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Acquisition and Cross-Servicing Agreements (ACSA) Guide

1. **Purpose.** To provide guidance for conducting Acquisition and Cross-Servicing Agreements (ACSA) transactions in the USEUCOM area of responsibility (AOR). This Guide contains information that incorporates the most recent changes necessary for the effective planning and execution of the ACSA program for all types of operational scenarios. If this guide conflicts with current regulations, the regulations take precedence.

2. **Suggested Improvements.** The proponent for this guide is the Multinational Logistics Division (ECJ4-ML), Logistics and Security Assistance Directorate, USEUCOM Command. Suggested improvements should be forwarded to: HQ USEUCOM, ATTN: ECJ4-ML, ACSA Manager, Unit 30400, APO AE 09131, DSN: 430-7202, Commercial: 49-711-680-7202 or Fax: 430-7476.

3. **References.**

a. Department of Defense (DoD) Directive 2010.9, Mutual Logistic Support Between the United States and Governments of Eligible Countries and NATO Subsidiary Bodies, 8 September 1988.

b. USEUCOM Directive (ED) 60-8, Logistic Support Using Acquisition and Cross-Servicing Agreements (ACSA), 19 September 2001.

4. **ACSA Overview.**

a. ACSA is a reimbursable, bilateral support program which allows logistics exchanges between the United States and military forces of eligible countries and international organizations of which the U.S. is a member. This program allows increased flexibility for the on-scene commander by providing a means to meet logistics shortfall. The EUCOM strategy is to put this valuable contingency tool in place with every eligible nation in the AOR/AOI. We have concluded 31 agreements and are in discussions with approximately 32 other countries.

b. NATO Mutual Support Act (NMSA) agreements were authorized under Public Law 96-323, 4 Aug 80, to allow the use of simplified procedures for mutual logistics support with NATO allies in peacetime or contingencies. Prior to this legislation the U.S. could only supply support to other nations by contracting or Foreign Military Sales (FMS), often a time consuming process.

(1) Under Title 10, Chapter 138, Subchapter I, U.S. Code, these agreements are now referred to as Acquisition and Cross-Servicing Agreements (ACSA). Many allies still refer to them as Mutual Support Agreements (MSA).

(2) The 1980 Act has since been amended several times. It was expanded to include: eligibility for non-NATO nations and international organizations such as the UN; geographic restrictions were removed; reimbursement options were added; dollar ceilings were waived for humanitarian, disaster assistance operations or contingency operations; and airlift was included as transferable support.

(3) ACSA legislation provides two separate authorities, which together allow a bilateral support program: *Acquisition only authority*, which allows the U.S. to acquire goods and services from a designated nation, does not require conclusion of an agreement. This authority does not allow the U.S. to transfer goods or services to another nation. *Cross-Servicing authority* allows the U.S. to acquire goods and services from or transfer the same to a designated nation or international organization if an ACSA agreement has been concluded.

(4) Reciprocal pricing principles are used for acquisitions or transfers (i.e., we charge each other what we charge ourselves). All ACSA transactions must be reimbursable by currency, replacement-in-kind (RIK), or equal value exchange (EVE).

(5) The ACSA program requires three documents for execution. The *ACSA agreement*, which provides legal authority for requests for logistics support, but does not financially commit either party. An *implementing arrangement* (IA), which outlines billing procedures and identifies points of contact (POCs) for all parties and does not financially commit either party. The *order or support request*, which is financially binding after it is submitted and accepted by both nation's POCs.

5. ACSA Historical Development.

a. The authorities conferred by ref. A (10 U.S.C. Sections 2341-2350) have their origin in the North Atlantic Treaty Organization (NATO) Mutual Support Act (NMSA) of 1979. As originally enacted, the NMSA represented a legislative response to objections raised by our NATO allies over the highly formalized procedures then in use by U.S. forces in the European theater to both acquire and transfer logistic support.

b. Through passage of the NMSA, Congress granted DoD a special, simplified authority to acquire logistic support, supplies, and services without the need to resort to traditional commercial contracting procedures. In addition, the NMSA also authorized DoD, after consultation with the Department of State, to enter into cross-servicing agreements with NATO allies and with NATO organizations for the reciprocal provision of logistic support, supplies, and services. In so doing, Congress granted DoD a second acquisition authority in addition to the authority to transfer logistic support outside of Arms Export Control Act (AECA) channels.

c. There were two primary peacetime purposes for the NMSA. First, to provide for simplified procedures to facilitate the exchange of logistic support between U.S. forces and the military forces of allied countries during training and exercises. Second, to enable U.S. forces to receive host nation support and resources without having to resort to commercial contracting procedures.

Congress granted cross-servicing authority (Section 2342 of ref. A) to accommodate support requirements of an operational nature. It granted acquisition-only authority (Section 2341 of ref. A) to resolve problems faced by U.S. forces in acquiring logistic support from our European Allies. The rationale underlying acquisition-only authority (as well as the rationale for the acquisition authority that makes up part of cross-servicing authority) is that traditional, commercial contracting procedures are inappropriate to transactions conducted at the government-to-government level.

d. When ACSA originally enacted, the NMSA was limited in its application to NATO allies and NATO subsidiary bodies and was geographically restricted to apply only to U.S. forces stationed in Europe and adjacent waters. Subsequent changes to the NMSA have eliminated geographic restrictions. Similarly, amendments to this legislation have greatly expanded the list of eligible and designated countries to include many non-NATO countries. In view of the subsequent amendments and expanded scope of the NMSA, the authorities conferred by ref. a are now collectively referred to as “Acquisition and Cross-Servicing Agreements (ACSA) authorities.”

6. **The ACSA Process.**

a. The Office of the Secretary of Defense (OSD) and Joint Staff are the overall ACSA policy makers. They also approve (designate) nations for ACSA eligibility. USEUCOM has been delegated authority to manage the ACSA program within our AOR. The ECJ4-ML directs negotiations through the Security Assistance Officers/Defense Attaché Officers or conduct negotiations with our own staff, as necessary.

b. USEUCOM allocates monetary ceiling authority to our components. Our Service Components (USAFE, USAREUR, NAVEUR, MARFOREUR, and SOCEUR) are delegated authority to submit, validate, and accept ACSA orders. They ensure proper pricing and have established accounting and billing procedures. They are also responsible for yearly reporting of ACSA transactions to their higher headquarters.

c. There are two basic documents necessary in order to make the ACSA program work. The basic agreement (ACSA) and a request for support or an order. The ACSA and IA do not financially bind either party. The basic document is a political agreement, approved by the Department of State, for which signature authority has been delegated to USEUCOM/J4. Since 1999, the ACSA and the IA have been combined into one document.

d. USEUCOM developed a generic (joint) IA that allows all our service components and the other party to the agreement to exchange a full range of goods and services, during peacetime or contingency without negotiating a specific IA. The generic IA outlines billing instructions and identifies points of contact that are authorized to place and accept requests for support /orders. Without an IA, support can only be provided in an emergency situation. Since 1999, the IA has been incorporated into the basic ACSA document.

e. The request for support or order form is similar to the STANAG 3381. This document is financially binding once it is submitted, validated, and signed. The document is submitted, validated and accepted by the points of contact identified in the IA. It does not require higher headquarters approval (unless you require it for your forces).

7. **Applicable and Prohibited Items.**

a. The following items are applicable (eligible) for transfer under ACSA authority:

- (1) Food
- (2) Billeting
- (3) Transportation (including airlift)
- (4) Petroleum, oils, lubricants
- (5) Clothing
- (6) Communications services
- (7) Medical services
- (8) Ammunition
- (9) Base operations support (and construction incident to base operations support)
- (10) Storage services, use of facilities
- (11) Training services
- (12) Spare parts
- (13) Port services

b. The following items are prohibited (not eligible) for transfer under ACSA authority:

- (1) Weapons systems
- (2) Military technology
- (3) Major items of technology
- (4) Non-lethal military equipment for which transfer is prohibited by laws or regulations of the United States
- (5) Initial quantities of replacement and spare parts associated with the initial order quantities of major items of organizational equipment covered in tables of allowances and distribution
- (6) Tables of organization and equipment and equivalent documents
- (7) Guided missiles
- (8) Naval mines and torpedoes
- (9) Nuclear ammunition which includes items such as warhead, warhead sections, projectiles, demolition ammunitions, and training ammunition; cartridge and air crew escape propulsion system components; chaff dispensers; guidance kits for bombs or other ammunition; chemical ammunition (other riot control agents; source, by product, or special nuclear materials or other material articles, data or things of value the transfer of which is subject to the U.S. Atomic Energy Act of 1954 (Title 42, U.S.C., Section 22011, et seq.).

8. Placing Third Party ACSA Orders.

a. There are cases where the ACSA can be used to support requirements from countries which do not have an agreement, i.e. a third party. Both ACSA parties must agree in writing that the logistics support, supplies and services may be transferred to a third party.

b. The process should normally begin with an informal agreement between representatives of the U.S. and the military forces of a third party who require support, as to what support will be provided, and the amount and manner of compensations (i.e., cash, equal value exchange, or payment in kind). After agreement on those terms has been reached, and the situation is determined to be appropriate for a third party transaction via the ACSA with a conduit country/organization (country/organization with an agreement), that country's assistance would be requested.

c. First it would be necessary for the third party to place an order for support with the conduit country. It would be best to have this transaction documented on one of the forms used between the U.S. and the conduit country under the ACSA, so it could simply be passed on to the U.S. It is up to the conduit to determine what specific terms they want included as part of this order. This could be inserted in a cover memo or annex with the order form, which representatives of the conduit and the third party would sign. A standard provision is that the third party would not be responsible for quality of the goods delivered on the payment.

d. Contact ECJ4-ML to execute a third party ACSA order. If not available in the office, call one of the following: JLOC: DSN: 430-4580 OR ETCC; DSN: 430-8776.

9. Recommended Attachment To All ACSA Loan Requests.

a. It is agreed that the following terms and conditions apply to the attached order in accordance with the provisions of the EC- ___ - ___ Implementing Arrangement, (date), to the Agreement Between the Department of Defense of the United States of America and _____, U.S.- ___ - ___, (date):

(1) The term "loan" means the temporary provision of equipment or material for a period of approximately 120 days.

(2) Charges for temporary loan of equipment will be as specified herein.

(3) Borrower will have representatives to ensure proper equipment accountability, i.e., equipment custodianship transfer.

(4) Borrower pays all transportation, packing and shipping costs associated with placing the equipment or material where required and subsequent return costs to the custody of United States Forces. The return transportation, packing and shipping costs will not exceed such costs initially incurred by the borrower.

(5) Borrower pays for all spare parts, maintenance, repair costs and consumable/expendable items associated with keeping the borrowed items in good operating condition.

(6) Borrower returns items in their original condition as they were in at the time of their loan, less reasonable wear and tear.

(7) Borrower will reimburse supplying party for loss or damage to all equipment. Value of property will be determined by supplying party and validated by borrower at the time the ACSA order is finalized. Loss or damage will be reported to the supplier upon discovery.

(8) This order may be amended or renewed by mutual agreement. All amendments or renewals must be in writing, signed by both parties, and attached to the original order.

(9) Questions arising as to particular items authorized for loan under this order will be referred to USEUCOM, ECJ4-ML, for resolution.

(US Representative)

(Partner Nation Representative)

Date: _____

Date: _____

10. **Acquisition Only Authority Criteria.**

a. "Acquisition only authority" authorizes Department of Defense (DoD) to acquire logistic support, supplies, and services for U.S. forces deployed in the supporting country's military region, without a cross-servicing agreement or an IA. It allows liquidation by payment in kind, replacement in kind or exchange of identical or substantially identical items. In order for acquisition only authority to be valid a country must meet one or more of the following criteria:

- (1) Have a defense alliance with the U.S.
- (2) Permit home porting of U.S. naval vessels or stationing of members of the U.S. armed forces
- (3) Have agreed to preposition of U.S. materiel or
- (4) Serve as host country for U.S. armed forces during exercise, or permits other U.S. military operations in their country.

b. Once ECJ4-ML has approved the use of the "acquisition only authority", a statement will be forwarded to you in the language as follows: You are hereby authorized to use "Acquisition-only Authority" with the _____ government as prescribed in Title 10, U.S. Code, Chapter 138, paragraph 2341 (1) and (2); and USEUCOM Directive ED 60-8, paragraph 8.a. (1). Note that all restrictions/prohibitions that exist for the ACSA program are in effect. Additionally, payment can be via cash, replacement-in-kind, or equal value exchange, as negotiated. You may delegate this authority to the using unit, however the component will maintain tracking and reporting responsibility.

11. Airlift Request Procedures.

a. Joint Staff has authorized USEUCOM to process multinational logistics and airlift orders for countries with which we have an ACSA. This does not mean we have to provide support only that we are authorized to do so.

b. The order is a negotiated instrument and must specify the requester's requirements, the what, when, how, and where for delivery; and the provider's assessment of costs and capabilities to satisfy the requirements. These terms and conditions must be mutually agreeable to both parties before an order is signed. Because the ACSA order creates a binding commitment for the DoD, it is of utmost importance to prepare properly documented files that contain a history of the transaction and justifies fair and reasonable reciprocal pricing for either a cash or exchange transaction. *Financial and legal specialists should be consulted before the POCs negotiates or signs any order.* For multinational airlift requests contact HQ USAFE/LGX1 at DSN 480-7567, Fax: 480-6937. The ECJ4-ML POC for ACSA actions contact: DSN 430-7202/1490 or fax (unsecure), DSN 430-7476. For after hour support contact the EUCOM ETTC at DSN: 430-8776 OR COMM: 0711-680-8776.

12. Definitions.

a. **Contingency** - an emergency, involving military forces, caused by natural disasters, terrorists, subversives or required military operations. Due to the uncertainty of the situation, contingencies require plans, rapid response and special procedures to ensure the safety and readiness of personnel, installations and equipment (Joint Pub 1-02).

b. **Contingency Contracting** - the process of contracting for available supplies and services in immediate local support of deployed units during contingency operations. For the purposes of this document, this term is used to include all operations including, but not limited to, contingencies, humanitarian relief operations, peacekeeping, disaster assistance and non-combatant evacuation operations (NEO).

c. **Contingency Operations** - operations involving the use of U.S. military forces to achieve U.S. military objectives, usually in response to an emerging or unexpected crisis. They may be terminated in their own right or evolve into sustained military operations (AFSC Pub 1).

d. **Contingency Planning** - the development of plans for potential crises involving military requirements that can reasonably be expected in an area of responsibility. It is normally conducted during peacetime, conflict, and war and may be performed deliberately or under crisis action conditions. (Adapted from Joint Pub 5-03.1)

e. **Equal Value Exchange (EVE)** – an exchange conducted under ACSA authorities, in which it is agreed that the receiving Party will replace logistic support, supplies or services that it receives with logistic support, supplies and services of an equal monetary value. EVE transactions do not count against ceiling authorizations unless they revert to cash transactions.

f. **Implementing Arrangement** - a written supplementary agreement related to the specific acquisition and / or transfer of logistic support, supplies, and services, which sets forth additional details, terms and conditions which further define and carry out the ACSA Agreement.

g. **Invoice** - a document from the supplying Party which requests reimbursement or payment for specific logistic support, supplies, and services rendered pursuant to the ACSA and any applicable Implementing Arrangements.

h. **Logistic support, supplies, and services** - food, water, billeting, transportation (including airlift), petroleum, oils, lubricants, clothing, communication services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, calibration services, and port services. Such terms also include the temporary use of general-purpose vehicles and other non-lethal items of military equipment not designated as significant military equipment on the United States Munitions list.

i. **Order** – a written request, in an agreed format, signed by an authorized individual, for the provision of specific logistic support, supplies, and services pursuant to the ACSA and any applicable Implementing Arrangement.

j. **Replacement-in-kind** – an exchange transaction conducted under ACSA authorities in which replacement by the receiving party of logistic support, supplies, or services is of an identical, or substantially identical, nature. RIK transactions do not count against ceiling authorizations unless they revert to cash transactions.

k. **Reciprocal Pricing** - the price charged a recipient country or organization shall be the same as the price charged for identical logistic support, supplies, or services acquired by the armed forces of the supplying country or organization.

l. **Transfer** - selling (whether for payment in currency, replacement-in-kind, or exchange of supplies or services of equal value), leasing, loaning, or otherwise temporarily providing logistic support, supplies, services under the terms of a cross-servicing agreement.

POINTS OF CONTACT (POCs)

<u>USAFE:</u>	<u>OFFICE SYMBOL</u>	<u>PHONE</u>	<u>E-MAIL</u>
	USAFE	(FAX-DSN 480-6937)	____@ramstein.af.mil
	LGXI	DSN 480-7567/	
	LGX	-7594	
	LG	-9255	
<u>NAVEUR:</u>		(FAX-DSN 235-4562)	____@cne.navy.mil
	N42	DSN 235-4351/4385	cnen42
	N4	235-4037/4411	cnen4
	Chief of Staff	235-4401	
<u>USAREUR:</u>		(FAX-DSN 370-4002)	__@hq.hqusareur.army.mil
	AEAGF-IA	DSN 370-7918/8233	
	AEAGF-IA	370-6695/6242	
	AEAGF	370-8973/9017	
	Chief of Staff	370-9027	
	AEAGD-P	370-6767/FAX 8547	
	AEAGD	370-8407/9047	
<u>SOCEUR:</u>		(FAX-DSN 430-8815)	____@eucom.mil
	G-4	DSN 430-5250/5707	
	G-4	430-5350/5707	
	G-4	430-5350/5707	
<u>MARFOREUR:</u>	G-4	(FAX-DSN 431-2519)	
		DSN 431-2412	
<u>ECLA:</u>		DSN 430-8001/7263	
<u>SHAPE:</u>		(FAX-COMM 3265443541)	
		COMM 32-65-44-3919	contracts@mail.intpac.be
		MOBILE 32-75-60-0764	
<u>JOINT STAFF:</u>	J4-ILED	DSN 312-224-4195/FAX 0566	
	J4-ILED	312-227-5469/FAX 6492	
	J4-ILED	312-227-6256/FAX 2024	
<u>OFFICE OF THE SECRETARY OF DEFENSE:</u>			
	OUSD (A&T) INCP	DSN 312-227-3343	
		COMM 703-695-5343	
	OUSD	DSN 312-223-6520	
		COMM 703-693-6520	
		FAX 697-4608	

STANDARD ORDER FORM FOR REQUEST, RECEIPT, AND RETURN