DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

APR - 8 2019

MEMORANDUM FOR DEPUTY UNDER SECRETARY OF THE AIR FORCE FOR INTERNATIONAL AFFAIRS
DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR DEFENSE EXPORTS AND COOPERATION
DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR INTERNATIONAL PROGRAMS
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
DIRECTOR DEFENSE FINANCE AND ACCOUNTING SERVICE, SECURITY COOPERATION ACCOUNTING
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE LOGISTICS INFORMATION SERVICE
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, MISSILE DEFENSE AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE, NATIONAL SECURITY AGENCY
JOINT STRIKE FIGHTER PROGRAM

SUBJECT: Foreign Military Sales (FMS) Administrative Surcharge Rate Change Clarification, DSCA Policy 19-23, E-Change 396

Reference: (a) Foreign Military Sales (FMS) Administrative Surcharge Rate Change Clarification, DSCA Policy 18-48, E-Change 403

(b) Reduction to the Foreign Military Sales (FMS) Administrative Surcharge Rate, Defense Security Cooperation Agency (DSCA) Policy Memo 18-27, E-Change 384

Effective immediately, DSCA Policy Memo 18-48, Foreign Military Sales (FMS) Administrative Surcharge Rate Change Clarification (Reference (a)), is rescinded. DSCA Policy Memo 18-48 is being rescinded to eliminate confusion over the implementation of the reduced Administrative Surcharge Rate. The FMS community is to follow the language contained in DSCA policy memorandum (Reference (b)) signed by the Director, DSCA, which uses the implementation date or the date when the initial deposit from the purchaser is received to determine which Letters of Offer and Acceptance (LOAs), amendments, and modifications are eligible for the Administrative Surcharge Rate of 3.2%.

The implementation guidance that accompanied DSCA policy memorandum 18-27 erroneously instructed the Implementing Agencies to apply the 3.2% Admin surcharge rate to all new FMS and Building Partner Capacity (BPC) cases and new line items added via LOA amendment "accepted" on or after 1 June 2018. Regardless of the acceptance date, all FMS and BPC cases and new lines added via LOA amendments "implemented" on or after 1 June 2018 are

eligible for the 3.2% surcharge rate. The attached implementation guidance replaces the guidance that accompanied DSCA policy memorandum 18-27 to match this update and instructions to correct the Administrative Surcharge Rate on LOAs.

DSCA will assist the Implementing Agencies to identify any cases requiring surcharge rate adjustments as a result of this policy clarification as well as to communicate these changes to the international partner.

Thank you for your continued support and assistance in executing our Security Cooperation programs. If you have questions or would like additional information, please contact Mr. Stephen Suh, DBO/FPA, Stephen.w.suh.civ@mail.mil, (703) 697-8899.

J. Aaron Harding
Chief Financial Officer

Attachment:
As stated

Implementation Instructions
FMS Administrative Surcharge Rate of 3.2%

FMS Administrative Surcharge Instructions

A. **Scope.**

1. The 3.2% FMS Administrative Surcharge rate applies to:

a. All case line items included on Letters of Offer and Acceptance (LOAs) "implemented" on or after 1 June 2018. The new rate applies regardless of the type of funding (national funds, grant funds, etc.) being used to finance the case. The new rate applies to all articles and services as well as any U.S. Government management services included in line items on the case.

b. All new line items added via LOA Amendments that are ”implemented” on or after 1 June 2018 or added via LOA Modification that are “implemented” on or after 1 June 2018.

c. All Building Partner Capacity (BPC) cases and case line items being processed through the FMS system that meet the effective date requirements in (a) and (b) above.

2. The 3.2% FMS Administrative Surcharge rate does not apply to:

a. Cases and/or case line items already "implemented" prior to 1 June 2018. These existing cases and line items will continue to be assessed at the rate that was in effect at the time they were implemented.

b. Foreign Military Sales Order (FMSO) I cases. The Supply Support Arrangement surcharge for these cases continues to be 5% in accordance with the Department of Defense Financial Management Regulation (DoD FMR).

c. Cases established for Presidential Drawdowns using the "S9" program code.

B. **FMS Cases in "Implemented" Status Prior to 1 June 2018.**

1. Cases and case line items that are in "implemented" status prior to 1 June 2018, will not be adjusted to reflect the new rate. These cases and case line items will instead retain the FMS Administrative Surcharge rate in effect at the time they were implemented.

2. If adjustments are made to these cases via future LOA Modifications or LOA Amendments (e.g., to reflect pricing changes), any existing line item will continue to be priced using its original FMS Administrative Surcharge rate as long as the changes being made do not reflect an increase in scope for that particular line item. If the case is being adjusted to reflect an increase in scope (e.g., to add quantities to a defined order line item; or to increase the value of a

blanket order line item), these additional requirements must be included on new case line items which will be assessed the 3.2% FMS Administrative Surcharge rate.

C. **LOAs and Amendments in "Development" Status with Proposed OEDs On/After 1 June 2018.** All LOAs and Amendments being developed by the Implementing Agency (not yet submitted to DSCA for countersignature or not yet "Offered") must be priced using the 3.2% FMS Administrative Surcharge rate if the OED falls on or after 1 June 2018.

D. **Amendments for Scope Increases to Existing Cases in "Offered" Status with an OED On/After 1 June 2018.** Any existing case line item on Amendments that increases the quantity or period of performance/lead-time on a defined order line or increases the dollar value on a blanket order line that has already been offered to the purchaser must charge the 3.2% rate for that portion of the case related to the scope increase if they are "Implemented" on/after 1 June 2018, regardless of what rate was used on the "Offer".

E. **Revisions specifically to correct the Administrative Surcharge rate to 3.2% on existing cases implemented on or after 1 June 2018**. The IA should adjust existing case lines with the new administrative rate of 3.2% via the next Amendment or Modification, if developed within 180 days post implementation of DSCA Policy Memo 19-23. If no Amendment or Modification is planned, then the IA should initiate a Modification in DSAMS within 180 days post implementation of DSCA Policy Memo 19-23 to adjust existing lines. The Modification may either: include a downward adjustment to the case to correct the administrative rate to 3.2% and decrease to the Total Case Value/Total Estimated Costs or include a downward adjustment to the case to correct the administrative rate to 3.2% while maintaining the Total Case Value/Total Estimated Costs by realigning funds within the LOA to absorb the administrative rate delta. The administrative rate adjustment is a USG imposed change and is not considered a change in scope to the overall case requirements.

Any cases requiring revisions to correct the Administrative Surcharge rate back to 3.5% should be adjusted via the next Amendment or Modification, if developed within 180 days post implementation of DSCA Policy Memo 19-23. If no Amendment or Modification is planned, then the IA should initiate a Modification within 180 days post implementation of DSCA Policy Memo 19-23 to adjust existing lines. The administrative rate adjustment is a USG imposed change and is not considered a change in scope to the overall case requirements.

Modifications processed for the sole purpose of correcting the Admin Surcharge rate will not be required to address future corrections.

F. **Requests to reduce or close line on an implemented case after 1 June.** If an international partner makes a request to reduce or close an implemented case at the currently executed value or to close a case at zero value (cases cannot be reduced to zero value through LOA document actions) and create a new case with the same lines, or add those same lines to another existing case in an attempt to gain the lower rate, such requests will be adjudicated on a case-by-case basis. Before any request is made, the international partner will be informed that it will be charged for all costs incurred to process their request to include all labor spent by the IA, Case Writing Division, DSCA, and the Defense Finance and Accounting Service (DFAS).

DSCA will input a case remark in DSMAS indicating the additional FMS Administrative Surcharge required and direct DFAS to bill that amount.