

PERSPECTIVES IN SECURITY ASSISTANCE MANAGEMENT

a focus on special topics of interest



THE PRINCIPAL STEPS IN A FOREIGN MILITARY SALE OF A MAJOR WEAPON SYSTEM

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PURPOSE

This is the first of a two-part series describing the basic steps followed in the acquisition and delivery of a major weapon system for a foreign military sale. There are two basic objectives for presenting this series. First, it serves as a review for those of DISAM's earlier students who may benefit by a quick refresher of the foreign military sales process; secondly, for those who lack familiarity with the process, the series will illustrate some of the more significant considerations that apply in the delivery of a major U.S. weapon system to a foreign country.

Part one of the series is an overview of the sequential actions involved in effecting a foreign military sale, and the management interrelationships that are required. Although the interrelationships may appear to be disjointed events, they follow a logical and consistent pattern, as described herein. The second part of the series, to appear in the Spring, 1982, issue of the Newsletter, will examine the FMS Management Plan of time oriented FMS milestones, and will provide a checklist of information for use in the preparation of the DD Form 1513, Letter of Offer and Acceptance.

The material presented in this series is liberally based on information synthesized from AFR 400-3 and related publications of other military departments. The synthesis is designed for ease of reading and comprehension; the basic essence of the official directives remains unchanged.

PART I

INTRODUCTION

The Foreign Military Sales (FMS) process follows a logical sequence of steps, each of which establishes actions to be implemented in successive steps. The basic steps involved include:

- Initial Purchaser Country Interest
- Pre-negotiation activity
- Negotiation and consummation of the sale
- Program management and delivery
- Follow-on support

For simplification of presentation, the process described involves the sale of a weapon system essentially identical to one which the U.S. Government (USG) would be procuring for and deploying in its own inventory. As a matter of policy, the USG usually does not encourage FMS sales of systems which it does not procure for itself, for reasons of program management complexity, logistics commonality, and cost. However, there are some FMS orders for weapons which differ in configuration from basic USG versions, primarily involving avionics, life-support sub-systems, and armament. The differences are in response to the unique needs of the purchasing country.

STEP I - INITIAL PURCHASER COUNTRY INTEREST

Initial purchaser country interest is the usual first stage of a typical FMS program. In this stage, the principal participants include the officials of the host country defense establishment, their U.S. military interface, and local representatives of U.S. companies which market the products of interest. The customer's defense planners, usually with the benefit of a U.S. military review of their country's defense requirements, perceive a need for new weaponry or additional quantities of a type which it already possesses. The Security Assistance Organization (SAO) is likely to be looked to as the source of expertise when contacted by the country for advice concerning a FMS case. The SAOs are charged with the responsibility of providing assistance in the preparation of requests for FMS, as may be desired by the host country.

The Military Assistance and Advisory Group (MAAG) has temporarily been considered the primary focal point for security assistance concerns of the USG pertaining to a host country. However, security assistance activities are sometimes assumed by "Offices of Defense Cooperation" (ODCs), and sometimes by defense attaches. "Security Assistance Organization" (SAO) is used here as a generic term to denote military security assistance representation in a country, however it may be constituted.

The purchasing country's defense planners usually direct inquiries to the SAO and contractor representatives, and in this manner, obtain additional planning data on such matters as:

- System Capabilities
- Performance
- Costs
- Production Schedules
- Support Requirements

The information thus provided to the purchasing country is subject, of course, to U.S. foreign disclosure and export license limitations. Current preliminary data may also be secured by the SAO through a request to the Defense Security Assistance Agency (DSAA) and appropriate military department headquarters. The headquarters in turn obtain the necessary inputs from the organizations concerned (e.g., in the Air Force - AF Systems Command and AF Logistics Command).

Any such data provided at this stage (particularly cost, schedule, and the USG's intent to actually enter into an agreement) are offered with the understanding that no official commitment is implied. Data furnished directly to the customer by industry should also be similarly non-committal at this point. During this stage, the customer may request a preliminary visit by DoD or military department personnel, to provide additional information and advice; in some instances, the USG may perceive that such a visit is appropriate and perhaps may initiate the request. In either event, such visits are made on a selective basis and are dependent upon the need as demonstrated by the particular circumstances.

In similar fashion, the purchaser country may privately seek advice directly from company representatives. It is during this stage that the purchaser country must decide whether to seek an FMS agreement with the USG or to procure directly from U.S. commercial sources.

In this initial step the purchaser examines and validates his defense requirement, programs for funding, and takes into account his internal program management capability. The decision as to whether to request an FMS program rests on a multitude of factors. Among these are:

- Delivery schedule.
- Total program cost.
- Availability of procurement and program management personnel and expertise.

- Availability of the system through FMS and through commercial sources.
- Availability of continued logistics support.
- Relationship between the proposed program and other U.S. Security Assistance programs.
- Financial status and availability of credit.

Through coordination with the USG, via the SAO or the customer country's purchasing mission/embassy in the United States, the customer should, by this time, be cognizant of the USG intent regarding an FMS agreement. If the customer elects to pursue the procurement through FMS, he must follow certain channels of request. All requests have been divided into either significant combat equipment (SCE)--as defined in the International Traffic in Arms Regulation (ITAR)--or all other foreign military sales. The Department of State has established the following procedures for the submission of requests in each category:

- Requests to purchase SCE which originate in-country should be transmitted by the U.S. Embassy rather than by the SAO and should be addressed for joint action to SECSTATE-PM/SECDEF-DSAA with information copies to the appropriate DoD component, Unified Command, and the Arms Control and Disarmament Agency (ACDA). Requests to purchase SCE which originate with customer country representatives in Washington, D.C., should be jointly addressed to DSAA and the Bureau of Politico-Military Affairs, Department of State.

- Requests for Foreign Military Sales, other than SCE, which originate in-country should be transmitted either through the customer country's representative in the U.S., or by the Embassy, or the DoD element of the U.S. country team, directly to the cognizant DoD component, with an information copy to SECSTATE-PA/SECDEF-DSAA. Requests originated by purchaser country representatives in the U.S. should be sent directly to the cognizant DoD component, with an information copy to the Bureau of Politico-Military Affairs, Department of State and DSAA.

Once approval for further processing of the request is obtained, the second step in the process, the pre-negotiation phase, begins.

STEP II PRE-NEGOTIATION ACTIVITY

It is the responsibility of the military department staff, such as CNO OP-63(Navy), AF/PRI(Air Force), or USASAC(Army), as appropriate, to obtain the necessary detailed data on costs, schedules, configuration, and other factors with which to prepare an FMS proposal. The proposal is coordinated with other contributing activities, DoD, the Department of State, and other affected agencies. It

should be noted that the Department of State has the ultimate approval authority, under guidance from the President, over each FMS program and its dollar magnitude. Congress also plays a role in this approval for certain proposals. For example, if the proposal is for major defense equipment over \$7 million dollars, it must be submitted to Congress for approval prior to offering to the country.

The military department activity charged with negotiating that type of case consolidates all inputs for the proposal and prepares the DD Form 1513, Letter of Offer and Acceptance. Once all necessary approvals and coordination are obtained, the offer is signed by an authorized USG representative and is ready to be forwarded to the customer for review and approval. During this phase, most of the activity takes place within the USG, with appropriate contractor assistance as needed. The purchaser country's role in this phase is to continue its internal process of planning and programming and to respond to any requests from the USG for clarification of requirements.

After the offer is prepared, it may be forwarded to the SAO, who will provide it to the local government, or in a large or more complex case, an officer from the U.S. military staff may hand carry it to the SAO and assist in the presentation to the purchaser country. In other instances, the offer may go to a customer representative directly, with an information copy to the SAO. When the country's requirements are adequately defined, and an appropriate proposal prepared, the third step can begin.

STEP III SALES NEGOTIATION AND CONSUMMATION

The scope of these activities, the time involved, and the level at which they take place depend on a number of factors, political as well as technical and financial. Negotiations for a routine follow-on buy, for example, may be accomplished with little or no direct participation by higher authority. More complex sales, involving political agreements such as base rights, may involve negotiators from DSAA, Assistant Secretary of Defense, (International Security Affairs), and the State Department. Complex issues regarding financing or other business arrangements may require participation by other government agencies, such as the Departments of the Treasury and Commerce.

STEP IV PROGRAM MANAGEMENT AND DELIVERY

The fourth step begins when the country submits a properly executed (accepted) Letter of Offer and Acceptance (DD 1513) along with any required initial deposit. The DD Form 1513 describes the FMS program in detail as to configuration, estimated cost and schedule, and appropriate terms and conditions. Properly executed, the DD Form 1513 constitutes a formal agreement between the USG and the purchaser country.

The purchaser country agrees to reimburse the USG on a cash or credit basis for the total cost to the USG of the materiel and services to be furnished. In addition, a surcharge based on a percentage of the estimated total materiel value of the program is added to the total program cost to defray the costs incurred by the USG in conducting and managing the program. For a program involving a complete weapon system such as an aircraft, the items to be furnished are grouped on the Form 1513 into line entries according to the nature of the item. These may include, for example:

- Aircraft (Air Frame).
- Technical Orders.
- Spares.
- Training , etc.

Actual detailed management of such lines is directed to the appropriate major commands, which, in most cases, further delegate the lines to subordinate program offices and system management divisions.

After the purchaser country has accepted the Letter of Offer, and has completed its financial arrangements, a copy of the completed transaction and all subsequent requisitions which are issued may be provided to the SAO. This is done to aid the SAO in its contract administration responsibilities and to assist the host country.

The means by which the USG fulfills the requirements of the FMS Program depends on the nature of the materiel and services being furnished. A typical program involves the procurement of items from new production as well as the provision of selected items from government stocks. The complete system then is composed of both contractor-furnished and government-furnished equipment, subsystems, and materiel. Similarly, technical publications, training, and other services may be either procured or furnished from within USG sources. Items to be procured are contracted for by cognizant buying activities. FMS requirements may be consolidated with USG requirements or placed on a separate contract, whichever is most expedient and cost effective.

The actual procurement and supply actions for the FMS Program are carried out by USG procurement and logistics activities in the same manner and using largely the same internal management organizations as for USG programs. Program directors and system managers may establish within their organizations separate offices or positions to provide overall surveillance of the FMS Program and serve as an interface with collateral and superior organizations involved in managing the FMS Program, often including the SAO and the purchaser country as well. Basically the same procurement channels and procedures are used for FMS as for U.S. purchases.

* E R R A T A S H E E T *

Page 61 was inadvertently printed out of sequence, and should be read following page 53. All other pages are in correct sequence.

Page 104, line 16: Should read "1% asset use charge" in lieu of "10% asset use charge."

Other program management functions and actions, such as configuration management and program control, also follow the general and usual USG program management procedures. This is a fundamental and key feature of the FMS process. Detailed management of the procurement is accomplished organically by the USG. The purchaser country is thereby relieved of the task of monitoring the activities of the contractor, performing government quality assurance surveillance, and other routine management tasks. Thus, the purchaser country is spared the necessity of building up its own organic program management capability to accomplish the task.

Some countries have chosen to establish liaison offices within the USG program management offices and the contractors' facilities as well. Some have established purchasing missions within the United States which not only represent their countries in FMS matters but also conduct direct commercial purchases. However, for the most part, the FMS Program is managed by the cognizant military department which will keep the purchaser country informed of progress through periodic reports and management reviews. The program management phase comes to a close on the original FMS Program when the complete weapon system has been delivered and associated services required under the agreement have been performed, and appropriate payment thereof has been received.

Shipments of materiel are, with several exceptions, normally made to U.S. commercial Freight Forwarders which are under contract directly to the purchaser country. Shipment from the Freight Forwarder to the country is then at the expense of and under the management surveillance of the country rather than the USG.

STEP V FOLLOW-ON SUPPORT

Follow-on Support of the delivered weaponry completes the FMS process. Such support through FMS is usually conducted under FMS agreements which are separate from the initial program. It is this continued availability and logistical support that provide an attraction to the purchaser country. Follow-on agreements include such programs as cooperative logistics for spares support from jointly funded stocks, as well as technical assistance field teams which perform both technical services and technical training for the purchaser country forces. The USG usually will also offer the purchaser country an opportunity to procure updating modifications to the weaponry where security restrictions permit. In this fashion, the country may maintain a system configuration parallel to that of the USG.

The foregoing are critical events and considerations in an FMS acquisition. It is necessary that all concerned parties use a structured and disciplined approach to examine the purchaser country's requirements and to insure that both parties have a complete understanding of these requirements prior to entering into a major program commitment. In the next issue of the DISAM Newsletter these aspects of the FMS process will be examined in detail in Part II of this series.

ABOUT THE AUTHOR

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