

SCM-Orientation Course

Module: FMS Process | Lesson: Introduction | Page: Learning Objectives

- Welcome to the Foreign Military Sales Process module.
- In previous training, you may have learned about the key U.S. laws that authorize the transfer of U.S. defense articles and services to eligible foreign countries and international organizations. The laws are the Arms Export Control Act and the Foreign Assistance Act.
- Having the legal authority to transfer and actually making it happen are two distinct activities. The FMS process defines how we go about applying these laws in order to accomplish transfers of U.S. defense articles and services. That process will be our focus in this module.
- The Foreign Military Sales process is the process of transferring U.S. defense articles and services from the U.S. to the foreign purchaser. There are many organizations involved in this process. We will discuss these organizations and their roles and responsibilities later in this lesson.
- Professor Luke Smith will join me as we help you understand how the foreign military sales process applies to the sale of U.S. defense articles and services.
- In this module, you will learn about FMS process legal authorities and policies, roles and responsibilities of key stakeholders, and process phases.

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- The FMS process may take anywhere from one to 10 years or longer to complete. Let's focus first on defining the three major phases of the process.

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- Before we get too far along in learning about the FMS process, it's helpful to know the key policies that drive it.

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- DSCA is the lead DoD organization chartered to direct and administer the FMS program. DSCA will coordinate, if necessary, with the State Department and Congress on sensitive requests, and will officially notify FMS programs to Congress as required by the Arms Export Control Act. While we will focus on DSCA's role with FMS, DSCA has many other roles.

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- Since we are addressing the FMS process by looking at the life cycle of an FMS case, it's important that we first understand the definition of an FMS case.
- A Letter of Offer and Acceptance, or LOA, is the government-to-government agreement used to document the transfer of defense articles or services, including training, from the U.S. government.
- An FMS case consists of the signed LOA, its amendments, and all modifications.

- We assign a unique case identifier to each FMS case. We will discuss this identifier in more detail later.
- Approximately 13,000 current, implemented FMS cases exist with a combined value of \$400 billion with over 100 countries.

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- Review the language of FMS. These key terms depict some of the common terminology used throughout the FMS process.
- It's important to note that transferring major defense equipment to the partner nation can result in additional costs to the customer and may require notification to Congress prior to the transfer.

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- Let's look at an example of how the FMS process plays out. The Bandarians have been interested in exploring a possible purchase of the new U.S. Super Humdinger III missile. They have a number of FMS cases pending. If they choose to go forward, this would be a new one.
- Pre-case development consists of three sub-phases: preliminary, definition, and request.

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- Bandaria's Minister of Defense begins preliminary assessment by evaluating factors in relation to Bandaria's defense requirements. There will be many decisions to make prior to acquiring defense articles or services.
- During the preliminary and definition phases of the FMS process, the potential purchaser assesses defense requirements. This will typically include evaluation of factors such as national security strategy, military threats, political factors, regional environment, and budget requirements or limitations.

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- Once the customer determines the type of defense capability that will satisfy mission deficiencies, the next step is to examine potential sources.
- The customer can look at indigenous or other non-U.S. sources, or consider purchasing a U.S. product.
- For U.S. defense articles or services, Bandaria generally has the option of buying from the U.S. defense industry via direct commercial sales or from the U.S. government via FMS. Both options are subject to the provisions of the AECA.

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- When considering defense articles of U.S. origin to meet internal defense requirements, potential customers have a wealth of information publicly available to them.
- In the current environment, technology and the media are often a factor in the customer's assessment of potential solutions to fill a defense capability void.
- The Security Cooperation Officer may also play an important role by providing information on U.S. defense systems and serving as a conduit between the customer and key U.S. contractors or U.S. government points of contact.

- In many instances, the customer will work with the SCO and U.S. defense industry companies to obtain detailed weapon system information.

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- The customer has assessed internal defense requirements, identified the capabilities and systems required to meet those defense requirements, and has weighed the potential sources available. Now it's time for the customer to determine whether to pursue a purchase.
- If the customer decides to pursue a government-to-government purchase through FMS channels, the vehicle to start the process is a Letter of Request, or LOR.
- During the Request phase of the process, the Bandarians draft the LOR. It's crucial that they provide a comprehensive LOR to the U.S. government.
- The U.S. government promotes a Total Package Approach, often referred to as TPA, that results in an LOA that offers the FMS customer the full complement of articles and services necessary to field, maintain, and utilize major systems efficiently and effectively.
- In addition to the system itself, the Total Package Approach may include training, logistics (for example, spare parts and support equipment), publications, and technical assistance.

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- The U.S. government responds one of two ways to an FMS LOR: a Price and Availability document or an LOA.

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- So, what process did Bandaria use to complete an LOR concerning the Super Humdinger III missile? While an LOR must be in writing, there's no specified format—it just needs to include sufficient information for the U.S. government to develop an LOA. Although the SCO is able to assist the partner nation, it is the partner nation's responsibility to ensure the LOR is complete and contains all the necessary information.
- In order to support the Total Package Approach, ISCS created a checklist as an aid to the international partner. This checklist provides the necessary information for the U.S. government to develop an LOA. The complete LOR Writing Guide checklist is available on the ISCS website. The LOR should address the categories of information you see listed here.
- This information serves to identify the customer, the purpose of the request, whether it's a Price and Availability or LOA, and such things as related international agreements, any related commercial negotiations and how long the customer requires to accept an LOA.
- The LOR should provide details on exactly what equipment, quantity, intended use, and if required, how it needs to differ from U.S. standard configurations. It should also specify an equipment delivery date.
- The Bandarians need to inform the U.S. government if they have had any negotiations already with a vendor or vendors. Unless they say they want the U.S. government to contract with a specific vendor, known as sole source, the U.S. will open it up to competition. The Bandarians also need to tell us if they want something to offset the cost of their expenditure. For example, will they want part of the production done in their country by their workers?
- The Bandarians should provide details on how they plan to fund the purchase of the defense articles and services. Are they paying with their money meaning FMS, or foreign military financing, etc. In addition, will they need to request a special payment schedule or any financial waivers.
- When the LOR also includes specific services, the Bandarians should provide details about the description and types of services requested and whether DoD or U.S. contractors will provide

those services. If they want extra reviews, they need to request that, and those additional reviews will probably cost extra.

- The Bandarians should provide details on any training required. By defining their needs early on, they should be able to provide detail on how many people need training and at what skill level these individuals are today. Other factors may be included, such as proposed locations and dates, who should provide training, and overall program concept.
- The Bandarians need to identify how and under what conditions they envision the equipment will be used; where maintenance will be performed and who will be performing it; how many spare parts and which manuals they think they'll need; and what supporting equipment will be required. Also, how are the items being delivered to the country, and do they have the facilities to house and safeguard the equipment?

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- Now that we have addressed the types of information that should be included in an LOR, let's look at the channels of submission. The action addressees should be the Implementing Agency and the Defense Security Cooperation Agency or DSCA. We will look at the role of DSCA in the next phase.

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- Some LORs require a country team assessment prior to sending to an IA and DSCA.

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- We covered the pre-case development phase of the FMS process and the actions and key players associated with the preliminary determination and definition of a potential customer's defense requirements followed by a request. That request becomes the major output, a comprehensive LOR submitted to the appropriate organizations.
- Now let's move into the case development phase. The goal of this phase is to address the actions and DoD organizations involved in processing the LOR and developing it into an LOA. Two sub-phases focus on these actions: offer and acceptance.

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- The action addressees for an LOR are the IA and DSCA. You'll recall we defined IA as a generic term for an organization authorized to receive LORs and develop them into LOAs. Take a look at what we'll focus on during the case development phase.

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- The MILDEPs process the majority of FMS cases, including LOAs and amendments or modifications.
- For each MILDEP, we'll look at three specific levels of organizations with key roles in the processing of LORs: a headquarters organization, an international logistics control office, and a training activity. These organizations are add-ons to the existing DoD domestic structure and were created for managing FMS.

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- Let's look at how the IA will validate and evaluate Bandaria's LOR. Given the impact congressional notification can have on the FMS process and program milestones, let's take a closer look at that as well. We'll examine developing the LOA a bit later.

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- Even though Bandaria may have a number of FMS cases in process, all Bandarian LORs must be validated and processed on a case by case basis.
- The IA acknowledges receipt of LORs within five days. It validates that the country is eligible and the LOR is complete. The IA loads the LOR information into the Defense Security Assistance Management System, the standard DoD system used for LOA development and implementation. Through DSAMS, the IA will task out preparation of the LOA financial and logistical data to the appropriate organization.
- One of the first steps in case development is for the IA to evaluate the LOR to ensure it's complete with clearly defined requirements. The IA will also determine whether other actions such as a country team assessment, foreign disclosure, or congressional notification are required. For sensitive requirements, the IA conducts required staffing with other USG organizations.

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- Congressional notification is required in accordance with Section 36(b) of the AECA when the estimated total value of the LOA exceeds certain dollar thresholds. The dollar value threshold, as well as the length of the notification timeframes, depends on which country is the proposed purchaser.
- The implementing agency must provide notification information about the proposed sale to DSCA within 10 days of receiving the LOR. DSCA provides the notification information to State, which reviews the information for the pending notification with congressional staffers.
- Following this review, which may take up to 40 days, DSCA will make the formal notification, referred to as a 36(b) notification, to Congress. The congressional review period is 15 or 20 days depending on the purchasing country. If congress takes no action to disapprove the sale, it is considered approved upon expiration of the review period.

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- Earlier you learned that DSAMS is the standard DoD system used for LOA development and implementation. Let's see how the LOA is developed.

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- Let's take a closer look at developing the LOA. Both the IA and DSCA-CWD play key roles in LOA development, each with distinct responsibilities.

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- The U.S. government may produce four types of LOAs in response to an LOR. The first type is a defined order.
- A defined order LOA is typically the first type of FMS LOA used when a customer is buying an initial weapon system from DoD and often will contain multiple lines as required to support the TPA concept. The IA will use its domestic acquisition, logistics, and financial infrastructure to conduct a detailed analysis of the items/services, costs, and delivery schedule information needed to compile the LOA data.

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- The next type of LOA is a blanket order.
- While a defined order LOA contains specific items and quantities, a blanket order LOA typically identifies a generic category of material and/or services (including training) to be provided. Note that the types of items typically purchased on a blanket order LOA. While these types of items may be found on a defined order LOA as initial support for a weapon system sale, a blanket order case is used by the customer to order follow on support requirements.

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- The next type of LOA is a cooperative logistics supply support arrangement.
- A cooperative logistics supply support arrangement case is a type of blanket order case. The difference with this type of case is that the customer makes an upfront payment to fund the DoD to increase their inventories. Thus, customers follow on support requisitions will have a faster turn-around time.

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- The next type of LOA is a Pseudo LOA used to support U.S. government Building Partner Capacity or BPC requirements. The IA will use BPC LOAs to provide U.S. funded equipment to partner countries assisting the U.S. government with counter terrorism and stability operations.
- There are various authorities within U.S. law that allow the use of U.S. appropriated funds to provide defense articles and services to friends and allies in support of our security cooperation objectives around the world.
- Many examples exist, but perhaps the most well-known is Section 1206 and 2282 of the National Defense Authorization Act for building partnership capacity. In general, these programs are intended to provide foreign nations with the capabilities needed to participate in joint operations with U.S. forces, especially those focused on counterterrorism and counter-narcotics. DSCA has authorized the use of the FMS infrastructure for tracking these transfers.

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- So far, we've focused on LOR processing and the roles and responsibilities of the IA in FMS case development as compared to the DSCA Case Writing Division. We also explored the different types of FMS cases.
- Now let's look at timeframes associated with case development. The U.S. government response time depends upon the type of case, complexity of the program, and clarity and completeness of the customer's LOR.
- Our goal: transmit the LOA documents to the purchaser on or before the Anticipated Offer Date.

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- To review, the IA receives the LOR and compiles most of the LOA data; DSCA-CWD constructs the final LOA and DSCA HQ interfaces with Congress, State and other organizations as required.

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- The last step of the Case Development phase is customer acceptance. Formally accepting the LOA requires the accomplishment of certain actions. The purchaser must sign the LOA by the offer expiration date and send a signed copy back to the IA.
- Additionally, the purchaser must provide a signed copy of the LOA, along with the initial deposit specified in the document, to the Defense Finance and Accounting Service-Security Cooperation Accounting, or DFAS-SCA, in Indianapolis, IN. Once the IA receives the signed LOA and DFAS receives a copy of it including the initial deposit, implementation of the LOA begins.

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- A key factor in developing an FMS case is determining the anticipated acceptance date, reflected in the LOA as the offer expiration date.
- This is a critical date since the LOA cost estimates, delivery schedules, and estimated payment schedule are based on the customer accepting the LOA by this date.
- By policy, the customer should have at least 60 days to accept the LOA once it's offered. Generally, the offer expiration date will be calculated to be 85 days from the date the IA finishes compiling the LOA data.
- The 85 days allows for up to 25 days of U.S. government administrative processing time plus the 60 days for customer review and acceptance. DSCA has approved permanent exceptions for some countries that have determined the standard 60-day review period is not sufficient. These countries are identified in chapter 5 of the SAMM.

Module: FMS Process | Lesson: Implementation, Execution & Closure | Page: Implementation

- We've addressed both pre-case development and case development taking the FMS process from a purchaser identifying and defining defense requirements leading to development of an LOR and purchase through FMS. We reviewed the key players, their responsibilities and tasks from processing the LOR to developing the LOA. Finally, we identified the purchaser's actions required to accept the LOA.
- Now, let's focus on the final phase of the FMS process, Implementation, Execution, and Closure.

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- Now after Bandaria has accepted the missile systems LOA, the implementation phase of the FMS process begins. Upon receipt of the signed LOA and Bandaria's initial deposit, DFAS-SCA will provide the IA with financial authority referred to as obligational authority. This is not money, but rather the financial authority the IA requires to implement the case.
- Implementation of a case should be accomplished in less than 15 days.

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- A key player in the implementation of a case as well as a critical individual throughout the entire FMS Process is the FMS case manager. Most often, the case manager resides in the International Logistics Control Office but also can be found in a weapon systems program management office.

Module: FMS Process | Lesson: Implementation, Execution & Closure | Page: Execution

- Execution, the next step in the FMS process, is the longest phase requiring the most personnel and organizations to accomplish. During this phase the acquisition, logistics, financial and training elements of the LOA are executed.
- During case execution, the IA provides the FMS customer with material or services obtained from either DoD inventory or defense contractors. Execution starts from the time a case is implemented and ends when the last item has been delivered or remaining services are completed.

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- Typically, many times during the lifecycle of an FMS case, it will be necessary to change the original document. Once implemented, the purchaser may want to make changes. Additionally, during case execution, the U.S. may need to make changes to the basic LOA to reflect different costs, delivery schedules and different cash flow requirements through a revised payment schedule. Changes are documented by issuing an LOA amendment or LOA modification to the original LOA.

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- Whether the U.S. government uses an amendment or a modification is dependent on the amount of scope change. Scope is a term used in the SAMM to assess the basic intention, goal, or purpose of the original LOA. In other words, each original LOA represents an agreement to transfer a certain range and depth of defense articles or services. As changes arise during execution of the LOA, the extent of change needs to be quantified relative to the degree that the change deviates from the scope of the original agreement.

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- The final step in the FMS Process is case closure. Under Accelerated Case Closure procedures, FMS cases should be closed within two years after all the material has been delivered and all services are completed.
- Closing an FMS case requires a substantial case reconciliation process.

[Module: FMS Process | Lesson: Deconstructing the LOA | Page: Introduction](#)

- Now that we've discussed the FMS process, let's deconstruct an LOA to identify and describe the information found on this document.
- It is extremely important to read the entire LOA to know exactly what is going on with a defense transfer.
- The LOA can be divided into seven different sections.

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- The LOA cover page provides a summary of the entire LOA.
- As you review the detail included in the cover page, take note of the costs. The AECA allows the sale of articles and services to foreign countries, but the sale cannot create a profit or a loss to U.S. taxpayers. This means all prices on an LOA are estimates and are subject to change based

on the actual costs that are incurred as the program is executed. If the LOA meets the requirements for congressional notification, the LOA indicates when the case was notified.

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- The next section of the LOA is the line item information. LOAs are written so there is a separate item number, commonly referred to as a line item, for each generic category of material or services being offered to the customer.

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- The next section of the LOA is the line item information. LOAs are written so there is a separate item number, commonly referred to as a line item, for each generic category of material or services being offered to the customer.

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- Following the line item information will be the estimated cost summary and estimated payment schedule. The net estimated cost reflects the summary value of all the LOA line item costs. It is also often referred to as the net case value. The payment schedule information requires that the customer pay DFAS-IN the total case value in quarterly payment increments.

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- The next section contains the LOA notes. Notes are critical for clearly communicating the details of how the LOA should be executed. The customer needs to carefully review all notes and compare them to the original LOR requirements.

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- Following the case notes are the standard terms and conditions that, in accordance with the AECA, put forth the legal parameters and obligations of the U.S. government and the FMS purchaser.
- Core content is derived from fundamental requirements established in law and policy. Each FMS LOA issued to a foreign customer will include standard terms and conditions as an official part of the offer. They outline the fundamental relationship between the U.S. government and the foreign purchaser relative to the sale. Terms and conditions summarize the statutory requirements of the AECA, the FAA, and key FMS policy provisions from the SAMM.
- Standard LOA terms and conditions are not applied to Pseudo LOAs; other provisions apply.

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- LOA Information is the last section of the LOA provided to the FMS customer. It contains a description of most of the codes that may be included in the LOA.
- All the codes listed in the line item information section are contained in the LOA information section, which is included in every case.
- It's important the customer read the case since most of their questions will be answered there.

[Module: FMS Process | Lesson: Module Review | Page: FMS Process Continuity Book](#)

- This module provided an introduction to the FMS process. Since there's a lot to retain, we've created a continuity book that summarizes key terms, organizations, and policies that you can

download before you exit. As a reminder, these two websites contain a plethora of information that can help you understand the FMS process.