



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

JAN -9 2013

ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

MEMORANDUM FOR PRESIDENT, DEFENSE ACQUISITION UNIVERSITY

SUBJECT: Posting International Contracting Training Information to the Defense Acquisition University Website

The attached is a memorandum in response to the Defense Security Cooperation Agency (DSCA) requesting support in integrating international contracting course content into both acquisition and security cooperation curricula. I am requesting your support in posting the training slides to the Acquisition Community Connection Practice Center at <https://acc.dau.mil/CommunityBrowser.aspx> under both the Contracting and International Acquisition Management communities. Previous discussions with both course managers indicated they could support this action. The attached training slides are available in electronic form at the Defense Procurement and Acquisition Policy (DPAP) website at <http://www.acq.osd.mil/dpap/cpic/ic/index.html> under the topic folder: Contracting for Foreign Military Sales (FMS).

Thank you in advance for your attention to this request. Should you need additional information or assistance from my office, please contact Mr. Jeff Grover at [Jeffrey.Grover@osd.mil](mailto:Jeffrey.Grover@osd.mil) or 703-697-9352.

  
Richard Ginman  
Director, Defense Procurement  
and Acquisition Policy

Attachments:  
As stated



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

JAN -3 2013

MEMORANDUM FOR DEPUTY DIRECTOR, DEFENSE SECURITY COOPERATION  
AGENCY

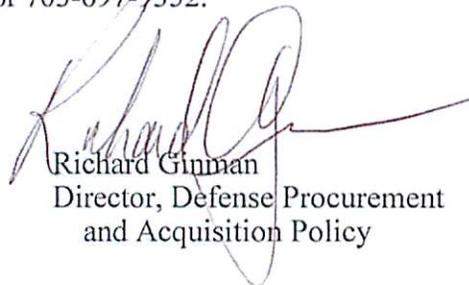
SUBJECT: International Contracting Training

This is in response to your October 4, 2012, memorandum requesting support in integrating international contracting course content into both acquisition and security cooperation curricula. Given the prominent importance of effective contracting methods in supporting the Department's security cooperation mission, I endorse a joint approach to developing distance learning opportunities that can optimally provide benefit to a diverse and globally dispersed workforce.

I have requested Defense Acquisition University (DAU) and the Defense Institute of Security Assistance Management (DISAM) first start by prominently publishing contents of the attached presentation that was developed collaboratively between DAU, DISAM, and my office, for the 2012 DoD Procurement Conference and Training Symposium. Unfortunately, this event was canceled before it could have provided the necessary training to over one-hundred contracting professionals. Though the training was never delivered, I feel its content is still current and relevant. DAU will post the attached presentation material to the Acquisition Community Connection Practice Center at <https://acc.dau.mil/CommunityBrowser.aspx> under both the Contracting and International Acquisition Management communities.

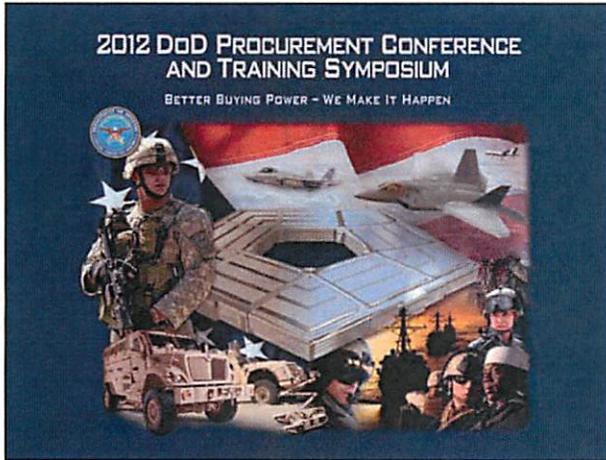
I believe publishing this presentation will rapidly deliver the desired information to the acquisition and security cooperation workforce and provide a primer for DAU and DISAM to effectively collaborate on future training opportunities between the two institutions. These, of course, will have to be balanced between prioritized training requirements and likely reduced resources in the coming year, as would distance learning opportunities.

Should you need additional information or assistance from my office, please contact Mr. Jeff Grover at [Jeffrey.Grover@osd.mil](mailto:Jeffrey.Grover@osd.mil) or 703-697-9352.

  
Richard Ginman  
Director, Defense Procurement  
and Acquisition Policy

Attachment:  
As stated

cc:  
Assistant Secretary of Defense (Acquisition)  
President, Defense Acquisition University



### Purpose

- Highlight how contracting for FMS contributes to U.S. national security and foreign policy strategies
- Discuss the contracting officer's role in enabling the FMS process to be successful
- Challenge you to view contracting for FMS as more than just another business transaction



2012 DoD Procurement Conference and Training Symposium

### FMS Contracting

- Terminology
- Organizational Roles & Responsibilities
- Magnitude of FMS
- FMS Process Background
- Contracting Officer Role in FMS
  - Offer, Execution, Closure
  - FMS Customer Participation
  - Pseudo FMS / Building Partnership Capacity



2012 DoD Procurement Conference and Training Symposium

### Security Cooperation

- DoD term\* for all interactions with foreign defense establishments to:
  - Build defense relationships that promote specific US security interests
  - Develop allied & friendly military capabilities for self-defense and multinational operations
  - Provide US forces with peacetime and contingency access to a host nation.
- Foreign Military Sales (FMS) is a tool for implementing security cooperation national security strategies



\*Joint Pub 1-02

2012 DoD Procurement Conference and Training Symposium

## Security Assistance

- State Department term\* for a group of programs through which the US provides:
  - Defense articles
  - Military training
  - Other defense services
- Goal: To promote national policies and objectives
- Foreign Military Sales (FMS) is a tool for implementing security assistance foreign policy



\*Joint Pub 1-02

2012 DoD Procurement Conference and Training Symposium

## Security Cooperation



2012 DoD Procurement Conference and Training Symposium

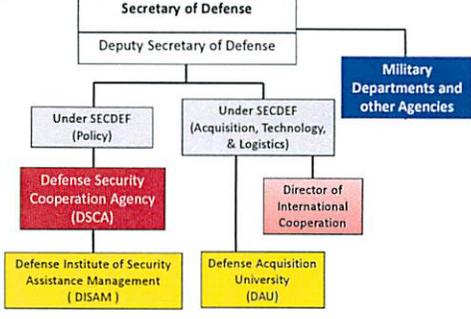
## Defense Security Cooperation Agency

- OSD policy level agency with leadership, management, and oversight responsibility for DoD Security Cooperation (SC) programs
- USG interagency advocate for SC initiatives and programs
- Issues the Security Assistance Management Manual (SAMM) as SC (FMS) policy
- Operates a DoD schoolhouse
  - DISAM—Defense Institute of Security Assistance Management



2012 DoD Procurement Conference and Training Symposium

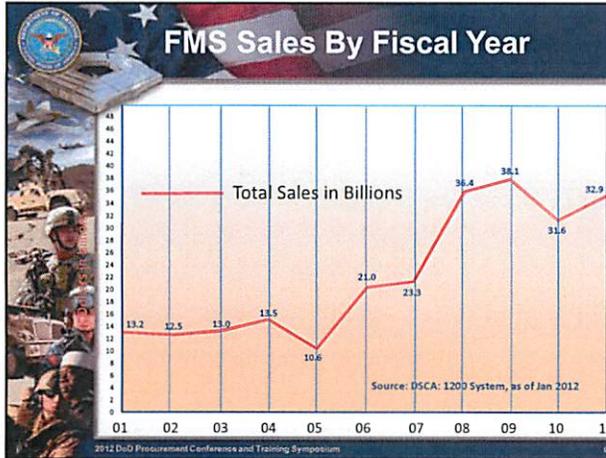
## DoD Relationships



```

graph TD
    SecDef[Secretary of Defense] --> DeputySecDef[Deputy Secretary of Defense]
    DeputySecDef --> UnderSecDefPolicy[Under SECDEF (Policy)]
    DeputySecDef --> UnderSecDefAcqTechLog[Under SECDEF (Acquisition, Technology, & Logistics)]
    DeputySecDef --> Military[Military Departments and other Agencies]
    UnderSecDefPolicy --> DSCA[Defense Security Cooperation Agency (DSCA)]
    UnderSecDefAcqTechLog --> DISAM[Defense Institute of Security Assistance Management (DISAM)]
    UnderSecDefAcqTechLog --> DAU[Defense Acquisition University (DAU)]
    UnderSecDefAcqTechLog --> Director[Director of International Cooperation]
    
```

2012 DoD Procurement Conference and Training Symposium



### Magnitude of FMS

If DSCA were a business, it would be a Fortune 500 Company\*

2009			2010			2011		
Fortune 500 Rank	Company	Revenue (\$ Millions)	Fortune 500 Rank	Company	Revenue (\$ Millions)	Fortune 500 Rank	Company	Revenue (\$ Millions)
48	Lock Corporation	46,500.0	53	Westbrook Corporation	15,120.0	73	Perich	24,154.0
49	Bank Holdings	46,100.0	52	Fluor	15,117.0	74	Hess	24,012.0
50	General	45,800.0	51	Energy	14,944.0	75	Hyman Muncy	24,000.0
51	Johnson	45,200.0	54	New York Life Insurance	14,714.0	76	Johnson Controls	24,000.0
52	Wynn Resorts	44,500.0	55	Proctor & Kitchen	14,500.0	77	Aerco	24,000.0
53	Wynn Resorts	43,200.0	56	Caterpillar	13,966.0	78	Amstar	24,000.0
54	Lockheed Martin	42,700.0	57	United Therapeutics	13,900.0	79	Amgen	23,900.0
55	Boji	42,400.0	58	Alcoa	13,811.0	80	First Protek Inc Partners	23,700.0
56	Boji	42,400.0	59	General Dynamics	13,600.0	81	Raytheon	23,600.0
57	Boji	42,400.0	60	General Dynamics	13,600.0	82	Raytheon	23,600.0
58	Boji	42,400.0	61	General Dynamics	13,600.0	83	Raytheon	23,600.0
59	Boji	42,400.0	62	General Dynamics	13,600.0	84	Raytheon	23,600.0
60	Boji	42,400.0	63	General Dynamics	13,600.0	85	Raytheon	23,600.0
61	Boji	42,400.0	64	General Dynamics	13,600.0	86	Raytheon	23,600.0
62	Boji	42,400.0	65	General Dynamics	13,600.0	87	Raytheon	23,600.0
63	Boji	42,400.0	66	General Dynamics	13,600.0	88	Raytheon	23,600.0
64	Boji	42,400.0	67	General Dynamics	13,600.0	89	Raytheon	23,600.0
65	Boji	42,400.0	68	General Dynamics	13,600.0	90	Raytheon	23,600.0
66	Boji	42,400.0	69	General Dynamics	13,600.0	91	Raytheon	23,600.0
67	Boji	42,400.0	70	General Dynamics	13,600.0	92	Raytheon	23,600.0
68	Boji	42,400.0	71	General Dynamics	13,600.0	93	Raytheon	23,600.0
69	Boji	42,400.0	72	General Dynamics	13,600.0	94	Raytheon	23,600.0
70	Boji	42,400.0	73	General Dynamics	13,600.0	95	Raytheon	23,600.0
71	Boji	42,400.0	74	General Dynamics	13,600.0	96	Raytheon	23,600.0
72	Boji	42,400.0	75	General Dynamics	13,600.0	97	Raytheon	23,600.0
73	Boji	42,400.0	76	General Dynamics	13,600.0	98	Raytheon	23,600.0
74	Boji	42,400.0	77	General Dynamics	13,600.0	99	Raytheon	23,600.0
75	Boji	42,400.0	78	General Dynamics	13,600.0	100	Raytheon	23,600.0

\*Based on a 2011 Fortune 500 ranking. Fortune 500 ranking for 2011. Fortune 500 ranking for 2010. Fortune 500 ranking for 2009. Fortune 500 ranking for 2008. Fortune 500 ranking for 2007. Fortune 500 ranking for 2006. Fortune 500 ranking for 2005. Fortune 500 ranking for 2004. Fortune 500 ranking for 2003. Fortune 500 ranking for 2002. Fortune 500 ranking for 2001.

### Magnitude of FMS

Implementing Agency	Number of Open Cases	Total Case Value (Billions)
Army	4,809	135.3
Navy	3,963	74.2
Air Force	3,394	168.4
Other Agencies	766	7.0
<b>Total</b>	<b>12,932</b>	<b>385.0</b>

As of 9 Mar 2012



### DoD Preference

**SAMM C4.5.8**

DoD **prefers** that countries friendly to the US fill defense requirements with **US origin** items.

- Foreign Policy
- Military Relationships
- Interoperability
- Economies of Scale
- Defense Industrial Base



2012 DoD Procurement Conference and Training Symposium

### FMS Benefits and Protection

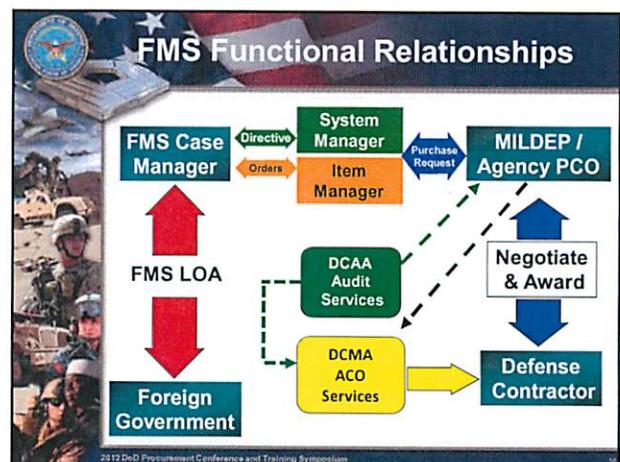
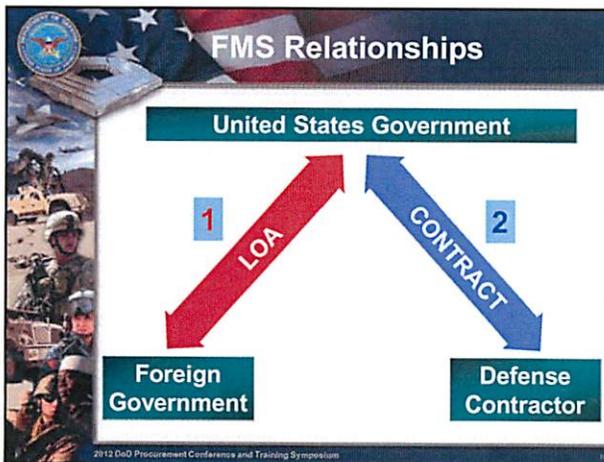
**SAMM C6.3.1**

Acquisition for FMS will be in accordance with DoD regulations and procedures.

This affords the foreign purchaser the **same benefits and protection** that apply to DoD procurement and is one of the **principal reasons why foreign governments and international organizations prefer to procure through FMS channels.**



2012 DoD Procurement Conference and Training Symposium





### Subpart 225.7302 – Guidance (PGI)

Contracting Officer **will** assist the MILDEP responsible for preparing the LOA by—

(1) Working with prospective contractors to—

- (i) Identify, **in advance of the LOA**, any unusual provisions or deviations;
- (ii) Advise the contractor if the MILDEP expands, modifies, or does not accept any requirements proposed by the contractor;
- (iii) Identify any logistics support necessary to perform the contract; and
- (iv) For noncompetitive acquisitions over \$10,000, **ask the prospective contractor for information on price, delivery, and other relevant factors**; and



2012 DoD Procurement Conference and Training Symposium

### Subpart 225.7302 – Guidance (PGI)

(2) Working with the MILDEP responsible for preparing the LOA to—

- (i) Assist, as necessary, in preparation of the LOA;
- (ii) Identify and explain all unusual contractual requirements or requests for deviations; and
- (iii) Assist in preparing the price and availability data.



2012 DoD Procurement Conference and Training Symposium

### Contracting Officer in LOA Offer

- Realistically set customer expectations
  - Total Cost
  - Delivery Schedule
  - Expenditure Profile
- Identify any unique issues to be addressed with customer
- Review and advise on customer generated sole source requests
- Establish extent of customer participation

Estimated Payment Schedule		
Payment Date	Quarterly	Cumulative
Initial Deposit	\$1,100,000	\$1,100,000
15 Jun 2012	600,000	1,700,000
15 Sep 2012	800,000	2,500,000
15 Dec 2012	700,000	3,200,000
15 Mar 2012	900,000	4,100,000

2012 DoD Procurement Conference and Training Symposium

### FMS Sole Source

**SAMM C6.3.4**

- Customer request must be based on objective needs
  - Faster delivery for urgent requirement
  - Specific nonstandard source
  - History with vendor
  - Standardization
  - Customer source selection
- Advise customer of contractors that:
  - Poor past performance
  - No prior experience at task
  - Ineligible for contracts
  - Represent high risks



2012 DoD Procurement Conference and Training Symposium

### FMS Sole Source

#### FAR 6.3 Other Than Full & Open Competition

- Single Responsible Source
- Unusual & Compelling Urgency
- Maintain Industrial Capability
- **International Agreement**
- Required By Law
- National Security
- Public Interest



2012 DoD Procurement Conference and Training Symposium

### LOA & Contract Relationship

#### SAMM C6.3.5

Discussions with the foreign purchaser must be undertaken during the development of the LOA ... to assure that the contracting community has all the data required to award a contract consistent with **contracting regulations** and the **foreign country desires**.



2012 DoD Procurement Conference and Training Symposium

### Subpart 225.7303 – Pricing

- Use same principles as in pricing other defense contracts
- Recognize the reasonable & allocable **cost of doing business with an international customer**, even though costs might not be recognized in the same amounts in DoD only contracts
  - Selling expenses
  - Product support and post delivery service expense
  - Offset costs
  - Other: IR&D/B&P, etc.



2012 DoD Procurement Conference and Training Symposium

### Contracting Officer in LOA Execution

- SAMM C6.3.3 - The Case Manager and contracting officer work together to make sure the **contract and the LOA are consistent**.
- SAMM C9.9.3 - Payment schedules updates are necessary to reflect revisions to **delivery schedules, pricing updates, contract award dates, and contractor payment milestones**.



2012 DoD Procurement Conference and Training Symposium

### Subpart 225.7301 – Guidance (PGI)

- Separately identify FMS requirements in solicitations
  - Contract CLIN / SubCLIN Structure and ACRRS
- Ensure LOA terms / country unique requirements are incorporated into contract
- Comply with Defense Transportation Regulation, Part II requirements for packaging, labeling and documentation
  - Appendix E: Security Cooperation Shipments (34 pages)
  - Transportation plan required for classified; arms, ammo & explosives; hazardous
- Require a DD 250 to accompany shipment
  - In addition to WAWF
  - Info needed for transportation and customs clearance



2012 DoD Procurement Conference and Training Symposium

### Colors of “FMS” Funds

Customer Cash	Dept of State	Dept of Defense
<ul style="list-style-type: none"> <li>• Customer Source</li> <li>• No Year Limits</li> <li>• DFARS “Cost of International Business” Applies</li> </ul>	<ul style="list-style-type: none"> <li>• Foreign Military Financing</li> <li>• No Year Limits</li> <li>• <u>Excluded</u> in DFARS Cost of International Business</li> </ul>	<ul style="list-style-type: none"> <li>• Appropriated to DoD</li> <li>• Year Limits</li> <li>• Normal DoD Cost Allowability Rules</li> <li>• Pseudo-cases</li> </ul>

2012 DoD Procurement Conference and Training Symposium

### Pseudo Funds Management



2012 DoD Procurement Conference and Training Symposium

### Building Partnership Capacity

**Pseudo FMS = Building Partnership Capacity (BPC)**

- PGI 225.7300 – The FMS acquisition infrastructure is also used to execute cases funded with US appropriated funds under special authority to build partner capacity
- Budget authority for BPC/pseudo cases is executed from the FMS Trust Fund
- Lines of accounting look like no-year money (97 X 8242), BUT must be administered per the appropriation rules
- PGI 225.7301 – For pseudo LOAs, **ensure that the contract is consistent with the period of funds availability**



2012 DoD Procurement Conference and Training Symposium

## Pseudo - LOA

**United States of America**  
**Letter of Offer and Acceptance (LOA)**  
**HD P-1ZZ**

**Demolition, Ser 1206 FT, 109 1A3 FT, 111 242 (New FMS)**

Based on funds provided and the version request from the contractor (see page 2) Pursuant to the Joint Expert Contract Act, the Government of the United States (USG) offers to sell to the Department of Defense the Airframe articles of Airframe services (which may include Airframe design and construction services) collectively referred to as "Items," set forth herein, subject to the provisions, terms, and conditions in this LOA.

This LOA provides 7 Motor Signal Infrared Search (SISIR), 47 Motor Signal Infrared Search and Support.

Estimated Cost: \$4,000,000      Initial Deposit: \$4,000,000

Form of Bid: \_\_\_\_\_

Cash with Acceptance: EDWPL 009-143 as amended P-111-242      \$4,000,000

This offer expires on 3 September 2011. Unless a request for extension is made by the Purchaser and granted by the USG, the offer will terminate on the expiration date.

This LOA consists of pages 1 through page 12.

The undersigned are authorized representatives of their Governments and hereby offer and accept, respectively, this LOA.

US Signature	Date	1 Sep 2011
GLEN C. ACKERMAN	Position Signature	Date
Director, OS/CS/DM Division	OF L, 109-1A3 FT, 111-242 (New FMS)	US Purchaser Signature Required
Typed Name and Title	Typed Name and Title	Agency
Name International Programs Office	Agency	Implementing Agency
Implementing Agency	Date	1 Sep 2011
USCA Reviewed/Approved	Date	1 Sep 2011
USCA	Date	1 Sep 2011

Information to be provided by the Purchaser:  
 Mark For Order:   , Flight Parameter Code:   , Purchase Financing Agency Code:   , Name and Address of the Purchaser's Paying Office: \_\_\_\_\_

2012 DoD Procurement Conference and Training Symposium

## Pseudo - LOA

**Note 3. CASE CLOSURE - SECTION 1206 OF P.L. 109-149, AS AMENDED, P.L. 111-242 PROGRAM.**

This case must be fully completed and closed by July 31, 2014.

**Note 4. FUNDS, PURPOSE, AVAILABILITY AND AMOUNT - SECTION 1206 OF P.L. 109-149, AS AMENDED, P.L. 111-242 PROGRAM.**

The funds financing this Pseudo Letter of Offer and Acceptance (LOA) are subject to the availability of all the requirements and restrictions under the heading of SECTION 1206 OF P.L. 109-149, AS AMENDED, P.L. 111-242. The funds provided are in support of authority to issue the capacity of Foreign Military Finance and carry the same terms, purpose, and availability restrictions associated with Fund source 970109, Sub Operation and Maintenance (OM) as other funds that may be available for use in FY 2011.

a. Failure to obligate FY 2011 OM Funds during the period of availability ending on 30 September 2011 will render them unavailable for use obligations after that date.

b. FY 2008 O&M Funds must be obligated by September 30, 2011 and must be expended as of before July 31, 2014.

c. Total funds available for expenditure against this Pseudo LOA are limited to the value of \$ 4,000,000.

d. Amendments or Modifications to this Pseudo LOA are only authorized with DODC written approval.

2012 DoD Procurement Conference and Training Symposium

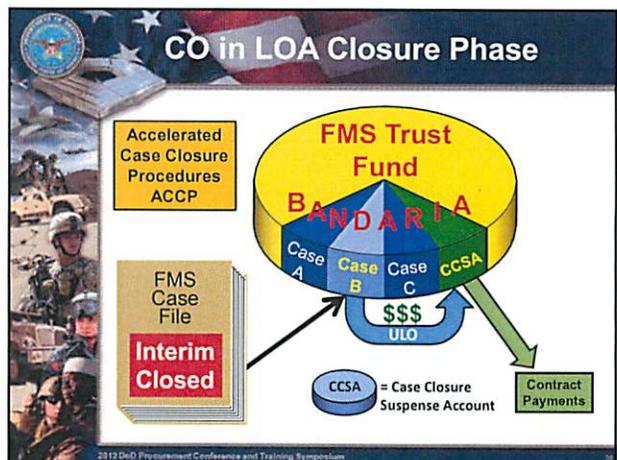
## Contracting Officer in LOA Closure

- Traditional FMS:
  - Preferred:** Close contract – permits final FMS closure
  - Alternative:** For open contracts, provide an assessment of each respective FMS customer's remaining contractual liability
    - Permits interim case closure
- Pseudo / BPC FMS:
  - Preferred:** Close entire contract
  - Alternative:** For open contracts, ensure CLINs supporting pseudo FMS are physically delivered and funds disbursed (i.e., no ULOs) prior to funds expiration

FMS Case File

Closed

2012 DoD Procurement Conference and Training Symposium



## FMS Unique

- FMS Customer Participation
- Foreign Disclosure – NDP 1
- Security Requirements
- Transportation plans (heavy focus needed here because don't have U.S. infrastructure in place when items are delivered in country. (Delivering to Djibouti instead of Ft Hood, TX).
- Freight forwarders, Documentation, DD250's, WAWF, Title transfer
- Maintenance/Sustainment – Life Cycle maintenance building "Partnership Capacity"
- Payment Instructions
- CLIN / Sub-CLIN structure

2012 DoD Procurement Conference and Training Symposium

## FMS Customer Participation

### DFARS 225.7304

At contracting officer discretion, customer can participate in discussions with industry on:

- Technical Specifications
- Delivery Schedules
- Price/Performance Tradeoffs
- Special Warranty Provisions
- Other Requirements Unique to FMS Purchaser



2012 DoD Procurement Conference and Training Symposium

## FMS Customer Participation

### DSCA Policy Memo 09-60

We have customers who are interested in actively participating in FMS acquisitions, but **believe they are being summarily shut out of the process**. I request that you encourage each of your acquisition communities to take up the spirit of DFARS 225.7304 and **actively seek opportunities for customer participation** in DoD acquisitions for FMS.

Jeffrey A. Wieringa  
Vice Admiral, USN  
DSCA Director

2012 DoD Procurement Conference and Training Symposium

## FMS Customer Participation

### OUSD AT&L DPAP Memo, 21 July 2011

The FMS program is... an instrument of US foreign policy... to deter and defend against aggression, facilitate common defense and strengthen the security of the US.

Many FMS customers have voiced interest in **actively participating** in FMS acquisitions. I ask that you **seek opportunities** to enhance FMS customer involvement in your acquisition programs in order to foster better understanding, strengthen alliances, provide transparency, and build customer confidence and teamwork.

Richard Ginman  
Director - DPAP

2012 DoD Procurement Conference and Training Symposium

### Conclusion

- Contracting for FMS is more than just than just buying stuff
- FMS leverages DoD's acquisition infrastructure to:
  - Promote strategic relationships
  - Achieve national security (DoD) and foreign policy (DoS) objectives
  - Provide enabling capabilities to partners for the common defense
- FMS value does not begin at physical delivery, it includes the procurement process itself
- Contracting Officers are essential enablers to successful FMS program development, execution and closure

2012 DoD Procurement Conference and Training Symposium

### In other words...

**It is not just the destination  
(i.e., physical delivery), but also  
the journey that matters.**



2012 DoD Procurement Conference and Training Symposium

### Points of Contact

Jeffrey Grafton, Defense Institute of Security Assistance Management (DISAM)  
(937) 255-0397 or [jeffrey.grafton@disam.dsca.mil](mailto:jeffrey.grafton@disam.dsca.mil)

Dave Lewis, Defense Acquisition University, Midwest Region, DAUMW-CI  
(937) 781-1066 or [david.lewis@dau.mil](mailto:david.lewis@dau.mil)

Michele Kennedy, Defense Security Cooperation Agency, DSCA DBO-FPA  
(703) 602-0773 or [michele.kennedy@dsca.mil](mailto:michele.kennedy@dsca.mil)

Jeff Grover, OSD-AT&L (DPAP/CPIC)  
(703) 697-9352 or [jeffrey.grover@osd.mil](mailto:jeffrey.grover@osd.mil)

2012 DoD Procurement Conference and Training Symposium

### THANK YOU!

QUESTIONS???

2012 DoD Procurement Conference and Training Symposium