

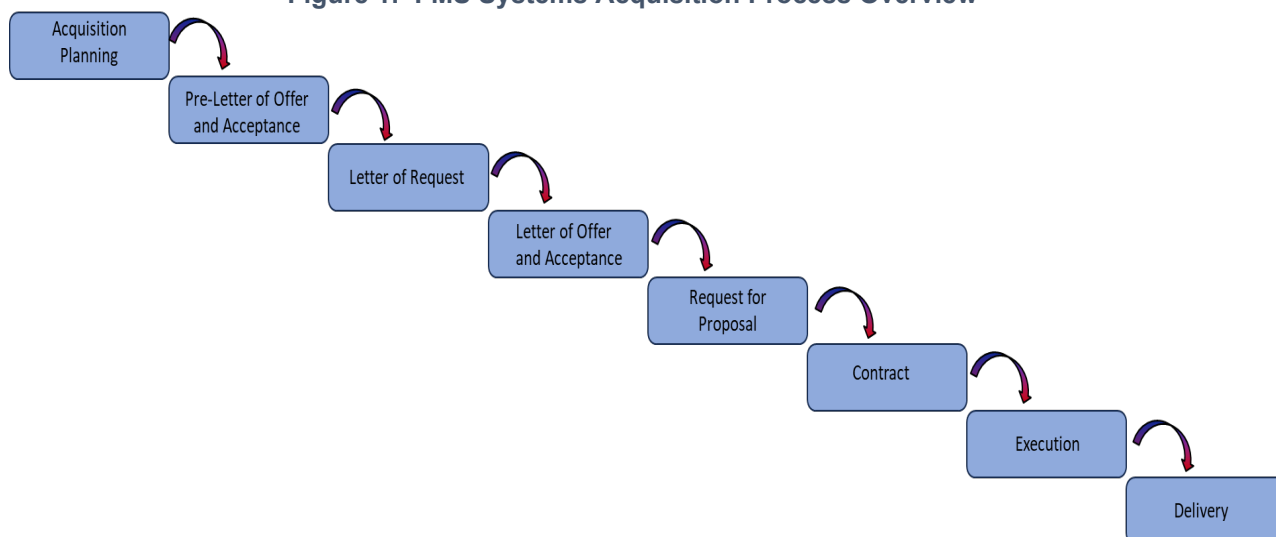
# Foreign Military Sales (FMS) Systems Acquisition Job Support Tool (JST)

## Overview

This Job Support Tool (JST) identifies “acquisition best practices” that Program Management Offices (PMOs) should consider in establishing and executing Foreign Military Sales (FMS) systems acquisition programs. The JST offers guidance beginning with considering potential defense sales in a program’s Acquisition Strategy, then assisting potential purchasers in identifying requirements, leading to delivery of a capability. It also provides key areas for analysis and evaluation for each phase of the “FMS Systems Acquisition Process,” shown in Figure 1, to improve acquisition outcomes for the FMS purchaser.

The FMS program is authorized by the Arms Export Control Act (AECA) and is a fundamental tool of U.S. foreign policy. Under Section 3 of the AECA, the U.S. may sell defense articles (from contract or inventory) and services to eligible international partners via a binding government-to-government agreements known as a Letter of Offer and Acceptance (LOA). A signed LOA, along with respective amendments and modifications make up the “FMS case.”

Figure 1: FMS Systems Acquisition Process Overview



- One of the most challenging aspects of FMS systems acquisition for prospective purchasers is adequately describing and articulating the breadth and depth of requirements. Experience has shown that complex FMS systems acquisition efforts involve prospective FMS purchasers that:
- Use specialized acquisition organizations who routinely acquire new capabilities from the U.S. and who want to “participate” in DoD acquisition and contracting efforts.
- May be unfamiliar with the myriad of DoD policies and processes used to purchase and operate complex weapon systems, requiring substantial PMO assistance throughout the process.
- Are interested in pursuing substantial modifications to the “DoD version” of the system, requiring the equivalent of an Engineering and Manufacturing Development (EMD) phase be conducted prior to actual production.
- Are interested in acquiring the DoD version of the system but establish and provide their own training and logistics support after production units are delivered.

- Are considering acquisition of a non-Program of Record (NPOR) or non-standard system with DoD assistance.

**NOTE**

A Program of Record (POR) is funded (approved) across the Future Years Defense Program through a Program Objective Memorandum. A NPOR is a capability or system that the U.S. Government has not otherwise identified as a POR. The [NPOR Handbook](#) provides further information regarding NPOR categories.

- Would like to acquire a system developed in response to a Joint Urgent Operational Need where traditional FMS Total Package Approach (TPA) support may be complicated.

**NOTE**

Total Package Approach is a means of ensuring that FMS customers are aware of and are given the opportunity to plan for and obtain needed support items (i.e., support equipment and initial provisioning of parts), training, and services required to introduce and operationally sustain major items of equipment or systems for a two-to-three-year period, giving time to get a follow-on support FMS case in place.

- May be considering complex FMS/Direct Commercial Sales (DCS) hybrid solutions, which require precise definition of the “boundaries” between the FMS and DCS aspects of the purchaser’s system acquisition efforts.

The Letter of Request (LOR) that a purchaser submits for a complex systems acquisition program, which may include one or more of the characteristics described above must accurately describe the requirements and approach the international partner wants to pursue. The LOR must also be “actionable” from a DoD perspective to provide a solid foundation for LOA development.

## Organization

This JST, which is designed to augment DoD 5000 series policy and DoD Guide to International Acquisition & Exportability (IA&E) Practices ([IA&E Guidebook](#)) guidance on FMS planning and the Security Assistance/FMS aspects of the DoD acquisition process, is organized in eight sections as shown in Figure 2.

**Figure 2: FMS Systems Acquisition Process Overview**

Section	Description
1	FMS Systems Acquisition Planning
2	Pre-Letter of Request (LOR) Customer Engagement
3	Receipt and analysis of the LOR
4	Preparation, offer, acceptance, and financial implementation of a Letter of Offer and Acceptance (LOA)
5	Preparing the Request for Proposal (RFP)
6	Negotiating and awarding contracts
7	Managing contract and program execution
8	Preparing for and delivering a “total package”

Note: This JST focuses on acquisition best practices applicable to complex FMS systems sales rather than more routine FMS transactions. Furthermore, this JST focuses on the acquisition-related elements of the FMS process and does not address all policy and procedural elements of the process. For

comprehensive information on FMS policies and procedures please take advantage of the training courses and learning guides provided by Defense Security Cooperation Agency's (DSCA) [Defense Security Cooperation University \(DSCU\)](#).

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#### NOTE

Complex FMS systems sales require a close working relationship between the DoD Component Security Assistance Implementing Agency (IA) and the Program Management Organization (PMO). Specific DoD Component organizations are authorized to receive country's request for defense articles and coordinate the preparation of the government-to-government agreement. PMOs support this process and once the agreement is concluded are responsible for procuring and/or providing defense articles and services to the customer. See table [C5.T2](#) of the Security Assistance Management Manual (SAMM) for a listing of IA organizations authorized to receive these foreign requests.

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## Relationship to Other JSTs

To enable allies and partners to enhance U.S. military capability, participate in collaboration opportunities, and forge partnerships with the U.S., [DoDD 5000.01, paragraph 1.2.t](#), requires DoD acquisition programs to plan for coalition partners and to consider incorporation of exportability features in the early design and development phase of acquisition programs' acquisition strategies.. [DoDI 5000.02, paragraph 4.1.b.\(2\)](#) requires Program Managers to consider acquisition strategies that leverage international acquisition and supportability planning to improve economies of scale, strengthen the defense industrial base, and enhance coalition partner capabilities. The [Adaptive Acquisition Framework \(AAF\)](#) in [DoDI 5000.02](#) contains six acquisition pathways: Urgent Capability Acquisition, Middle Tier of Acquisition (MTA), Major Capability Acquisition (MCA), Software Acquisition, Defense Business Systems, and Acquisition of Services. FMS Systems Acquisition planning is required in the MCA pathway (see [DoDI 5000.85](#), Appendix 3C.4.) and may be required in the MTA pathway rapid fielding efforts (see [DoDI 5000.80](#), paragraph 3.2.d).

For DoD acquisition programs, the [IA&E Guidebook](#), Section 1.3 recommends that Program Managers conduct an IA&E Assessment to collect information and assess factors related to future FMS planning. Please refer to the [IA&E Assessment JST](#) for best practices in this area.

Moreover, DoD acquisition Program Managers must explain international involvement in the Acquisition Strategy to address [10 USC 2350a \(para \(e\)\)](#), [10 USC 4211a.\(c\)\(2\)\(G\)](#), and DoD 5000 series requirements regarding future FMS planning considerations. Please refer to the [Acquisition Strategy – International Considerations JST](#) for best practices in this area.

For DoD acquisition programs that require initial development or updating of an Acquisition Strategy, PMOs should pursue any applicable FMS planning efforts described in this FMS Systems Acquisition JST in parallel with development of FMS planning-related content in the Acquisition Strategy.

## Program Management Considerations for FMS

The DoD acquisition Program Manager is responsible for many aspects of FMS case execution including:

- Conducting acquisition in support of FMS cases in the same manner used for DoD requirements.
- Applying relevant elements and principles of the DoD 5000-series regulations.
- Establishing Integrated Product Teams (IPTs) to coordinate efforts.
- Developing detailed management plans and schedules.
- Identifying and mitigating risks.

- Ensuring Contracting Officers initiate contracting actions to meet program requirements.
- Planning for weapon system training and logistics support to be provided to the customer.
- Supporting the Case Manager in reporting to higher headquarters on program execution.
- Supporting the Case Manager in conducting periodic program reviews with the customer.

The role of the Case Manager (CM) and the Program Manager (PM) and how they interact vary across DoD Components. Develop an understanding of how your Component defines PM and CM roles and responsibilities.

## Section 1 – FMS Systems Acquisition Planning

### A. FMS-Related IA&E Assessment and Acquisition Strategy Aspects

#### Step 1

Assess the international market and identify potential defense sales opportunities for the system. Use Section 2.D. (International Markets) of the [IA&E Assessment JST](#) as a key input in PMO/project office defense sales opportunities identification efforts.

#### Step 2

Evaluate the identified defense sales opportunities, using the program's Acquisition Strategy – International Involvement section (based on the results from Section 2.G. (Foreign Sales Policy) of the [Acquisition Strategy – International Considerations JST](#)) as a key input.

#### Step 3

Consult the [IA&E Guidebook](#) for an overview of DoD acquisition processes related to U.S. Government and DoD-level Security Cooperation/FMS policies and practices.

### B. Analysis & Evaluation -- Key Areas

#### 1. Motivations for Pursuing Potential FMS System Sales Agreements

- What drives the interest in engaging in potential FMS system sales?
- Who are the notable U.S. and foreign stakeholders involved in advocating for FMS system sales to prospective foreign nations?
- What are their primary objectives in pursuing these sales?

#### 2. Identification of Potential FMS Customers

- Has your organization's internal FMS planning efforts pinpointed potential customers who are keenly interested in the operational features of the system and align with the DoD's system acquisition program plans?

#### 3. Confirmation of DoD Component Support

- Have the PMO, PEO, and/or local command verified their support for future FMS system sales, and if so, at what level?
- Is there consideration of a specific DoD Component-level FMS system sales policy, such as the Navy Technology Transfer and Security Assistance Review Board, Air Force "Top Line," or Army Defense Exports & Cooperation Review?

#### 4. Technology Security and Foreign Disclosure Boundaries

- Prior to engaging with a prospective purchaser, have you worked with your assigned Foreign Disclosure Officer (FDO) to define initial boundaries regarding Technology Security and Foreign Disclosure (TSFD) and export control to prevent raising unrealistic expectations among potential customers?

#### 5. Consultation with Other DoD Components

- Has your organization collaborated with other DoD Components and higher-level DoD organizations, including the DSCA and the Defense Technology Security Administration (DTSA), as needed, to help shape a comprehensive DoD-wide FMS system sales policy?

#### 6. FMS Customer Engagement Strategies

- Once a DoD Component and, if applicable, a DoD-level FMS system sales policy is formulated, and initial TSFD and export control authorizations have been secured, what strategies does your organization envision for engaging with potential FMS customers?
- Will the approach be forward-leaning, responsive, or passive?

#### 7. Non-Recurring Cost Charges

- Has your organization established Non-Recurring Cost charges for any Major Defense Equipment items in accordance with DoDD 2140.02?

#### 8. Product Support

- Has your organization developed a concept for a TPA for FMS purchasers who are making initial acquisitions of the system?

## Section 2 – Pre-Letter of Request (LOR) Customer Engagement

### A. Best Practices

#### Step 1

PMOs should make it easy for prospective FMS purchaser to submit well-defined, actionable complex systems acquisition program LORs that address a TPA:

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#### NOTE

Checklists should address weapon system requirements and all elements required to deliver a total package capability including logistics support, training, services, and technical data. An example of a generic checklist and links to Service specific checklists can be found in [SAMM Figure C5.F14](#).

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- Develop and make available LOR checklists and other tools to key stakeholders, including all USG/DoD organizations involved in the process and the foreign customer.
- Engage the prospective purchaser through the DoD Component Security Assistance IA, U.S. Embassy, Security Cooperation Organization (SCO), or directly through authorized purchaser nation representatives, as appropriate.
- Ensure the purchaser understands the risks of establishing country-unique configuration requirements on future cost, delivery timing, overall program risk, and on life cycle cost.

- Engage U.S. industry business development counterparts, as appropriate, to synchronize communication with the purchaser (especially important on hybrid programs).

## Step 2

Determine if an initial planning LOA should be established to fund DoD manpower, site surveys, and travel to assist the purchaser in defining requirements that will eventually lead to development of a LOA for the entire system (including its TPA aspects).

## Step 3

Maintain close contact with the SCO and authorized purchasing nation representatives while the LOR is being developed and offer assistance, as appropriate.

## Step 4

- When appropriate, encourage the SCO to initiate a Pre-Letter of Request Assessment Request (PAR) so that development of USG/DoD TSFD guidance for the potential sale as discussed in [SAMM Chapter 3 \(Technology Transfer and Disclosure\)](#) C3.1.2. can be initiated prior to submission of a LOR
- Consult with the local Foreign Disclosure Office (FDO) and DoD Component International Program Office (IPO)/Security Assistance IA and initiate development of TSFD guidance in the pertinent [TSFD “pipes”](#) (including program protection and anti-tamper), as appropriate.

## Step 5

Make PMO and IPT subject matter experts available to provide programmatic and technical support during initial TSFD review and approval process activities.

# B. Analysis and Evaluation -- Key Areas

## 1. LOR Checklist Preparation

- Has an LOR checklist been prepared with sufficient detail to guide prospective purchasers in drafting an actionable LOR?
- Has this checklist been distributed to both the country and all DoD organizations involved in the process?

## 2. Effective Communication Channel

- Has an effective communication channel been established with the country, either through the SCO or direct contact, to assist them in identifying their requirements and understanding the implications of any unique requirements they are considering?

## 3. Funding for PMO Engagement

- Is there adequate pre-LOA FMS Administrative Surcharge funding available to support PMO engagement with the country for requirement definition?

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### NOTE

Pre-LOR activities include research and analysis, meetings, briefings, responses to requests for proposals and participation in international competitions, equipment demonstrations, and travel related to those efforts. The IA may not expend more than the allowable percentage of FMS Administrative Surcharge funds it is allocated each fiscal year on pre-LOR activities. Requests for an exception to policy to exceed the limit requires DSCA Director approval via Service IA. Pre-LOR expenditure limitations are captured in [SAMM C9.3.4.2](#).

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#### 4. Engagement with U.S. Industry

- Has the PMO engaged with U.S. industry business development personnel, as appropriate, to synchronize communications with the country and gain awareness of industry perspectives?

#### 5. Planning LOA Consideration

- Has the possibility of a planning LOA been considered to support program definition, help define the country's requirements, and conduct site surveys?

#### 6. Pre-LOR Assessment and TSFD Guidance

- Has the PMO encouraged the SCO to submit a PAR?
- Have consultations occurred with the FDO and DoD Component IPO to initiate the development of USG/DoD TSFD guidance for the system in the pertinent TSFD "pipes" in advance of LOR submission?

#### 7. Subject Matter Expertise (SME) Support

- Is the PMO prepared to make SMEs available, if required, to provide programmatic and technical support during initial TSFD review and approval process activities?
- Is there funding available to support SME efforts in this area?

#### 8. Additional Actionable Measures

- Are there any other actions that the PMO can take to ensure that the country submits an actionable LOR?

## Section 3 – Receipt and Analysis of the LOR

### A. Best Practices

#### Step 1

Upon receipt, analyze the LOR and conduct an acquisition risk assessment to determine if the FMS case involves a routine procurement of a standard item or a complex systems acquisition program (as described above) which could entail programmatic risk with potential cost increases and/or schedule delays. Pay particular attention to system sales that involve DoD programs that are:

- Still in the DoD EMD phase or in Low-Rate Initial Production (LRIP).
- Conducting major system upgrade development efforts.
- Conducting first time integration of purchaser unique equipment or capabilities.
- Developing/producing equipment related to DoD systems that are a NPOR.

#### Step 2

For LORs determined to pose high acquisition risks based on the analysis in Step 1 above, especially potential NPOR system purchases, inform the DoD Component Security Assistance IA and, if appropriate, DSCA, of these risks and provide a recommendation on whether the LOR requires modification prior to acceptance. If the LOR requires modification:

- Identify any key acquisition program ambiguities/unknowns that should be explored and analyzed to adequately define unique purchaser requirements (i.e., purchaser requirements beyond the system's DoD-approved capability/acquisition program requirements documentation) to reduce cost, schedule, and performance acquisition risks to an acceptable level.
- If appropriate, engage in additional LOR discussions with authorized purchaser representatives, including acquisition/technical SMEs as appropriate, to resolve key ambiguities/unknowns.

- In parallel with LOR discussions, continue PMO consultations with the local FDO and DoD Component IPO, as appropriate, to obtain USG/DoD TSFD guidance in pertinent TSFD “pipes” to address any LOR modifications envisioned by the purchaser.
- Upon completion of the LOR modification discussions, ask the purchaser to submit a modified LOR prior to development of a LOA for the entire system (including its TPA aspects).

### Step 3

Identify exportable configuration impacts resulting from TSFD “pipe” policy guidance during the development of Price and Availability (P&A) or LOA data per [SAMM Chapter 3 \(Technology Transfer and Disclosure\)](#):

- Examine all aspects of the system (e.g., major end item, support equipment, training equipment) from a Defense Exportability Features (DEF) perspective.
- Determine if the system requires additional program protection measures (i.e., anti-tamper) and/or differential capability modifications.
- Define the cost and schedule impacts of required development and testing activities associated with the exportable configuration that must be included in the P&A or LOA data provided to the Foreign purchaser

### Step 4

Determine any required LOR advisory memoranda and/or other unique reviews required by [SAMM Chapter 5 \(FMS Case Development\)](#) Table C5.T4 that are applicable to the sale. Provide support to the DoD Component Security Assistance IA and DSCA as required to fulfill these requirements.

### Step 5

Establish a dialog with U.S. industry bounded by the competitive environment and determine whether the LOR contained a sole source request

### Step 6

In consultation with the DoD Component Security Assistance IA, seek and obtain clarifications and/or additional information through the SCO (or directly with the purchaser) if the LOR is not considered to be actionable.

Involve the purchaser in the preparation process including meeting attendance and correspondence exchanges to clarify LOR information ([SAMM Chapter 5 \(FMS Case Development\)](#) C5.4.5.2.)

## B. Analysis and Evaluation -- Key Areas

### 1. Procurement Type and Programmatic Risks

- Is the LOR associated with the procurement of a Non-Standard POR or NPOR system version, rather than a POR system version?
- Does this procurement involve substantial development work, potentially bringing about programmatic risks?
- Do these risks require increased program management and IPT expertise and efforts?

### 2. Completeness and Actionability of the LOR

- Should the U.S. Government accept the LOR as is, or would it be advisable to engage in additional discussions with the customer to ensure their comprehension of the potential risks associated with this acquisition?
- Is the LOR complete and actionable, enabling the delivery of a total package?
- Is there a need for additional information from the FMS purchaser?



### 3. TSFD Policy/Guidance

- Has the PMO, in collaboration with the local FDO and DoD Component IPO, secured sufficient USG/DoD TSFD guidance from the relevant TSFD "pipes" to adequately respond to the LOR?
- Have the effects of TSFD policies, including anti-tamper measures, on all facets of the weapons system configuration, including support elements, been assessed?
- Have all mandatory development and testing activities been identified in this context?

### 4. Approvals and Advisory Memoranda

- Have all pertinent DoD Component and OSD approvals or LOR advisory memoranda (e.g., Yockey Waiver) been identified?
- Has the process been initiated to obtain the necessary reviews and approvals as required? (Refer to [SAMM C5.1.8](#) for additional information on LOR advisory memoranda and unique reviews.)

### 5. Cost and Schedule Impact Analysis

- Has the PMO adequately defined the cost and schedule impacts associated with development and testing activities needed to develop an exportable system configuration?

It is important to note that once the LOR is accepted as actionable, the purchaser will have expectations of DoD's ability to fulfill the stated requirements. If any deviations from the LOR are necessary, it should be communicated to the purchaser via DSCA/IA to ensure mutual understanding of the differences and manage expectations.

## Section 4 – Preparation of a Letter of Offer and Acceptance (LOA)

### A. Best Practices

#### Step 1

Use the USG/DoD TSFD guidance obtained from the pertinent TSFD "pipes" during "Receipt and Analysis of the LOR" to develop LOA data that address the following areas:

- Confirm that DEF cost and schedule impacts are included in the LOA data.
- Consult with the DoD Component Anti-Tamper (AT) organization and Anti-Tamper Executive Agent (ATEA) to ensure an approved AT plan is in place and associated AT costs are included in pricing data ([SAMM Chapter 3 \(Technology Transfer and Security\)](#) C3.6.2 and C3.6.3).
- Ensure pricing data includes any differential capability modifications required by policy guidance from pertinent TSFD "pipes" for the exportable version of the system approved for offer to the prospective purchaser.

#### Step 2

Develop LOA pricing data according to the following:

- Develop a pricing strategy for each element of the LOR using a TPA and apply the same cost estimating and pricing methodologies used for similar DoD procurements, including an appropriate management reserve for risk mitigation.
- Ensure the effect of country-unique requirements and TSFD policy guidance (see Step 1), including exportable configuration development and testing requirements, are included in the pricing information, and factored into the schedule availability.
- If applicable and available, verify offset costs from U.S. contractor(s) and include these costs in Major Defense Equipment line (i.e., Line 001 of the LOA vice spread across other line items).

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#### NOTE

An offset is a commercial compensation practice demanded by a foreign purchaser and agreed to by a contractor that obligates the contractor to perform actions that will “Offset” the outflow of money. The USG needs to be aware of them for determining fair and reasonable pricing when evaluating the proposal, and because those costs are included in LOA pricing; otherwise, the USG does not get involved with the details of offset execution

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- Determine if manpower beyond the Standard Level of Service ([SAMM Chapter 9 Financial Policies and Procedures](#)) Table C9.T2.) funded by Administrative Surcharge funds is required for case execution and include any applicable manpower and travel funding in the LOA either in a services line or included directly in the price of the material ([SAMM Chapter 5 \(FMS Case Development\)](#) C5.4.8).
- Follow pricing guidelines in the [Financial Management Regulation, Volume 15, Chapter 7 “Pricing”](#)

### Step 3

Develop LOA availability (schedule estimate) data according to the following:

- Determine the lead times associated for required development, integration, and testing activities required by county-unique requirements or TSFD-required configuration changes.
- Integrate the customer’s requirements into the program’s production delivery schedule.
- Establish an estimated contracting lead-time based on competition requirements and determine whether a definitized or Undefinitized Contract Action (UCA) is planned.

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#### NOTE

A contracting officer may not enter into a UCA for a FMS case unless the UCA provides for agreement upon contractual terms, specifications, and price by the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal; and the contracting officer obtains approval from the head of the contracting activity to enter into a UCA in accordance with DFARS 217.7404-1. These requirements may be waived if in support of contingency, humanitarian, or peacekeeping operations. (See [DFARS 217.7404](#))

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- Promote customer understanding of the potential effects of the use of a UCA (both positive and negative).
- Ensure mutual understanding with customer regarding transportation plan (i.e., type of transportation, timeline associated with transportation, responsibilities of both parties).

### Step 4

Address any LOA-specific considerations that may apply, including the following:

- Based on the complexity of the sale, determine if a Case Development Extenuating Factor is applicable necessitating a longer LOA preparation time than identified in [SAMM Chapter 5 \(FMS Case Development\)](#) Table C5.T6. and include the appropriate code in the Defense Security Assistance Management System
- Identify transportation and distribution requirements. Transportation Plans are required for Ammunition, and Explosives and classified material but are encouraged for all cases that include materiel that is oversize, overweight, hazardous, perishable, pilferable, or requires any special

handling. Assess viable transportation and distribution options supportive of customer preferences during case development and begin development of the transportation plan required for LOAs involving the shipment of classified or sensitive materials ([SAMM Chapter 7 \(Transportation\)](#) C7.13.)

- Begin development of the FMS case Master Plan ([SAMM C2.2.6 Case Reporting and the Master Plan](#) C.2.2.5.) to effectively manage the FMS LOA once signed

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#### NOTE

An FMS case/program master plan separates the case into management components, indicates significant activities in the execution of the case, and establishes an implementation schedule. The plan is drawn from more detailed program planning documents used by the program office and is tailored to fit the complexity of the case. A program master plan is required for "major sales" as described in SAMM C5.4.12. A program master plan may also be required for other sales as determined by the DSCA and/or the IA. There is no standard master plan format across DoD; therefore, it can be in any format, such as a quad chart or plan of action and milestones (POAM).

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## B. Analysis and Evaluation -- Key Areas

### 1. Consideration of Country-Unique Requirements and TSFD Policies

- Have the implications of country-unique requirements and TSFD policy guidance, including development and testing requirements for exportable configurations, been thoroughly assessed?
- Are these considerations adequately reflected in the pricing information and schedule availability?
- Is there an approved Anti-Tamper plan in place to address security concerns?

### 2. NPOR Complex Systems

- For a NPOR complex systems acquisition program, has the PMO effectively identified and addressed country-unique configuration requirements, DEF, anti-tamper measures, other program protection requirements, TPA, and any other unique elements in the LOA data?

### 3. FMS/DCS Hybrid Complex Systems

- In the context of an FMS/DCS hybrid complex systems acquisition program, has the PMO adequately identified and addressed the division of labor, scope of work, and management responsibilities between the FMS LOA(s) and DCS contract(s)?
- This includes aspects such as country-unique configuration requirements, DEF differential capability, anti-tamper provisions, other program protection requirements, Government Furnished Material, and future product improvement and logistics support arrangements.

### 4. Pricing and Scheduling Rigor

- Were the LOA prices and schedules developed with the same level of rigor as a DoD domestic acquisition program?

### 5. Purchaser Involvement and Understanding

- Has the purchaser actively participated in the development and preparation of the LOA to ensure they have a comprehensive understanding of its contents?
- If not, what steps should be taken post-offer to ensure the purchaser's thorough comprehension of the LOA?

# Section 5 – Preparing the Request for Proposal (RFP)

## A. Best Practices

### Step 1

Analyze the LOA and prepare a new or modified Acquisition Plan for the FMS system sale (which may be a POR or NPOR acquisition effort) following DoD Component procedures noting whether the customer has requested a sole source procurement ([SAMM Chapter 6 \(FMS Case Implementation and Execution\) C6.3.4](#)).

### Step 2

Where practical, combine DoD and FMS requirements in the same contract or contract modification(s):

- Separately identify the FMS requirements in the solicitation and contracting action(s), including the FMS case identifier.
- Ensure the contract incorporates terms and conditions from the LOA.
- Ensure the contract includes shipping terms for the FMS materiel.

### Step 3

Address FMS-unique Federal Acquisition Regulations (FAR)/ Defense Federal Acquisition Regulations Supplement (DFARS) requirements in the RFP ([SAMM Chapter 6 \(FMS Case Implementation and Execution\) Table C6.T1](#) and [DFARS 225.73 \(Acquisition for Foreign Military Sales\)](#))

### Step 4

Develop FMS purchase-related contractual documents (e.g., statements of work, program work statements, specifications) consistent with the LOA.

### Step 5

Encourage FMS customers to participate in developing technical specifications, establishing delivery schedules, identifying any special warranty provisions or other unique requirements, and reviewing prices of varying alternatives, quantities, and options needed to make price-performance tradeoffs ([SAMM Chapter 6 \(FMS Case Implementation and Execution\) C.6.3.5.2](#)).

### Step 6

Ensure that TPA-related logistics support/sustainment considerations regarding Contractor Logistics Support (CLS), Performance Based Logistics (PBL), and Integrated Product Support (IPS) are understood by DoD, the purchaser, and the contractor, and adequately addressed in the RFP and proposal.

### Step 7

Ensure contractor understanding of the USG/DoD TSFD, export control, and DEF policies and decisions relevant to the FMS contracting action(s).

### Step 8

Ensure contractor understands the information that must be submitted in the proposal to substantiate offset costs.

### Step 9

Review new and modified Contract Data Requirements List (CDRL) requirements and determine CDRL items that should be provided to the purchaser to enhance transparency while ensuring that “U.S. only” CDRL items are handled, safeguarded, and protected in accordance with USG/DoD cyber and information security policies and procedures.

## **B. Analysis and Evaluation -- Key Areas**

### **1. Consolidation of Requirements**

- Does the contract include requirements for both DoD and the FMS purchaser in the same contracting action(s), where feasible and cost-effective?

### **2. Purchaser Involvement in RFP Preparation**

- Is there substantial participation from the purchaser in the preparation of the RFP to ensure that the contracting action(s) align with the requirements outlined in the LOR and any subsequent clarifications?

### **3. Communication of Program Risks**

- Has the purchaser been adequately informed about program risks that go beyond the normal scope?
- Is there a clear understanding between DoD and the contractor regarding plans to mitigate these risks?

### **4. TPA-Related Logistics Support and Sustainment**

- Have considerations related to TPA for logistics support and sustainment, including CLS, PBL, and IPS, been comprehensively addressed in the RFP and proposal?
- Is there alignment and agreement among DoD, the purchaser, and the contractor on these critical aspects?

### **5. Contractor Awareness of Policies**

- Has the contractor been furnished with the pertinent USG/DoD guidance encompassing TSFD, export control, and DEF policies and decisions that pertain to the contracting action(s)?
- Does the contractor possess a clear understanding of this guidance and how it impacts their work?

### **6. Expectations on Offset Costs**

- Is the contractor well-informed about the type(s) of information expected to be included in the proposal regarding any offset costs?

These considerations ensure that the contracting action(s) effectively meet the objectives and requirements of both DoD and the FMS purchaser.

## **Section 6 – Negotiating and Awarding Contracts**

### **A. Best Practices**

#### **Step 1**

Address FMS purchaser requests to participate in source selection or contract negotiations per [SAMM Chapter 6 \(FMS Case Implementation and Execution\)](#) C.6.3.5. guidance. Representatives of the FMS purchaser can participate in contract negotiations at the discretion of the contracting officer but cannot observe or participate in negotiations involving certified cost or pricing data, unless a deviation is granted ([DFARS 225.7304](#)).

#### **Step 2**

Respond to FMS purchaser requests for information on FMS contract prices or contractual documents based on [SAMM Chapter 6 \(FMS Case Implementation and Execution\)](#) C6.3.6. guidance.

### Step 3

After contract award, align the LOA availability value, and payment schedule as required based on the negotiated contracts.

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#### NOTE

A contract Period of Performance (PoP) may extend beyond the Months of Service (MoS) in a Letter of Offer and Acceptance (LOA) Line at time of award; however, the LOA MoS should be adjusted to reflect the contract PoP as soon as possible. While LOA requirements drive the technical content of a contract, the contract drives the PoP on the LOA - not the other way around, so a contract should always have the realistic date for deliverables. Any changes in initial LOA estimated delivery dates should be communicated to Foreign Partner as early as possible.

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### Step 4

Alert the DoD Component IPO, IA, DSCA, and the customer as soon as possible of unanticipated increases in cost or delays in schedule.

### Step 5

Update the FMS case Master Plan ([SAMM Chapter 2 \(SCO and Case Manager Responsibilities\)](#) C2.2.5) as required.

### Step 6

Ensure that the contract Statement of Work (SOW) and Contract Line-Item Number (CLIN) structure is consistent with the USG/DoD TSFD, export control, and DEF policies and decisions relevant to the contracting action(s) so that "U.S. only" efforts and deliverable data are handled, safeguarded, and protected in accordance with USG/DoD cyber and information security policies and procedures.

## B. Analysis and Evaluation -- Key Areas

### 1. PMO Response to Purchaser Requests

- Are PMO personnel equipped with the knowledge and procedures to effectively respond to FMS purchaser requests to participate in source selection or contract negotiations?
- Do they also have the capacity to provide requested information on contract prices or contractual documents?

### 2. Compliance with Policies and Safeguarding

- Does the contracting action SOW, CLIN structure, and CDRL align with USG/DoD TSFD, export control, and DEF policies and decisions?
- Are they in accordance with the prescribed handling, safeguarding, and protection measures for U.S.-only efforts and deliverable data, as per USG/DoD cyber and information security policies and procedures?

### 3. Transparency in Contract Execution

- Have the CDRL deliverables undergone a thorough review to identify appropriate items that can be shared with the purchaser, thereby enhancing transparency during contract execution?

### 4. Update of Case Master Plan and LOA Payment and Delivery Schedule

- Is there a need to update the FMS case Master Plan and/or the LOA payment and delivery schedule based on the negotiated contract terms?

# Section 7 – Managing Contract and Program Execution

## A. Best Practices

### Step 1

Employ normal program management and risk management practices for the FMS system sale, including early identification of risks and assessment of courses of action.

### Step 2

Ensure close communication with DoD stakeholders and the FMS purchaser on LOA execution and maintain a close dialogue with the DoD Component IA and SCO on any significant issues that arise.

### Step 3

Ensure close communication with industry and consider U.S. Only pre-meetings with the contractor before Program Management Reviews (PMRs).

### Step 4

Establish program controls to ensure that the PMO and contractor comply with USG/DoD TSFD, export control, cyber, and information security policies and procedures for the FMS system sale, including changes that may occur post-LOA signature and contract award.

### Step 5

Look for opportunities to enhance transparency with the FMS purchaser during contract and program execution.

## B. Analysis and Evaluation -- Key Areas

### 1. Program Execution Communication Protocols

- Has the PMO defined clear protocols for communicating the program execution status?
- Are these protocols in place to ensure that DoD stakeholders and the FMS purchaser are regularly updated on any issues, thereby preventing unexpected surprises?
- Are well-established communication protocols between the PMO and the contractor in place for sharing program execution status with both U.S. and foreign stakeholders?
- Is the shared information consistent across all parties involved?

### 2. Program Control and Policy Compliance

- Have the PMO and contractor implemented robust program controls to guarantee compliance with prevailing and evolving USG/DoD policies?
- Is this compliance extended to areas such as TSFD adherence, export control, cyber, and information security policies and procedures?

### 3. Actions for Customer Transparency and Participation

- Have actions aimed at fostering customer transparency and active participation throughout the program execution phase been identified and thoroughly assessed?

# Section 8 – Preparing for and Delivering a Total Package

## A. Best Practices

### Step 1

Evaluate TSFD and export control policy compliance prior to delivery and ensure that AT Validation and Verification (V&V) testing is completed 60 days prior to hardware export. Exports of weapons systems or components that contain Critical Program Information may not be made until the DoD ATEA has issued final written concurrence of satisfactory V&V testing ([SAMM Chapter 3 \(Technology Transfer and Disclosure\)](#) C3.6.3).

### Step 2

Perform a final quality review of transportation arrangements including verification that the required export shipment documentation has been provided to the port of embarkation to enable Customs and Border Protection to clear shipments for export ([SAMM Chapter 7 \(Transportation\)](#) C7.17).

### Step 3

Monitor the FMS purchaser's activities required to prepare to receive the contract deliverables including facilities construction.

### Step 4

Increase the PMO focus on case closure actions which should be incrementally accomplished throughout LOA execution.

### Step 5

Work with the customer to promote a smooth transition of responsibility from system procurement, initial fielding, and initial support through follow-on "steady state" logistics support.

## B. Analysis and Evaluation -- Key Areas

### 1. Compliance with Policy and Testing

- Does the system equipment, logistics support, and technical data scheduled for delivery adhere to the relevant USG/DoD TSFD and export control policy guidance?
- Have the required Anti-Tamper V&V tests been satisfactorily completed?

### 2. Transportation Preparedness

- Have all essential elements for the successful transportation of system equipment and logistics support been fully established?
- Does this encompass the necessary documentation required for both U.S. and purchaser nation export/import procedures, as well as customs clearance?

### 3. Follow-On Logistics Support

- Has the PMO engaged in discussions with the FMS purchaser regarding follow-on logistics support to ensure a seamless transition to a "steady state" of system operations?



# Glossary

In addition to the DAU Glossary, which is a useful resource, the following list of key terms is provided to assist FMS JST users:

ACRONYM	ACRONYM SPELLED OUT
AAF	Adaptive Acquisition Framework
AECA	Arms Export Control Act
AT	Anti-Tamper
ATEA	(DoD) Anti-Tamper Executive Agent
CDRL	Contract Data Requirement List
CM	Case Manager
CLS	Contractor Logistics Support
DCS	Direct Commercial Sales
DSCA	Defense Security Cooperation Agency
DSCU	Defense Security Cooperation University
DEF	Defense Exportability Features
DFARS	Defense Federal Acquisition Regulations Supplement
DTSA	Defense Technology Security Administration
EMD	Engineering and Manufacturing Development
FAR	Federal Acquisition Regulations
FDO	Foreign Disclosure Officer
FMS	Foreign Military Sales
IA	Implementing Agency
IA&E	International Acquisition and Exportability
IPO	International Programs Office
IPS	Integrated Product Support
IPT	Integrated Product Team
LOA	Letter of Offer and Acceptance
LOR	Letter of Request
MCA	Major Capability Acquisition
MTA	Middle-Tier Acquisition
NPOR	Non-Program of Record
P&A	Price and Availability Data
PAR	Pre-Letter of Request (LOR) Assessment Request
PBL	Performance Based Logistics
PEO	Program Executive Office
PMO	Program (or Project) Management Office
POR	Program of Record
PPP	Program Protection Plan
RFP	Request for Proposal
SAMM	Security Assistance Management Manual
SCO	Security Cooperation Organization
SME	Subject Matter Expert
TPA	Total Package Approach
TSFD	Technology Security & Foreign Disclosure
UCA	Undefinitized Contract Action

Note: If you would like to provide feedback on this JST, have ideas for improvement, have questions on this JST, or would like advice on how to use this JST in the workplace, please send an email to [InternationalHelp@dau.edu](mailto:InternationalHelp@dau.edu).