



DEFENSE SECURITY COOPERATION AGENCY

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MAR 26 2019

MEMORANDUM FOR: COMMANDERS OF THE COMBATANT COMMANDS
DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR
DEFENSE EXPORTS AND COOPERATION
DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR
INTERNATIONAL PROGRAMS
DEPUTY UNDER SECRETARY OF THE AIR FORCE FOR
INTERNATIONAL AFFAIRS
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
DIRECTOR, SECURITY ASSISTANCE, DEFENSE FINANCE
AND ACCOUNTING SERVICE
DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE
AGENCY
DIRECTOR, MISSILE DEFENSE AGENCY
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE LOGISTICS INFORMATION SERVICE
DIRECTOR, DEFENSE LOGISTICS AGENCY DISPOSITION
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE,
NATIONAL SECURITY AGENCY

SUBJECT: Interim Clarification on Methods of Execution under 10 USC § 333, DSCA Policy 19-12

References: (a) Chapter 15 (Building Partner Capacity Programs) of the Security Assistance Manual (SAMM)
(b) National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017, Public Law 114-328
(c) Interim Clarification on 10 USC § 333, DSCA Policy 18-38
(d) DoD Financial Management Regulation (FMR) Volume 15, Chapter 1

This memorandum provides interim execution guidance and clarifies available funding distribution methods for programs utilizing the 10 U.S.C. § 333 (Section 333) authority while a comprehensive revision to Chapter 15 of the Security Assistance Management Manual (SAMM) (Reference (a)) is underway to reflect changes in execution based on the FY 2017 NDAA consolidation of multiple authorities.

Pursuant to the responsibility assigned to the Director, DSCA in 10 U.S.C § 382 for the execution and administration of security cooperation programs and activities of the DoD involving the provision of defense articles, military training, and other defense-related services by grant, loan, cash sale, or lease, I have determined that the Foreign Military Sales (FMS)

infrastructure and Building Partner Capacity (BPC) Letter of Offer and Acceptance (LOA) process will continue to be the primary and preferred method of executing BPC train and equip programs, such as Section 333 programs.

Reference (a) provides execution guidance detailing the process and requirements for generating a BPC LOA, which is the mechanism that makes funds available to execute programs leveraging the FMS infrastructure. The BPC LOA process provides DSCA the most efficient and consistent method for executing and managing BPC programs that transfer defense articles, services, and training to foreign partners, and best facilitates our ability to meet other statutory requirements under Title 10 including assessment, monitoring and evaluation, audit readiness, and other reporting requirements.

Under limited circumstances and on a case-by-case basis, the Chief of the DSCA Capability Development Division may approve methods of execution other than the BPC LOA. Approval is subject to compliance with the limitations, restrictions, and requirements outlined in this memorandum and other applicable laws, policies, and regulations. Described below are the potential exceptions to BPC LOA execution DSCA may approve. Regardless of the method of execution, reporting to DSCA the financial execution and delivery status of a program is required to ensure coordinated program implementation and compliance with congressional reporting requirements.

Exceptions to BPC LOA Execution

Interagency Agreement

Section 333 programs may include elements requiring the expertise of interagency partners where such expertise is not resident within DoD. In such cases, DSCA may execute a memorandum of understanding (MOU) or Interagency Agreement (IAA) with another U.S. Government agency to provide equipment, training, or services under a Section 333 program in accordance with the Economy Act (31 U.S.C. § 1535). IAAs will be completed in accordance with the Federal Acquisition Regulation 17.502 and any other applicable policies or regulations.

As the requesting agency, DSCA will identify a servicing agency to satisfy requirements consistent with the congressionally notified and approved program(s). The general terms and conditions of each agreement will require servicing agencies to adhere to congressional reporting requirements and submit to DSCA information on the status of allocated funds to include unobligated funds, unliquidated obligations, and disbursements.

Alternate DoD Executing Offices

Pursuant to 10 U.S.C. § 382(b)(2) the Director, DSCA may designate responsibility to execute and administer security cooperation programs to other DoD organizations to achieve maximum effectiveness, efficiency, and economy. The Director, DSCA will formally designate responsibility to Alternate Executing Offices through an MOU or memorandum of agreement (MOA). The memorandum will stipulate relevant funds distribution, program execution, and reporting requirements by which the designated Alternate Executing Office must abide. DSCA will determine which programs are assigned to Alternate Executing Offices.

Direct Funding to a Combatant Command (CCMD)

DSCA will approve this method of execution under extremely limited circumstances, as this method of execution significantly degrades the ability of the Director, DSCA to fulfill statutory oversight, execution, and reporting requirements. Generally, direct funding to a CCMD is only an option when the previously mentioned execution methods are not viable options to fulfill the requirement. Additionally, it is not intended that a CCMD use direct funding to purchase equipment. Under no circumstance will DSCA approve direct funding for or should direct funding be used to purchase Major Defense Equipment or any other defense articles requiring End Use Monitoring.

CCMDs must request direct funding from DSCA prior to congressional notification via memorandum signed by a Flag Officer or SES. A completed training and equipment list must be attached to the memorandum. A complete training and equipment list will include the quantities, unit price, and, when available, contracting activity, for all defense articles, services, and training listed. Additionally, it will include a completed training detail sheet, with a cost breakdown and training schedule to include Human Rights and Institutional Capacity Building training dates (estimated).

The memorandum requesting direct funding must include the following information. DSCA will not approve incomplete requests.

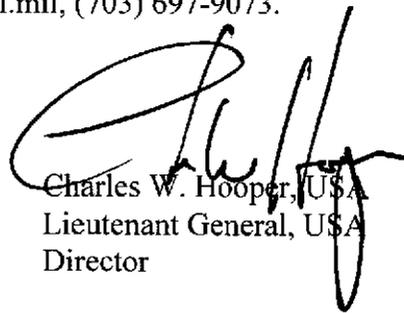
- Program Title & CCMD priority, Planning Order (PLANORD) name
- Amount & Funding Type Requested (i.e. 1-year, 2-year O&M or OCO)
- When funds are required and when the CCMD plans to obligate
- Justification for why direct funding is required and why no other execution method available to DSCA is appropriate (i.e. existing contract vehicle)
- Execution plan – timeline for when purchase and delivery will occur, to include period of performance, statement of work and/or a performance work statement, procurement agency, contract type (competitive/sole source, IDIQ, etc.)
- A statement agreeing to provide to DSCA CDD a status report of purchases and deliveries every two weeks, in accordance with DSCA CDD reporting format.
- A statement agreeing to return all unobligated funds to DSCA no later than August 15 of the Fiscal Year.
- A statement acknowledging that funding is only to be used for the purpose described in this request, that excess or residual funds may not be reallocated to other requirements, and that all excess or residual funds must immediately be returned to DSCA.

Upon DSCA Capabilities Development Division approval of the request and distribution of funds, the CCMD will:

- Assume responsibility for ensuring compliance with all requirements under the FAA, AECA, and ITAR relating to the transfer of defense articles and defense services to the foreign partner.
- Submit bi-weekly status reports to CDD on the status of purchase and delivery.
- Participate in bi-weekly Global Train & Equip Teleconference hosted by CDD.
- Update the Security Cooperation Information Portal with copies of awarded contract, DD250s/1149s, End User Certificate (EUC), export licenses, confirmation of training completion (by unit and component), and any other required documents.

DSCA will make funds available to CCMDs via the Defense Agencies Initiative (DAI) after receiving notice from Congress, OUSD Comptroller, and other relevant offices that programs and funds are cleared for release. CCMDs should refer to Reference (c) for additional guidance on funds execution. DSCA will rescind funds if the CCMD fails to comply with any of the execution requirements set forth in this memorandum or other applicable policies.

If you have any questions concerning this guidance, please contact Ms. Caroline Chin, DSCA-SPP/SPI, caroline.s.chin.civ@mail.mil, (703) 697-9073.



Charles W. Hooper, USA
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cc:
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