivery term code, actual cost, or by Transportation Cost Look-up Table. Further explanations of these options can be found in the E–SAMM, chapter 7, and the Financial Management Regulation, DoD 7000.14–R, volume 15.

c. Consolidated shipments. Materiel may be shipped from multiple points of origin to a designated staging area for short-term storage, consolidation, and further shipment to the ultimate recipient. The practice of consolidating shipments will be at the customer’s request based on the criteria provided in AR 725–50.

d. Military transportation. The E–SAMM, chapter 7, explains the use of the Defense Transportation System (DTS) and discharge of material from military transportation. When DTS is required, unless DSCA provides specific guidance to the contrary, implementing activities will ensure those LOAs specify delivery by DTS using the most economical means.

4–12. Supply discrepancy reports

a. Policy. Defense Logistics Manual (DLM) 4000.25, volume 2, chapter 17, establishes procedures prescribing the methods and conditions under which discrepancies in shipments are processed.

(1) Discrepancy report preparation and submission time by the FMS purchaser will be limited to the time frame cited in the LOA, and amendments thereto, as explained in the E–SAMM, chapter 6, for supply discrepancies and in the E–SAMM, chapter 7, for transportation discrepancies.

(2) Time limits for reporting deficiencies relating to contractor warranties are prescribed in individual warranty clauses and/or contracts. These time limits override time limits specified in the LOA.

b. Dollar limitation. Discrepancy reports that are below the dollar limitation contained in the LOA controlling the case or any other sales agreements with an FMS customer will not be accepted for processing, unless a valid justification for the submission is also provided.

c. Adjustments. Conditions allowing automatic adjustments are specified in DLM 4000.25, volume 2, chapter 17, and are based on the estimated cost of researching and documenting the estimated value of the reported discrepancy. The authority to make automatic adjustments using the Military Standard Billing System will be used judiciously, and responsible activity representatives will establish controls to prevent its abuse. If the situation warrants, however, the CG, AMC may request complete research, regardless of the dollar value of the SDR, to obtain evidence of shipment. The DoD inventory control point inventory manager, GSA, or shipping activity, as appropriate, will perform the research and provide the specific information needed.

d. Accountability. Title to equipment and materiel transfers at the initial point of shipment, unless specified otherwise in the LOA. Discrepancies which occur during movement outside the DTS are not reportable in the transportation discrepancy reporting system. Only total non-receipt of items by the customer may be reported for possible credit. This will be done via SDR procedures. If the USG can provide proof or evidence of shipment (constructive proof of delivery), the SDR will be disapproved.

e. Types. Discrepancies found in customer assets repaired in U.S. depots will be treated as sales from DoD stock. Discrepancies found in customer-owned assets repaired in commercial facilities will be treated as sales from procurement.

f. Responsibilities. The AMC has designated USASAC as the single office of primary responsibility for processing SDRs. The CG, USASAC is to—

- (1) Provide technical assistance to Army and other USG and/or DoD activities processing U.S. Army-managed security assistance materiel.
- (2) Coordinate inquiries/actions pertinent to this regulation.
- (3) Develop, coordinate, and submit official changes to the established SDR process/procedures.
- (4) Implement the procedures prescribed for processing SDRs and ensure that all operating activities comply with the procedures prescribed in regulations cited in paragraphs 4–12a. and 4–12c. above.
- (5) Record and monitor all Army security assistance SDRs to completion.
- (6) SDRs which USASAC determines to be valid that are valued at \$50,000 or more, or involve issues likely to be raised to DSCA, are staffed to DASA (DE&C). DASA (DE&C) will coordinate the SDR with DSCA for final approval.

Chapter 5

Foreign Military Sales Manpower and Personnel

5–1. General

a. The FMS program is operated as a no cost program to the USG. Funding and personnel resourcing levels are controlled by the directives issued by the Executive Office of the President. FMS funding is outside of normal Army appropriations, and Army civilian personnel who are fully funded by either FMS administrative or FMS case funds are exempt from civilian resource reductions or hiring restrictions imposed on the DoD and the Army.

b. The Army must be able to rapidly manage, integrate, and develop the Army’s FMS workforce in support of DoD FMS objectives. DASA (DE&C) is designated as the Army approval authority for FMS manpower.

c. All manpower costs are paid from FMS funds (USC T22) and not Army appropriations. FMS civilian manpower is managed to both administrative and case budgets within allocated funding provided to the Army through the DSCA.

d. FMS manpower is exempt from reductions or hiring restrictions associated with normal appropriated funding.

e. New hires may be necessary to achieve the right size workforce capable of expanding or contracting through the proper mix of permanent, term/temporary and contract workers to meet the FMS budgeted workload. Table of distribution and allowances (TDA) documentation requires a minimum of 2 years’ worth of funding, anything less will not be documented.

f. FMS personnel are classified as non-additive to Army End Strength through the MDEP JDFM (FMS Manpower Support) and the 932 series Army management structure codes (AMSCO). From a budgetary perspective, military personnel documented as FMS still count towards the Army authorized end strength, in other words, growing military structure for FMS counts towards the military end strength ceiling. In contrast, FMS civilian personnel (Title 22 funded) are not included in the Army budget requests or exhibits and are non-additive to Army budgeted work years/full-time equivalents.

g. DASA (DE&C) is the Army Security Assistance proponent that oversees TDA documentation of the Army Title 22 FMS administrative and case-funded positions. Documentation of FMS manpower utilizes the DCS, G–3/5/7 process specified in AR 71–32 and DA Pam 71–32. This is conducted in coordination with DCS, G–1 (DAPE–PRA) for civilian requirements, authorizations review and change sheet formulation; and DCS, G–1 (DAPE–PRP) for military requirements and authorizations.

h. In accordance with DA Pam 71–32, FMS manpower change submissions will not be accepted directly from a command’s subordinate organizations. The term “command” pertains to all HQDA staffs, ACOMs, ASCCs, and all designated DRUs to HQDA. Commanders and supervisors will manage FMS personnel to match the budgeted workload specified by the DASA (DE&C) annual funding memo, Army FMS Resource Management Decision updates, and FMS Case Manpower Travel Data Sheet specifications.

5–2. Civilian manpower resource

a. Management of personnel to budget. FMS civilian manpower is managed to both administrative and case budgets within allocated funding provided to the Army through the DSCA. In managing to budget, HQDA elements, and commanders of ACOMs, ASCCs, and DRUs will use the most effective mix of term,

temporary, contract, and permanent personnel in appropriate numbers and grades to expand and contract with the fluctuations in the FMS business. The TDA is the authoritative requirements and authorization document for the management of administrative and case-funded civilian positions, and military reimbursed administrative or case positions. TDA changes can be made using the out-of-cycle (OOC) process each quarter and through the Army's command plan (CPLAN) annual process. OOCs in year of execution are authorized through April in the third quarter of each fiscal year.

b. Implementation. The requirements and authorization documents also known as modified tables of organization and equipment and TDAs will be used to establish and track both FMS administrative and case-funded civilian and military positions. Currently FMS documentation utilizes TDAs. As such MDEP JDFM and 93200200 (Case Reimbursable), 93201100 (Admin Service support to OSD/DSCA non-reimbursable), 93209800 (Admin Army direct report headquarters FMS Management Headquarters Account (MHA)) and 932A9800 (Admin Army Headquarters FMS MHA) AMSCOs will be used. No partial documentation is authorized. FMS positions are documented on TDAs as 100% FMS administrative or case-funded. Time charging is an action of pay, not TDA requirements. Authorization determination or documentation is authorized in accordance with HQDA, ACOM, ASCC, and DRU guidance.

c. Civilian personnel management. FMS funding is outside of normal Army appropriations, allocated by DSCA to DASA (DE&C), and classified as non-additive to Army End Strength. FMS civilian manpower is managed to budget within the FMS funding provided to the Army through the DSCA or through FMS case funding provided by the foreign purchasers. Army civilian personnel who are fully funded by FMS administrative or FMS case funds against documented FMS positions are exempt from the civilian resource (appropriated funds) reductions imposed on the DoD and the Army. This exemption is consistent with and does not affect the manner in which FMS funded personnel are managed pursuant to pertinent Army, DoD, and Office of Personnel Management policies and regulations applicable to Federal civilian employment. They will retain, or assume upon appointment, all benefits and rights associated with their position.

d. Reimbursement by foreign military sales funds and tracking of foreign military sales administrative and case-funded positions. Operation & maintenance, Army (OMA) labor funds being reimbursed by any FMS funds must be tracked in General Fund Enterprise Business System (GFEBS) by using the Functional Area designator FMSADMIN and fund 82422AXT ** for FMS administrative labor and 442002JDFM and fund 202010*** for FMS case labor. FMS labor tracking applies to all organizations that utilize FMS administrative or FMS case funds to pay for labor, to include matrix organizations that provide manpower in support of FMS cases. Reimbursable Manpower is support supplied to outside organizations in which the customer reimburses the supplier organization. TDA documentation for FMS administrative and case positions reflect that they are 100% resourced by FMS funds. However, time charging across different funding sources is allowed but is dependent on HQDA, ACOM, ASCC, and DRU approved policies (see 5-2b).

e. Contractor work force. Contractor work force will not be documented on TDAs.

f. Army management structure codes. Case-funded term/temporary positions will use AMSCO 93200200. Admin-funded permanent positions will use 932A9800, 93209800, and 93201100.

g. Army planning, programming, budgeting, and execution. The FMS manpower and personnel will continue to be fully managed and programmed through the Army PPBE process and reported in Army, DoD, and Office of Personnel Management civilian personnel reports.

h. Personnel accounting. Army and DoD systems will be used as the official accounting system for civilians supporting the FMS program. Personnel will be counted based on assigned AMSCOs on requirements and authorization documents. FMS civilian personnel assigned to these AMSCOs do not count as part of Army end strength, but the personnel encumbering those positions do. Active-duty military assigned to FMS AMSCOs are counted as part of Army end strength.

5-3. Contract personnel

To the greatest extent possible, and consistent with the purposes of the AECA and other applicable laws and regulations, the Army may use contract personnel to meet FMS customer requirements for intensive case or short-term program management. Contract personnel may perform program management functions, as well as administrative support functions such as LOA preparation and management, case financial management, materiel tracking, and status reporting. Contract personnel may also be used to supplement the workforce during periods of greatly increased activity of relatively short duration.

5–4. Manpower reporting

a. DSCA requires the MILDEPs to submit an annual manpower report for on-board full-time USG personnel (Civilians & Military Officers) as of the end of the fiscal year in accordance with AECA, Section 25(a)(6) (22 USC 2765). DSCA issues manpower guidance during the first quarter of each fiscal year. Upon receipt of manpower data call, DASA (DE&C) will prepare and issue guidance to ACOMs, ASCCs, and DRUs, to consolidate organizational input and prepare a response with explanation of manpower changes.

b. Commanders and supervisors of HQDA elements, ACOMs, ASCCs, and DRUs will report on all manpower associated with Army security assistance based on identification of data requirements by DASA (DE&C). Personnel documented under MDEP JDFM and the 932 AMSCO combinations will be reported as an end strength associated with security cooperation and security assistance functions. DASA (DE&C) will publish reporting requirement templates annually and as required for congressional, DoD inquiry and the Army's CPLAN.

c. Manpower used in support of security assistance and/or FMS missions will be reported to DASA (DE&C) based on the following guidance:

(1) Annual data will be provided on manpower usage which includes all administrative and case manpower utilizations for Civilian, contractor, and military supporting FMS missions.

(2) Annual (fourth quarter of the fiscal year) reports on FMS are required to satisfy the AECA. Reports are due 60 days after the end of the fiscal year. Reports include the ACOM, ASCC, or DRU office, the name and telephone number of the preparer and senior leader reviewer.

(3) The CPLAN reporting requirement focuses on actual case-funded position validation of funding by case or case rollup which ensures a minimum of two years of FMS case funding available to support a two-year documentation cycle. Funding must cover a minimum of two years to maintain TDA documentation.

Chapter 6 Financial Management

6–1. Foreign military sales financial programs

a. *Management of financial programs.* Management of security assistance financial programs involves—

(1) Managing customer funds, financial logistics transactions, and SDAF transactions that include all activities in which the customer trust fund or SDAF is cited.

(2) Providing an integrated, standard (common) logistics and/or financial control system to cover security assistance agreements ensuring compliance with applicable statutes.

(3) Ensuring all financial execution and management meets audit compliance standards.

b. *Terms of sale.* Terms of sale to be used on LOAs, amendments, or modifications are listed in the E–SAMM, chapter 9.

c. *Multiple sources of financing.* The purchaser may choose to supplement available FMF and/or credit with budgeted national funds. If additional FMF funds become available to the purchaser, it may then request DSCA approval to amend the LOA to convert the cash portion to credit and/or FMF to the extent that such financing is available. A purchasing nation may also accept an LOA which cites “cash” as the method of payment and find at a later date that available national funds are inadequate. In such an instance, the purchaser may request DSCA approval to use FMF funds, if available, to finance the remaining payments.

6–2. Pricing policy

a. *Full recovery of costs.* The FMS program must be managed at no cost to the USG (with certain exceptions specifically covered by law) while ensuring prompt and complete service to the customer. All costs, as specified in the AECA, Section 21 (22 USC 2761) and DoD 7000.14–R, volume 15, will be identified and included in Army pricing.

b. *Grant programs.* Programs funded through annual congressional appropriations, such as IMET and certain BPC programs may have exceptions to the policy on full recovery of cost to the USG. Pricing for IMET is specified in DoD 7000.14–R, volume 15, Section 0712. Descriptions of grant programs can be found in the E–SAMM, chapters 11 and 15.

c. Special Defense Acquisition Fund. SDAF case lines will be priced to recover all proportionate costs to SDAF for the associated SDAF defense article or defense service.

d. Tuition pricing.

(1) The CG, TRADOC will maintain the current cost data on all courses offered to International Military Students based on tuition cost analysis provided by the training installations. The cost data will be provided to DSCA annually for inclusion in the T–MASL.

(2) Tuition rates included in the T–MASL are in effect for 1 year and should be used for students entering the course or phase of a course during that period.

(3) For additional information, see the E–SAMM, chapter 10, and DoD 7000.14–R, volume, 15, chapter 7.

6–3. Nonrecurring cost

a. Authority. The AECA, Section 21 (22 USC 2761) requires that an appropriate charge be made for a proportionate amount of any nonrecurring cost of RDT&E and production of MDE. Implementation guidance on establishment of charges, collections, and waivers is contained in DoDD 2140.02, the E–SAMM, chapter 9, and DoD 7000.14–R, volume 15, chapter 7. Recovery of nonrecurring costs applies to items sold from inventory or procured for an FMS customer, unless a waiver has been obtained. In accordance with the AECA and FAA, LOAs fully financed with Military Assistance Program (MAP) Merger or non-repayable FMF are not assessed a nonrecurring charge (see E–SAMM, chapter 9).

b. Objectives. The objective of applying recoupment charges is to ensure that a purchasing customer pays a fair share of the DoD investment costs already incurred. The pro rata charge is to be included in the FMS price of the product or technology unless reduced or waived as outlined in the E–SAMM, chapter 9.

c. Special nonrecurring research, development, test, and evaluation production costs. These costs are incurred at the request of, or for the benefit of, the customer in developing a special feature or unique requirement. These special costs must be paid by the customer as required.

d. Responsibility. The CG, AMC will establish an operative system to ensure that nonrecurring cost recoupment charges are collected for items being sold under FMS and posted to the SDAF receipt account. This system will ensure the development of a complete list of MDE items under Army cognizance which requires assessment of a nonrecurring cost recoupment charge according to DoDD 2140.02.

e. Approval. The CG, AMC will ensure that DSCA approval has been obtained prior to applying pro rata nonrecurring cost recoupment charges to sales of items on the major defense equipment list (MDEL). The nonrecurring cost charge will be included in the unit price of the item on the LOA. The CG, AMC will submit candidate items through DASA (DE&C) to DSCA for approval and inclusion on the MDEL.

f. Waiver request. The requesting country or international organization must initiate waiver requests. Waiver requests submitted on behalf of a foreign country by the Army must be based on receipt of a specific request from the country. Waiver requests submitted by ACOMs or agencies should be sent to AMC, which will forward them with a recommendation, to DASA (DE&C) for submission to DSCA for approval. The basis and justification for waivers are covered in the E–SAMM, chapter 9.

6–4. Offsets

a. Policy. It is DoD policy not to enter into government-to-government offset arrangements because of the inherent difficulties in negotiating and implementing such arrangements. The FMS customers requesting offsets should be informed that the responsibility for negotiating any offset arrangements resides with the U.S. contractor involved, not the USG. Additionally, USG personnel will not involve a U.S. contractor in an offset commitment without having prior concurrence of the contractor.

b. Costs. The DFARS permits defense contractors to recover allowable offset administrative costs from foreign governments under FMS contracts subject to the conditions listed in the E–SAMM, chapter 9. The costs will be included as part of the unit price of the item.

6–5. Early cancellation of foreign military sales cases

If an FMS purchaser requests cancellation of an LOA after implementation, but before delivery of any or all articles and services, an administrative fee may be charged as cited in the E–SAMM, chapter 6.

6–6. Foreign military sales direct credit and guaranteed loan financing

a. Authority. The AECA, Section 23 (22 USC 2763) authorizes FMS direct credit and AECA, Section 24 (22 USC 2764) authorizes guaranteed loan financing. Title 10 USC 2540a through 2540d also authorizes the SECDEF to issue loan guarantees for the financing of a sale or long-term lease of defense articles, services, and design and construction services.

(1) *Foreign military sales direct credit loans.* These loans, as authorized by the President, are normally used to assist the FMS customer in economic development and can be used to procure defense articles and services, and for design and construction services. Congress appropriates funds in an amount equal to the principal loan values.

(2) *Guaranteed loan financing.* As authorized by the President, guaranteed loan financing guarantees any individual, corporation, partnership, or legal entity doing business in the U.S. against political or credit risks of nonpayment arising out of their financing of credit sales of defense articles and services, and design and construction services to allied and partner nations, and international organizations. Fees are charged for the guaranties and all guaranties are backed by the full faith and credit of the USG.

b. Foreign military financing approval. Advance DSCA approval is required before preparing an LOA with articles and services financed under FMF, FMS direct credit, or guaranteed loan program.

6–7. Security Assistance budget functional control and oversight

The Director, Enterprise Policy and Resources for DASA (DE&C) is the functional manager for Army security assistance. This includes but is not limited to FMS administrative, FMF administrative, FMS contract administrative services (CAS), SDAF, program support charges, operation and maintenance (O&M) defense in support of T10 BPC, and OMA in support of security assistance. This entails—

a. Reviewing DSCA guidance which provides a 1-year projection of FMS activity and security assistance funding targets.

b. Determining applicable requirements (to include FMS administrative, FMF administrative, and CAS), based on the DSCA SAPBR guidance (equivalent to DoD FMS POM) and other factors or initiatives to Army security assistance to include the funding allocation process.

c. Receiving and reviewing the SAPBR budget call issued by DSCA and submitting the Army's resulting budget request.

d. Receiving budget submissions from all ACOMs, ASCCs, and DRUs at the organization/unit identification code (UIC) level that submit a budget unique during SAPBR to ensure that—

(1) Submitting commands followed SAPBR/budget guidance.

(2) Justification adequately supports the requests.

(3) Priorities are consistent with Army guidance and known requirements.

(4) Competing priorities among ACOMs, ASCCs, and DRUs are evaluated, coordinated, and adjusted to meet total Army requirements.

(5) Army submission complies with DSCA guidance and requests adequate funds to accomplish the mission.

e. Working on the final preparation and consolidation of the Army SAPBR budgets before submitting to DSCA.

f. Reviewing the DSCA-approved budget to determine if adequate funds were made available to meet mission requirements for the budget year. In those instances, where there are budget shortfalls, working with the receiving ACOMs, ASCCs, and DRUs at the organization/UIC level to adjust budget allocations, as necessary, to meet priority mission requirements. Approving budget allocations to ACOMs, ASCCs, and DRUs at the organization level and approving any requested reprogramming actions.

g. Reviewing execution rates and monitoring commitments and obligations to ensure funds are used for the purpose intended and allocated. FMS administrative funding for civilian pay is fenced in accordance with DSCA.

h. DASA (DE&C) is the only approval authority for the reprogramming of FMS administrative labor/benefits, Program Element (PE) 3 (Tradeshows), PE 20 (Workforce Development) and PE 26 (IT Refresh) funding, in any amount between PEs. Any internal command redistribution of civilian pay must receive written approval by DASA (DE&C) via email prior to the reprogramming action occurring. The requested reprogramming action requires an updated obligation plan as part of the emailed submission request to DASA (DE&C).

i. Coordinating SDAF with AMC and PEOs for Army allocations of SDAF and returns of unobligated SDAF, spend plan updates, monthly execution reports, obligating documents, requests for additional

SDAF for previously approved proposals, and monthly reporting of reimbursements and offsetting collections in accordance with the E-SAMM, chapter 11.

j. Reviewing availability of FMS administrative funds for SDRs staffed by USASAC to DASA (DE&C) once USASAC has determined the SDR to be valid, the USG is liable, and the SDR is in excess of \$50,000; or the SDR involves an issue likely to be raised to DSCA.

k. DASA (DE&C) is the focal point for all Army Security Assistance audits.

6-8. Foreign Military Financing

a. Policy. The FMF program, formerly the MAP, provides grants and loans. Appropriations for this program must be obtained from Congress to reimburse the DoD for the value of items and services furnished. The DOS is the overall proponent for FMF and works with DSCA and the GCCs to build and obtain FMF and obtain FMF grants and loans. Except for administrative costs and the closeout of country programs initiated prior to fiscal year 1982, funded programs are implemented under the provision of FAA, Section 503(a)(3) (22 USC 2311(a)(3)), which permits the transfer of FMF funds to the countries' FMS trust accounts. Articles, services, and training acquired with such funds are indistinguishable from other FMS acquisitions and are treated identically.

b. Eligibility, use, and restrictions of foreign military financing funds.

(1) The FMF funding process is outlined in the E-SAMM, chapter 9. Eligibility for use of FMF for direct commercial contracts is also found in the E-SAMM, chapter 9.

(2) Credit financing to countries and/or purchasers may be suspended or terminated for legal and/or policy reasons such as violation of agreements, terrorism, discrimination, foreign intimidation, human rights violations, and harassment of individuals in the U.S., nationalization of U.S. property, compensation for nationalized property, or failure to make payments.

(3) For FMF-funded projects executed by USACE, USACE must receive funding ahead of services. USACE services are direct funded.

c. Loan guaranties and foreign military financing.

(1) Loan guaranties under the AECA will be used only to assist countries in acquiring essential items which cannot reasonably be financed by other means and normally will be used only to finance investment requirements. The FMS loans must be repaid in U.S. dollars within 12 years after the LOA agreement has been signed on behalf of the USG (see AECA, Section 23) unless otherwise provided by U.S. law.

(2) Financing by any individual, corporation, partnership, or other judicial entity doing business in the U.S. (excluding USG agencies other than the Federal Financing Bank) may be guaranteed by the USG if such financing is in connection with FMS, FMCS, or direct commercial sales of defense items. Fees will be charged for such guaranties (see AECA, Section 24).

Chapter 7 Export Management

7-1. Export policy

As directed by the SECARMY, Army export policies are written on behalf of ASA (ALT) by DASA (DE&C) and coordinated with ARSTAF stakeholders to ensure that policy reflects the broad priorities of the acquisition, research, operations, cybersecurity, and security communities within the Army. DoDD 5230.11 implements NDP-1. It is U.S. national and DoD policy that CMI is a national security asset that must be protected and shared with foreign governments only when there is a clearly defined benefit to the U.S., when authorized by officials designated under the Directive and then only when all requirements of the Directive are met. The export policy document functions as the basis for approving the release of sophisticated weaponry to support U.S. security objectives and for allowing cooperation with foreign parties who offer their own technologies to support Army programs in partnership with the U.S. defense industrial base.

a. Transfers of technology to countries will be considered when such transfers—

(1) Contribute to collective security and deterrence and promote regional stability.

(2) Contribute to weapon standardization and interoperability, thus lessening unilateral U.S. military requirements.

(3) Generally, maximize the effective return on the collective NATO alliance or other allied investment in research and development.

(4) Enhance internal security.

(5) Result in an overall net benefit to the U.S.

b. Recommendations for transfer may include sensitive or designated conventional weapons when the security benefits to the U.S. to be gained from the transfer outweigh the risks that—

(1) The technology might be compromised.

(2) The defense articles or technical data might fall into the hands of unauthorized persons.

c. CMI provided to the recipient country will be limited to that data which is necessary to operate and maintain the defense article being transferred.

d. Efforts to determine technology transfer or export license approval is primarily OMA funded and are not generally conducted by FMS administrative or FMS case-funded personnel.

7-2. Program protection plans

a. The PPP gives the PEO and/or PM assessment of the critical program information that is deemed necessary for maintaining superiority of that system on the battlefield. These plans normally include a SCG, technology assessment and control plan, an anti-tamper plan, and foreign disclosure guidance. These key documents are used to prepare export policies that give the Army a strong foundation upon which to assess the transfer of technologies, hardware, and defense support services related to FMS, international cooperation, or export license applications by defense vendors (see DA Pam 70-3).

b. The Army emphasizes comprehensive PPPs for its sophisticated fielded and developmental weapon systems, positioning the Army to make informed decisions regarding the export of systems and system technologies.

7-3. Security classification and release of information

a. *Initial disclosure.* Every proposed program must be evaluated in its entirety to determine if any aspect of the proposal or plan might result in disclosing CMI. Consideration of initial disclosure approval must not be limited solely to introductory or promotional material. The highest level of classification shown in the SCG for a system or subsystem being released as part of the sale will determine the overall classification of the system, regardless of end item classification.

b. *Information required for release during pre-letter of request.* See the E-SAMM, chapter 3, for more information on the information required for release determinations based on Pre-LOR Assessment Requests for classified and advanced technology.

c. *Disclosure authority.* The DCS, G-2 is the principal disclosure authority for the Army. The DCS, G-2 executes the Army's foreign disclosure program on behalf of the SECARMY and reviews the proposed initial disclosures for all security assistance programs to ensure compliance with NDP-1 requirements. If an ENDP is required, DASA (DE&C), in coordination with AMC and the PEOs, will assist the DCS, G-2 in developing the request for ENDP, which will include the U.S. country team assessment and GCC positions.

7-4. Release of military information

a. *Unclassified information.*

(1) Except as specifically prohibited by other regulations, unclassified information may be released to support security assistance programs or the transfer of defense articles and defense services. Provisions regarding the transfer of CUI is contained in DA Pam 70-3. Unclassified information that is cleared as public domain information must be available to the public through either the USG Printing Office or the National Technical Information Service or have been cleared by the appropriate security review and public affairs office prior to public release (such as on the internet).

(2) The command or agency proposing release of unclassified information is responsible for coordinating with and obtaining the concurrence of the proponent agency (see DA Pam 70-3, chapter 1).

(3) According to AECA, Section 21(f) (22 USC 2761(f)), DoD policy is to make information available to the public to the fullest extent, consistent with national security policy. Army policy is to comply fully with both the specific provisions and the general intent of the Freedom of Information Act, as amended. Release of information will be according to procedures set forth in DoDD 5400.07.

(4) Questions as to whether or not unclassified information is releasable should be addressed to the supporting information office or the proponent for the information (see AR 360-1).

b. *Classified information.* The CMI will be released only on a government-to-government basis through established channels according to national and Army disclosure policy (see AR 380-10). Authority to disclose CMI to a country or international organization such as NATO under NDP-1 does not negate the

requirement to obtain authorization for release of defense materiel and services under Army security assistance, nor does it negate the requirement for any export licensing that may be required by law.

c. Third-party transfers. The DOS PM/RSAT has final approval authority over third-party transfer requests. However, the ASAE must perform the same analysis and release determination for third-party transfer requests that are performed for the original release of the materiel and/or data.

d. Release for the purpose of foreign production. Release of technical data packages for the purpose of manufacturing a U.S. defense article in a foreign country must be reviewed and approved by DASA (DE&C).

7-5. Foreign disclosure system

All CMI authorized for disclosure as well as any denials of CMI are subject to the following:

a. Reporting. ACOM FDOs and staff agency FDOs must report disclosure of classified materiel or documents leading to issuance of an LOA or other security assistance action in accordance with the instructions provided in their DDL. Denials of CMI will be reported in the same manner. Also, the report will be submitted for cases involving classified systems on major components requiring the eventual release of—

(1) Classified supporting information.

(2) Materiel required by the recipient country to operate and maintain the principal end items or components. The LOAs not accepted by the recipient country need not be reported.

b. Responsibility. The commander responsible for disclosing CMI in support of a security assistance transaction will ensure they maintain a local retrievable record of each disclosure that fits the criteria of their supporting DDL.

7-6. Army munitions control program

a. General.

(1) The MCP provides policy governing Army reviews of export license applications for the temporary or permanent export of classified or unclassified technical data and hardware, manufacturing licensing agreements, and technical assistance agreements (TAA). It also provides Army advisory opinions on commodity jurisdiction determinations and strategic trade export requests. It does not include transfers of materiel, training, and services provided by the USG under the FMF, IMET, or the FMS program.

(2) The program involves the processing of export license applications and strategic trade cases referred to the Army by the DOS and the Director, DTSA. The term “munitions case” includes in its scope, defense articles and services and related technical data included on the USML which is a part of the ITAR published by the DOS. Changes to the USML are made by the Secretary of State with the concurrence of the SECDEF.

(3) Those items which will be considered defense articles and constitute the USML can be found in the ITAR, Part 121. (An asterisk identifies items considered SME.) Any item of SME that has a nonrecurring research and development cost of more than \$50 million or a total production cost of more than \$200 million is considered MDE (see the E-SAMM, Appendix 1, for the non-recurring cost recoupment charges for MDE).

b. Authority.

(1) The AECA regulates the export of defense articles and services to foreign nations and international organizations. It is implemented by the DOS through the ITAR.

(2) The Export Controls Act regulates the permanent export of unclassified commercial and dual-use items and related assistance, software, and technology to foreign nationals. It is implemented by the DOC, Bureau of Industry and Security through the EAR and CCL.

(3) The export license application process is the primary means of regulating the export of technology, defense articles, and services under the ITAR and dual-use items under the EAR.

c. Non-concurrence. If a reviewing activity recommends nonconcurrence in any munitions case, a general officer or senior executive service equivalent must sign the nonconcurrence and provide specific supporting justification. Exceptions may be requested on a case-by-case basis.

7-7. International traffic in arms regulations exemptions

a. The ITAR, located in 22 Code of Federal Regulations (CFR) parts 120–130, contains provisions that allow for the unlicensed export of U.S. weapons systems provided special criteria are met. While not licensed by the DOS, these exports must still be validated by key Army officials according to guidance issued by OSD. The validation of such exports takes the form of an ITAR exemption letter or memorandum.

Only three Army officials have been identified by OSD to certify ITAR exemptions in support of the Army's mission. The authorized exemption official (AEO) is the DASA (DE&C) (SAAL-ZN); and the two exemption validating officials (EVOs) are the Director, Technical Operations (SAAL-ZNT) and the Branch Chief, Technology Security and Foreign Disclosure (TSFD) Branch (SAAL-ZNT).

b. In general, ITAR exemptions may be considered for certification to support the following Army initiatives:

(1) Sales, loans, leases, or grants of defense articles, services, and technical data to foreign governments and international organizations.

(2) International cooperative armaments research, development, and acquisition agreements.

(3) Government-to-government military and civilian personnel exchange agreements.

(4) Combined military operations and training.

(5) Unilateral military operations abroad.

(6) USG contracts involving foreign persons.

c. The Army's authority to validate ITAR exemptions is limited. Requests from Army elements and U.S. industry must be under one of the following five specific sections in the ITAR: 22 CFR, Sections 125.4(b)(1), 125.4(c), 125.5, 126.4(a), and 126.4(b). Each section contains criteria that must be met before an ITAR exemption can be validated. Validation will be granted when the proposed export matches the specific purpose codified within these respective ITAR sections. In general, ITAR exemptions can be validated by the Army to support exports to units overseas, classified plant visits, offshore bid proposals, and other conditions and/or criteria. Only the AEO and the EVO may provide guidance that satisfies the conditions of ITAR, 22 CFR, Section 125.4(b)(1). Requests outside the scope of the five ITAR sections listed above will not be validated.

d. In addition, the Army may not consider requests to certify ITAR exemptions under the following circumstances:

(1) The exemption is solely for the benefit of the exporter.

(2) The basis of the request is tied solely to urgency defined by the applicant.

(3) The foreign end user is prohibited or embargoed under 22 CFR, Section 126.1.

(4) Congressional notification of the proposed export is required under ITAR, 22 CFR, Sections 123.15, 124.2(2), or 124.11.

(5) The defense item to be exported is controlled by the missile technology control regime according to ITAR, 22 CFR, Section 121.16.

(6) Exports to non-U.S. persons that are ineligible in accordance with ITAR, 22 CFR, Section 120.1(c).

e. All requests for ITAR exemptions must be sent to DASA (DE&C) for action. Requests must be submitted in writing by the cognizant Army official and must include all pertinent information stipulated by the AEO or EVO. All requests for ITAR exemptions must be submitted 15 working days prior to the date of the intended export.

7–8. Program restrictions

The following restrictions apply in furnishing defense articles and services under Army security assistance:

a. *Blood derivatives.* Human blood, plasma, and derivatives owned by the DoD may not be furnished unless coordinated through the Armed Services Blood Program, the Assistant Secretary of Defense for Health Affairs, the Joint Staff, and the GCC.

b. *Classified communications security equipment.* The National Security Agency (NSA) is the central point of contact for the Army for security assistance actions related to communications security (COMSEC) equipment. The NSA must approve the release of COMSEC equipment and information. The Army may conduct the sale of COMSEC articles and services if NSA provides written authorization that the equipment is releasable and that a delegated sale is authorized.

c. *Classified items or classified characteristics, documents, films, and publications.* No offer of a classified item, or an item with which classified technical data or training is associated, may be made until it has been established that—

(1) The requesting country has a “need to know” and is authorized to receive the highest level of classification involved, or

(2) An ENDP has been granted, if so required.

d. Incendiary items, white phosphorus munitions, riot control agents, depleted uranium, Stinger surface-to-air missiles, and antipersonnel land mines. The USG policy and procedures regarding requests for these items are stated in the E-SAMM, chapter 4.

e. Explosive ordnance disposal. U.S. personnel are generally restricted from conducting physical detection, lifting, or destroying of landmines, unexploded explosive ordinance, or other explosive remnants of war under security assistance programs. Technical assistance and/or training may be allowable under certain conditions (see the E-SAMM, chapter 12).

f. Health care. Health care from DoD medical treatment facilities cannot be provided to foreign military, Civilian, and Family member personnel in the U.S. unless eligibility is established and full reimbursement is made to the providing facility or there is a reciprocal agreement. Outpatient care will be provided to NATO students and their dependents at no charge.

7-9. Program prohibitions

The following prohibitions apply in furnishing defense articles and services under Army security assistance:

a. Nuclear delivery systems. Release of data on materiel in the delivery systems or dual-capable systems category requires approval by the President. The Army is not authorized to provide materiel declared by the Nuclear Regulatory Commission to be source material, by-product materiel, special nuclear material, production facilities, use facilities, atomic weapons, or articles involving restricted data. Depleted uranium is not included. The DSCA has established guidance on countries authorized to receive depleted uranium.

b. Chemical and biological warfare items. These items may not be provided unless they are defensive in nature.

c. Police training, services, and materiel. The AECA does not prohibit police training or related programs. However, the FAA prohibits using funds authorized under the FAA to conduct any police training or related programs either in a foreign country or in the U.S. All military assistance, not just training, is subject to this prohibition. Prior DSCA approval will be obtained before offering this type of defense article or service through FMS procedures.

d. Training. Training will not be furnished for the sole purpose of obtaining a degree or for accumulating credits toward a degree.

e. Prohibitions on sales from certain Department of Defense stocks.

(1) 10 USC 2390 prohibits the sale of defense articles from DoD stocks identified as—

(a) Decrement stocks, meaning the stocks needed to bring the U.S. Armed Forces from a peacetime level to a combat level of readiness.

(b) Army war reserve stocks for U.S. forces.

(c) Pre-positioned materiel configured to unit sets.

(2) The President may authorize a sale outside DoD from stocks identified in paragraph (1), above if—

(a) An international crisis affecting the national security of the U.S. exists.

(b) The sale is in the best interests of the U.S.

(c) Congress is notified not later than 60 days after the transfer with a plan for prompt replenishment of the stocks.

(3) 10 USC 2390 does not preclude sale of stocks that—

(a) Have been designated for replacement, substitution, or elimination.

(b) Have been designated for sale to provide funds to procure higher priority stocks.

(4) Have been transferred or sold to members of NATO.

Chapter 8 Special Programs and International Activities

8-1. Drawdowns

a. Presidential determinations. Emergency drawdown, as authorized in the FAA, is authorized when the President determines and reports to Congress that—

(1) An unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization.

(2) The emergency requirement cannot be met under the authority of the AECA or any other law except FAA, Section 506. Drawdown of defense articles from DoD stocks, defense services, and military education and training will not exceed an aggregate value of \$100 million in any fiscal year.

b. Restrictions.

(1) Drawdown authorization provides neither funds nor contract authority to procure the required defense articles or services. It only authorizes the drawdown of on-hand stocks, the provision of services under an existing contract, and training provided by Army military and civilians under existing agreements.

(2) Valuation of articles and services provided under presidential drawdown authority will be determined in accordance with the E-SAMM, chapter 11.

c. Responsibility.

(1) Upon receipt of the Presidential determination which authorizes the DoD to furnish (up to a specified dollar value) military assistance to the country or international organization specified, the DSCA will provide implementing instructions to the Army.

(2) DASA (DE&C), in coordination with AMC, will work with the ARSTAF (DCS, G-3/5/7; DCS, G-4; and DCS, G-8) to identify the defense articles and services for emergency drawdown. The DCS, G-3/5/7 will task units to provide the defense articles and services, as required. The DCS, G-3/5/7 and the DCS, G-8 will provide the operational and resourcing impacts.

(3) The implementing activity responsible for providing the article or service will follow procedures established in the E-SAMM, chapter 11, and this regulation to ensure transfers are accomplished according to the FAA, Section 506 (22 USC 2318).

(4) The implementing activity will maintain memorandum entries on accounting reports in anticipation of reimbursement for articles and services. All costs associated with the drawdown will be reported to AMC for inclusion into the DSCA 1000 System.

8-2. Foreign manufacture of United States defense equipment (co-production)

a. Policy, general background, and scope.

(1) Policy regarding co-production is found in DoDI 2010.06 and the E-SAMM, chapter 4. It may be considered when the foreign partner desires a higher level of technical competence, self-sufficiency, data, and/or capability than normally provided under FMS.

(2) Co-production is a program implemented by a government-to-government or commercial licensing arrangement that enables an eligible foreign government, international organization, or a designated foreign commercial producer to acquire the technical skills to assemble or manufacture, repair, maintain, and operate, in whole or in part, a weapon, communication, or support system. Co-production will be implemented through a government-to-government arrangement and may also include specific licensing arrangements as discussed in paragraph 8-3 below.

b. Authority to negotiate. Written authorization must be obtained from the Director, DSCA, before releasing a MOU or MOA and prior to entering into negotiations, as defined in DoDI 5530.03, for all agreements. Requests for authorization to negotiate and all staffing actions related to co-production will be submitted by DASA (DE&C) to DSCA.

c. Initiation of discussions. When approved by DSCA, DASA (DE&C) will respond to requests for co-production from the SCOs or authorized representatives of the foreign government or international organization. The initial discussion should be limited to fact-finding and data gathering. DASA (DE&C) and appropriate executing organization representatives will attempt to define or clarify the requirements and determine the potential scope of the project. The facts and data are essential to formulate an Army position on whether or not to support the project; and to assign specific actions in anticipation of MOU or MOA development.

d. Program management.

(1) DASA (DE&C) is responsible for ARSTAF level actions, coordination, and oversight of Army co-production programs. DASA (DE&C), in coordination with DSCA, will determine who is to represent the Army in negotiations, either as lead negotiator or as team members.

(2) DASA (DE&C), in coordination with the appropriate executing organization, is responsible for planning and developing Army-approved co-production programs.

e. Coordination. Program actions and recommendations must represent consolidated and fully coordinated Army views. The views and recommendations of the affected AMC MSCs and PEO/PMs are considered essential and will be obtained and incorporated into the proposal submitted by DASA (DE&C).

f. Combined working groups.

(1) DASA (DE&C) may direct the AMC and/or the appropriate PEO to assemble a combined working group, as necessary, to conduct exploratory discussions and formulate an approach to satisfy country requirements and mutual objectives. The working group will generally be composed of knowledgeable Army personnel, foreign government representatives, and U.S. and foreign industry representatives, as appropriate. The combined working group will be the focal point of all activities supporting feasibility studies, industrial capability surveys, technology assessments, identification of work-sharing arrangements, security considerations, and/or draft program requirements and responsibilities.

(2) When the initial phase is complete, the participating governments should have sufficient information on which to base a “make or buy” decision. The combined working group should have draft requirements and responsibilities prepared for review by DSCA and its foreign counterpart. Upon approval by the respective governments, DSCA may authorize the Army to develop an MOU or MOA.

8–3. Licensed production

Licensed production is an arrangement between a U.S. commercial firm and an eligible foreign government, international organization, or foreign commercial firm to produce a defense article (weapon system). The USG involvement is limited to monitoring the case licensing process. Such agreements generally establish quantitative limits on production and prohibit third-party transfers of the manufactured items.

a. Policy. A U.S. commercial firm must obtain approval from the DOS before making a proposal to a foreign country or organization to enter into a manufacturing licensing agreement or TAA for the production or assembly of defense articles. When the request applies to SME, there are no exemptions to this requirement. When marketing efforts will entail the disclosure of technical data or temporary export of defense articles, the appropriate export license must be obtained. The provisions addressed in the ITAR, Sections 120.21, 120.22, 123.15, 124.1, and 126.8 (22 CFR) are applicable.

b. Army requirements.

(1) DASA (DE&C) is the Army point of contact for technology transfers and export licensing under the ITAR. DASA (DE&C) will also formulate the Army’s position for ARSTAF coordination before responding to the DTSA.

(2) DASA (DE&C) will receive all export license applications referred to the Army by the Directorate of Defense Trade Control, DOS, and send copies of the selected applications with appropriate tasking to those Army field commands or agencies that manage the defense article. DASA (DE&C) will review the assessments and recommendations provided by the Army field commands and develop the Army’s position for submission to the DTSA.

8–4. Excess defense articles

a. General information on EDA management is provided in the E–SAMM, chapter 11.

b. Army force structure changes and modernization are evaluated by the ARSTAF to identify excess materiel availability. Defense articles excess to the needs of the USG may be made available for sale under FMS or as a grant transfer (no cost) to eligible foreign countries.

8–5. Special Defense Acquisition Fund

a. The SDAF is a revolving fund, separate from other accounts, available to the ASAE for financing the acquisition of defense articles and services in anticipation of their sale and transfer to foreign governments and international organizations. The purpose of the SDAF is to provide materiel ahead of normal procurement lead times and enables the USG to satisfy urgent requirements of foreign governments and international organizations while avoiding diversion from production meant for U.S. Forces.

b. Defense-level management of the SDAF is performed by DSCA. Army SDAF functions are overseen by DASA (DE&C) and executed by the ASAE.

c. General information on SDAF management is provided in the E–SAMM, chapter 11.

d. When SDAF-purchased assets are transferred to a foreign government or international organization, the proceeds from the transaction are reimbursed to the SDAF account and used to finance subsequent SDAF purchases.

e. There are three methods to collect new funds into the SDAF account as follows: items not requiring replacement, nonrecurring cost charges, and asset use charges.

f. SDAF defense articles and defense services should be procured, transported, receipted, stored, maintained, physically inventoried, and disposed of (if needed) using SDAF only, and at no cost to other

appropriated funds or other Security Assistance Account funds, unless a case line is identified. The intent is to begin to utilize case funds as soon as practical. Any future obligations incurred for a specific partner requirement should be funded from their associated case. SDAF case lines will be priced to recover all proportionate costs to SDAF for the associated SDAF defense article or defense service.

g. The SDAF sales unit price is calculated to ensure SDAF is fully reimbursed for all costs incurred against SDAF, to include transportation, receipt, storage, maintenance, and physical inventory costs.

h. The SDAF sales unit price for SDAF defense articles and services sold through the FMS process will be computed by starting with the SDAF contract unit price, and then adding additional proportionate charges in order to arrive at the SDAF sales unit price. Additional proportionate charges to be added include transportation, receipt, storage, maintenance, and physical inventory costs, as applicable to the SDAF inventory.

8–6. Army Security Assistance Programs audits

a. General background. The Army is subject to several audit related mandates including the Chief Financial Officers Act of 1990; the AECA of 1976; the FAA of 1961; and the annual appropriation acts for Foreign Operations, Export Financing, and related programs. DASA (DE&C) is responsible for oversight of and advocacy for the Armywide security cooperation and security assistance programs.

b. Responsibilities. DASA (DE&C) serves as the HQDA lead audit point of contact for security assistance programs for the ASAE and subject matter expert for the Army's Financial Improvement and Audit Readiness (FIAR) effort to ensure greater accuracy, reliability, and accessibility of financial information. DASA (DE&C) will—

- (1) Provide liaison support and coordinate with the ASAE regarding audits and audit readiness efforts.
- (2) Ensure compliance with all relevant legislative requirements, with specific emphasis on finance and accounting policies, procedures, internal controls, and the financial audit readiness preparation and sustainment.
- (3) Develop reporting metrics for accounting activities to assist senior management.
- (4) Analyze operational and systematic wide processes that impact the FIAR.
- (5) Monitor and assess the progress of corrective actions in remediating Independent Public Accountant, DoD Office of Inspector General, Army Audit Agency, and General Accountability Office financial control recommendations.
- (6) Collaborate with senior officials to ensure staffing levels are adequate based on operational needs.
- (7) Oversee Business Process Standardization initiatives and supports the standardization and improvement of business processes.

8–7. Foreign Assistance Act, Section 607 (Section 2357, Title 22, United States Code)

a. General background. Information on FAA, Section 607 development is provided in the E–SAMM, chapter 11. This authority allows friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the U.S. Agency for International Development to obtain services from USG military agencies using the FMS mechanism.

b. Policy.

- (1) U.S. military agencies collaborate during the pre-LOR phase with the U.S. in-country team and requesting agencies to ensure the final LOR will be endorsed by the U.S. Ambassador.
- (2) The final LOR should acknowledge that funding must be provided in advance of services and provide the general scope of work with a rough magnitude of effort relative to costs and timeframes, as well as the location of services to be performed.

c. Conditions. There are conditions that apply to all FMS FAA, Section 607 cases for the purchaser to consider:

- (1) *Payment in advance of services.* No USG funding is to be used in support of programs using the FMS Mechanism. Therefore, the Purchaser must provide the full funding for the estimated cost in advance of receiving services. With permission from DSCA a payment schedule may be allowed on a case-by-case basis.
- (2) *Indemnification.* No USG entity may incur liabilities while providing services using the FMS mechanism. Therefore, the Purchaser must agree to indemnify the USG against all potential liabilities.
- (3) *Responsibility for costs.* The purchaser must agree to accept unconditional responsibility for all costs, such as claims and cost overruns, that the USG incurs while providing services for the requestor.

(4) *Mandatory surcharges.* The same surcharges that apply to the FMS cases with the military also apply to FAA, Section 607 cases chiefly the FMS Administration and the CAS.

(5) *Program management.* Commanders of implementing activities are responsible for program management of their FAA, Section 607 cases and upward reporting to HQDA for initiation, case development, execution, and closure.

8–8. General Services Administration exchange or sale of obsolete and non-excess items

In accordance with 40 USC 503, exchange or sale of obsolete and non-excess items are offered to U.S. Federal Agencies as a reimbursable transfer provided all proceeds are used to purchase, rent, or lease a replacement item. Using the exchange sale authority enables agencies to offset the cost of the replacement and avoid the costs associated with holding the property and processing it through the normal disposal cycle. An International Customer can obtain these items via LOR as a line in the FMS LOA, for subsequent transfer from the receiving Federal Agency.

8–9. Military Assistance Program

MAP refers to the portion of the U.S. security assistance program authorized by the FAA of 1961, as amended, which once provided defense articles and services to recipients on a non-reimbursable (grant) basis. Funding for MAP was consolidated under the FMF Program beginning in fiscal year 1990.

a. U.S. Government rights to Military Assistance Program materiel. The USG, under FAA, Section 505(a) (22 USC 2312), retains certain rights to the materiel provided to foreign governments under the MAP. Transfer of title for materiel transferred under grant aid constitutes transfer of custody; it does not constitute transfer of ownership of U.S. materiel to the recipient country. The USG retains reversionary rights to MAP materiel and exercises these rights. These rights are retained even if the recipient country modifies or significantly improves the equipment at its own expense (with prior USG approval). The country may buy the reversionary rights to MAP furnished materiel. Requests to purchase should be referred to the Director, DSCA, with an information copy to DASA (DE&C).

b. Disposal of Military Assistance Program materiel. The SCO is required by the E–SAMM to encourage the country to declare MAP/FMF materiel excess when it is no longer needed and before items deteriorate, ascertain its condition, and report this to the Army item managers. The item manager will evaluate the condition of the materiel and provide redistribution instructions. Unless an approved requirement exists at the time excess MAP/FMF items are reported, the items will be added to those available for transfer approval under EDA procedures and for sale under the AECA.

c. Third-party transfers of Military Assistance Program materiel. The same restrictions on transfers to a third party apply for defense articles and services sold under FMS. MAP recipients request Third-party transfers from the DOS. See the E–SAMM, chapter 11.

Chapter 9 Information Management

9–1. Information management in support of security assistance

a. Policy. DASA (DE&C) is the single point of contact for oversight of information management (IM) systems in support of Armywide security assistance and will serve as the Army proponent for all IM systems that are funded by the FMS administrative fund. The goals are to integrate IM networks and systems into the FMS cloud environment, create enduring data centers that will perform all IT functions associated with the administration, management, and execution of Army security assistance, and use hardware and software that will also interface with other Army and DoD systems, especially in logistics, training, construction, and financial management.

b. Applicable organizations. This policy is applicable to the ASAE, including all ACOMs, PEOs, activities, and offices receiving FMS administrative or case funds.

9–2. Army information management advocacy

a. The DASA (DE&C) IT/IM Office, as part of the IT Configuration Review Board and IT Governance Board, serves as the advocate for all related IT investments, services, and commodities that support Armywide security assistance. This includes the acquisition, management, and oversight for all IT

hardware and software applications used explicitly to support ASAE programs, FMCS, and FMS to include FMS training.

b. USASAC IM/Chief Information Officer (CIO) and other ASAE's IT Portfolio Managers are required to conduct a thorough annual review of the external IT services to harvest efficiencies, avoid costs, and develop future options. The DASA (DE&C) IT/IM office will review and approve all recommendations and consolidate similar IT services across the ASAE.

9-3. Control of information management budget

a. DASA (DE&C) IT/IM oversees, plans, identifies, and validates requirements, and prepares budget inputs to meet annual Army security assistance IM requirements for the ASAE community. As part of the budget submission process, the USASAC IM/CIO, with DASA (DE&C) IT/IM oversight, is responsible for—

(1) Establishing guidelines for supporting and executing commands to follow when preparing and justifying information system, FMS network, FMS Cloud environment, and service requirements.

(2) Establishing procedures to review all IM budget requests (hardware and software applications), establishing priorities, and allocating administrative funds to support those approved requests.

b. DASA (DE&C) will scrutinize all Army administrative budget submissions to ensure that submissions support the intent of this regulation and all integration IT spend plans. The ASAE community will submit an annual IT budget request to DASA (DE&C) IT/IM office. The annual IT budget submission includes related IT requirements sent to the proponent for review, prioritization, and a recommendation for approval or disapproval.

c. The DASA (DE&C) IT/IM office oversees compliance through validation of the maintenance of necessary policy and guidance documents and periodic auditing of processes and data.

d. The DASA (DE&C) IT/IM office will have direct authority and financial oversight of all FMS administrative controls over USASAC IM/CIO in processing all related IT submissions under the Army Portfolio Management Solution and Information Technology Approval System. USACE is an exception and is responsible for its own IT/IM acquisition, budgeting, and management requirements. USACE may request approval to purchase using FMS administrative funds if requirements can be executed under a separate contract.

e. The DASA (DE&C) IT/IM office and budget office will approve, via SAPBR or reprogramming requests, orders for all IT investments, services, and commodity purchases via all methods of purchase, including government purchase cards. The ASAE community works through DASA (DE&C) to execute approved FMS administrative IT funds through GFEBs.

Appendix A

References

Section I

Required Publications

Unless otherwise indicated, all Army publications are available on the Army Publishing Directorate website at <https://armypubs.army.mil> and all DoD issuances are available on the Executive Services Directorate website at <https://www.esd.whs.mil>.

AR 5–22

The Army Force Modernization Proponent and Integration System (Cited in para 1–9a(3).)

AR 11–31

Army Security Cooperation Policy (Cited in para 1–6e.)

AR 12–7

Security Assistance Teams (Cited in para 1–6g.)

AR 12–15

Joint Security Cooperation Education and Training (Cited in para 1–6h.)

AR 70–41

Armaments Cooperation (Cited in para 1–6f.)

AR 380–10

Foreign Disclosure and Contacts with Foreign Representatives (Cited in para 2–2b(2).)

AR 700–131

Loan, Lease, and Donation of Army Materiel (Cited in para 4–8a.)

DA Pam 12–1

Security Assistance Procedures and Operations (Cited in para 1–10.)

DA Pam 70–3

Army Acquisition Procedures (Cited in para 2–2b(2).)

DA Pam 71–32

Force Development and Documentation Consolidated Procedures (Cited in para 5–1g.)

DLM 4000.25, Volume 2

Defense Logistics Management System: Supply Standards and Procedures (Cited in para 4–12a.) (Available at <https://www.dla.mil/>.)

DoD 7000.14–R

Department of Defense Financial Management Regulation (Cited in para 4–11b.) (Available at <https://comptroller.defense.gov/>.)

DoDD 2140.02

Recoupment of Nonrecurring Costs (NCs) on Sales of U.S. Items (Cited in para 6–3a.)

DoDD 5132.03

DoD Policy and Responsibilities Relating to Security Cooperation (Cited in para 1–6a.)

DoDD 5230.11

Disclosure of Classified Military Information to Foreign Governments and International Organizations (Cited in para 7–1.)

DoDI 2010.06

Materiel Interoperability and Standardization with Allies and Coalition Partners (Cited in para 8–2a(1).)

DoDI 5000.02

Operation of the Adaptive Acquisition Framework (Cited in para 2–17.)

DoDI 5132.15

Implementation of the Security Cooperation Workforce Certification Program (Cited in para 2–8n.)

DoDI 5530.03

International Agreements (Cited in para 2–1 c.)

DoDI 7230.08

Leases and Demonstrations of DoD Equipment (Cited in para 4–8b.)

DSCA Manual 5105.38–M

Security Assistance Management Manual (SAMM) (Cited in title page.) (Available at <https://samm.dsca.mil/>.)

Section II

Prescribed Forms

This section contains no entries.

Appendix B

Internal Control Evaluation

B–1. Function

The function covered by this evaluation is the Army security assistance, training, and export programs.

B–2. Purpose

The purpose of this evaluation is to assist HQDA in evaluating the key internal controls listed. It is intended as a guide and does not cover all controls.

B–3. Instructions

Answers must be based on the actual testing of key internal controls (for example, document analysis, direct observations, sampling, simulation, or other). Answers that indicate deficiencies must be explained and the corrective action identified in supporting documentation. These internal controls must be evaluated at least once every 5 years. Certification that the evaluation has been conducted must be accomplished on DA Form 11–2 (Internal Control Evaluation Certification).

B–4. Test questions

- a. Does DASA (DE&C) review this regulation at least once every 5 years and update as necessary?
- b. Does DASA (DE&C) update this regulation as command relationships change?
- c. Do commanders of organizations requiring funding for security assistance programs use the PPBE process to channel requests through their commands/headquarters for prioritization and submission?
- d. Do HQDA supervisors, ACOM commanders, and other commanders and organization supervisors integrate and leverage authorities in order to achieve security assistance objectives?

B–5. Supersession

This evaluation replaces the evaluation previously published in AR 12–1, dated 18 February 2021.

B–6. Comments

Help make this a better tool for evaluating internal controls. Submit comments to DASA (DE&C), 102 Army Pentagon, Washington DC 20310–0102.

Glossary of Terms

Administrative cost

The value of costs associated with the administration of the FMS program. The prescribed administrative percentage cost for a case appears in the LOA. This percentage is applied against the case. Expenses charged directly to the FMS case (as prescribed by the LOA) are not included. (DSCA Manual 5105.38–M)

Arms Export Control Act

The basic U.S. law providing the authority and general rules for the conduct of FMS and commercial sales of defense articles, defense services, and training. The AECA came into existence with the passage of the Foreign Military Sales Act (FMSA) of 1968. An amendment to the International Security Assistance and AECA of 1976 changed the name of FMSA to the AECA. (DSCA Manual 5105.38–M)

Army Security Assistance Enterprise

A diverse collection of organizations focused on delivering military materiel, services, and training to allied and partner nations.

Blanket order case

An agreement between a foreign customer and the USG for a specific category of items or services (including training) with no definitive listing of items or quantities. The case specifies a dollar ceiling against which orders may be placed. (DSCA Manual 5105.38–M)

Commercial sale

A sale of defense articles or defense services made under a DOS-issued license by U.S. industry directly to a foreign buyer, and which is not administered by DoD through FMS procedures. Also referred to as direct commercial sales. (DSCA Manual 5105.38–M)

Commitment

Any communication between a responsible U.S. official and a representative of any country or international organization that could reasonably be interpreted as being a promise that the U.S. will provide a foreign government or international organization with either funds (including long-term credit assignments), goods, services, or information. (DSCA Manual 5105.38–M)

Cooperative logistics supply support arrangement

Military logistics support arrangements designed to provide responsive and continuous supply support at the depot level for U.S.-made military materiel possessed by foreign countries and international organizations. The CLSSA is normally the most effective means for providing common repair parts and secondary item support for equipment of U.S. origin that is in allied and friendly country inventories. (DSCA Manual 5105.38–M)

Coproduction

A program implemented by a government-to-government or commercial licensing arrangement that enables a foreign government or firm to acquire the “know-how” to manufacture or assemble, repair, maintain, and operate, in whole or in part, a defense item. (DSCA Manual 5105.38–M) (Also referenced as cooperative production in DoDI 2010.06 and DoDI 5530.03.)

Defense article

As defined in FAA, Section 644(d) and AECA, Section 47(3), includes any weapon, weapons system, munitions, aircraft, vessel, boat, or other implement of war; any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance or making military sales; any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article or any component or part of any articles listed above, but shall not include merchant vessels, or as defined by the Atomic Energy Act of 1954, as amended, source material, byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving restricted data. (DSCA Manual 5105.38–M)

Defense service

As defined in FAA, Section 644(f) and AECA, Section 47(4), includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information used for the purpose of

furnishing military assistance or FMS, but does not include military education and training activities or design and construction services under AECA, Section 29. (DSCA Manual 5105.38–M)

Delivery

Includes constructive or actual delivery of defense articles; also includes the performance of defense services for the customer or requisitioner, as well as accessorial services, when they are normally recorded in the billing and collection cycle immediately following performance.

Diversion

Any deliberate action that causes materiel ordered to meet a foreign commitment or U.S. requirements to be delivered to other than the original intended recipient.

Excess defense articles

Defense articles owned by the USG which are neither procured in anticipation of military assistance or sales requirements, nor procured pursuant to a military assistance or sales order. EDAs are items (except construction equipment) which are in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all DoD components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations. (DSCA Manual 5105.38–M)

Foreign military sales

A process, authorized by the AECA, through which eligible foreign governments and international organizations may purchase defense articles, services, and training from the USG. (DSCA Manual 5105.38–M)

Foreign military sales case

A U.S. LOA, and any subsequent Amendments or Modifications, that has been accepted by an eligible foreign country. (DSCA Manual 5105.38–M)

Grant

A form of assistance involving a gift of funds, equipment, and/or services which is furnished by the USG to selected recipient nations on a free, nonrepayable basis. (DSCA Manual 5105.38–M)

Implementing activity

ACOMs and organizations within the MILDEPs who are authorized to receive and action requests for information, pre-LOR requests, and LORs. Implementing activities are responsible for collaborating, synchronizing, and integrating pre-LOR, case development, execution, and case closure efforts.

Implementing agency

The MILDEP or defense agency responsible for the execution of MAPs. With respect to FMS, the MILDEP or defense agency assigned responsibility by DSCA to prepare an LOA and to implement an FMS case. Responsible for the overall management of the actions that will result in delivery of the materials or services set forth in the LOA that was accepted by a foreign country or international organization. (DSCA Manual 5105.38–M)

International military education and training program

That component of the U.S. security assistance program which provides training to selected foreign military and defense associated civilian personnel on a grant basis. Training is provided at U.S. military facilities and with U.S. Armed Forces in the United States and overseas, and through the use of SATs. Training also may be provided by contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses. The IMET Program is authorized by the FAA. (DSCA Manual 5105.38–M)

International traffic in arms regulation

A regulation prepared by the Bureau of Political-Military Affairs, DOS, Directorate of Defense Trade Controls, providing licensing and regulatory provisions for the import and export of defense articles, technical data, and services. The ITAR also includes the USML. (DSCA Manual 5105.38–M)

Lease (security assistance)

An agreement for the temporary transfer of the right of possession and use of a non-EDA or articles to a foreign government or international organization, with the lessee agreeing to reimburse the USG in U.S. dollars for all costs incurred in leasing such articles and to maintain, protect, repair, or restore the article(s), subject to and under the authority of AECA, Section 61 (22 USC 2796). (DSCA Manual 5105.38–M)

Letter of offer and acceptance

The document the USG uses to offer to sell defense articles and services to a foreign government or international organization under the AECA as amended. The LOA lists the items and/or services, estimated costs, and terms and conditions of sale, and provides for the foreign government's signature to indicate acceptance. (DSCA Manual 5105.38–M)

Letter of request

The term used to identify a request from an eligible FMS participant country for the purchase of U.S. defense articles and services. The request may be in message or letter format. (DSCA Manual 5105.38–M)

Major defense equipment

Any item of SME on the USML having a nonrecurring research and development cost of more than \$50 million or a total production cost of more than \$200 million. (DSCA Manual 5105.38–M)

Military Articles and Services List

Catalog of materiel, services, and training used in the planning and programming of IMET and FMS. (DSCA Manual 5105.38–M)

National Disclosure Policy

Promulgates national policy and procedures in the form of specific disclosure criteria and limitations, definitions of terms, release arrangements, and other guidance required by U.S. departments and agencies having occasion to release classified U.S. military information to foreign governments and international organizations. In addition, it establishes and provides for the management of an interagency mechanism, and includes procedures that are required for the effective implementation of that policy. (DSCA Manual 5105.38–M)

Offset agreement

An agreement, arrangement, or understanding between a U.S. supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other U.S. persons of goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense services from the supplier. (DSCA Manual 5105.38–M)

Price and availability

Prepared in response to a foreign government's request for preliminary data for the possible purchase of a defense article or service. P&A data are not considered valid for the preparation of an LOA nor do they constitute a commitment by the USG to offer for sale the articles and services for which the data are provided. (DSCA Manual 5105.38–M)

Repair and return

Programs by which eligible foreign countries return unserviceable repairable items for entry into the U.S. MILDEP repair cycle. Upon completion of repairs, the same item is returned to the country and the actual cost of the repair is billed to the country. (DSCA Manual 5105.38–M)

Security assistance

Group of programs authorized by the FAA of 1961 and the AECA of 1976 or other related statutes by which the U.S. provides defense articles, military training, and other defense-related services by grant, loan, credit, or cash sales in furtherance of national policies and objectives. Security assistance is one element of security cooperation, which is funded and authorized by the DOS and administered by the DSCA (see DSCA Manual 5105.38–M and DoDD 5132.03).

Security assistance organization

See security cooperation organization.

Security cooperation

See DSCA Manual 5105.38–M; see also DoDD 5132.03 and DoDI 5132.15.

Security cooperation organization

See DSCA Manual 5105.38–M; see also DoDD 5132.03.

Significant military equipment

Defense articles for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability. These items are identified on the USML in the ITAR by an asterisk preceding the item category listing. (DSCA Manual 5105.38–M)

System support buyout

An opportunity for international partners to make a final purchase of major items and associated spares and support equipment of a major system that is being terminated in the DoD inventory, prior to contracts or production being discontinued. (DSCA Manual 5105.38–M)

Technical assistance agreement

An agreement (for example, contract) for the performance of a defense service(s) or the disclosure of technical data, as opposed to an agreement granting a right or license to manufacture defense articles. Assembly of defense articles is included under this type of agreement, provided production rights or manufacturing know-how are not conveyed.

Technical data

See DSCA Manual 5105.38–M.

Technical data package

Normally includes technical design and manufacturing information sufficient to enable the construction or manufacture of a defense item component modification, or to enable the performance of certain maintenance or production processes. It may include blueprints, drawings, plans, or instructions that can be used or adapted for use in the design, production, manufacture, or maintenance of defense items or technology. (DSCA Manual 5105.38–M)

Total package approach

See DSCA Manual 5105.38–M.

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