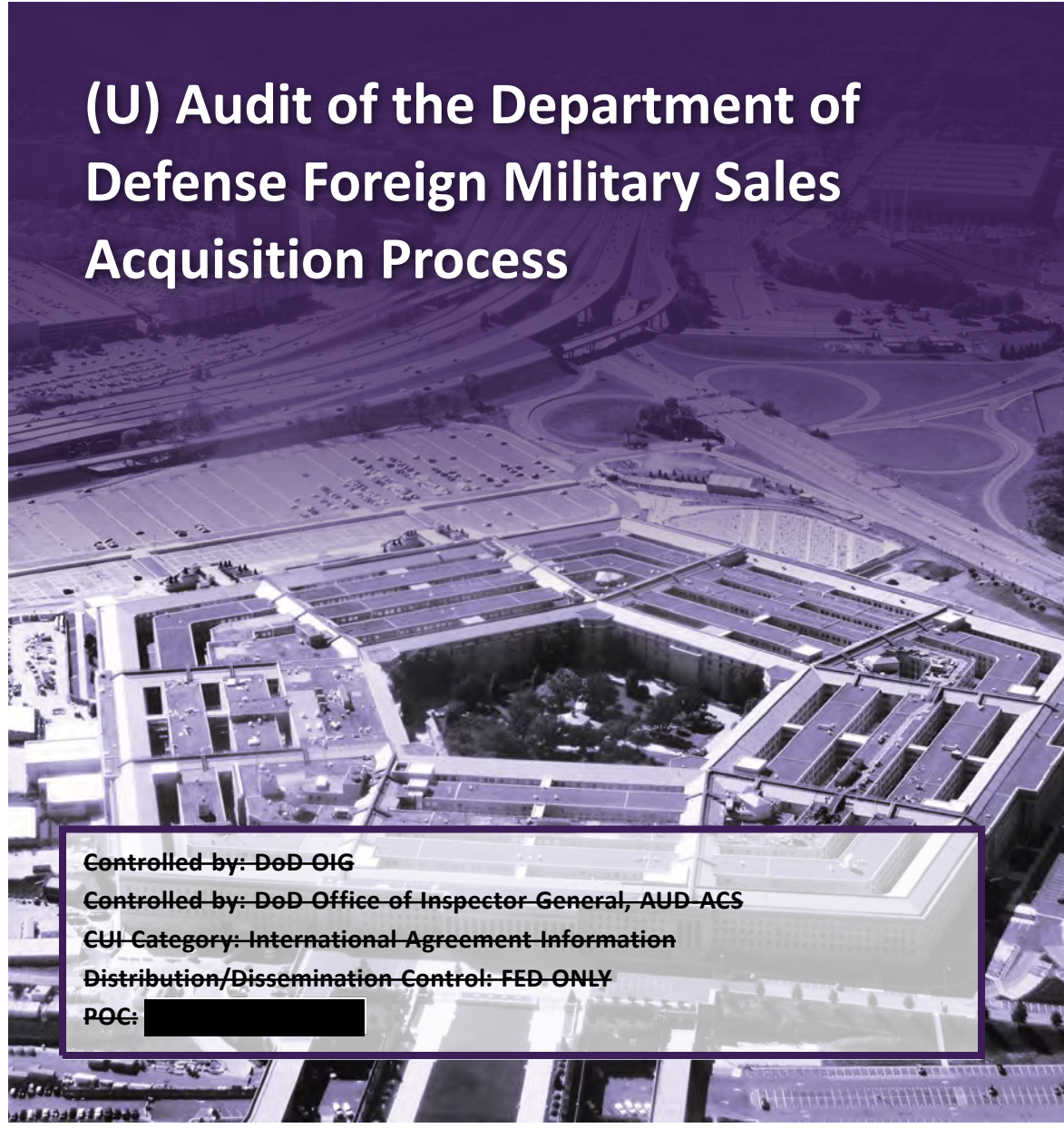


CUI

# INSPECTOR GENERAL

*U.S. Department of Defense*

JANUARY 12, 2022



## (U) Audit of the Department of Defense Foreign Military Sales Acquisition Process

**Controlled by: DoD-OIG**

**Controlled by: DoD Office of Inspector General, AUD-ACS**

**CUI Category: International Agreement Information**

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**POC:** [REDACTED]

INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE

CUI







# (U) Results in Brief

## *(U) Audit of the Department of Defense Foreign Military Sales Acquisition Process*

January 12, 2022

### (U) Objective

(U) The objective of this audit was to determine whether the DoD managed the acquisition of defense articles and services to meet partner country foreign military sales (FMS) requirements, and whether the metrics used by DoD components maximize the results of the FMS acquisition process. This audit focused on the timeliness of the DoD FMS acquisition process and the accuracy of FMS acquisition data that the DoD reported to Congress.

(U) We conducted this audit in response to a reporting requirement contained in House Report 115-676, to accompany the National Defense Authorization Act for FY 2019. This is the second audit report the DoD Office of Inspector General issued in response to the reporting requirement. The first audit report addressed the DoD FMS agreement development process.

### (U) Background

(U) The U.S. Government procures defense equipment and services for foreign partners through various security cooperation and assistance programs, such as the FMS program. The Department of State has overall responsibility for the FMS program, while the DoD administers the program through the Defense Security Cooperation Agency (DSCA) and the Military Department Implementing Agencies (IAs).

(U) According to DSCA officials, at the end of FY 2020, the DoD FMS program included 15,365 open cases, valued at \$620 billion, and involved 163 countries and international organizations. The DoD FMS program

### (U) Background (cont'd)

(U) requires foreign partners to submit a Letter of Request, which details the requested defense articles and services. IAs are organizations that the DSCA authorized to receive foreign partner requests for defense articles and services and are responsible for developing and processing sales agreements in accordance with DSCA policy. The IAs carry out the procurements to fulfill FMS agreements.

(U) Section 887 of the National Defense Authorization Act for FY 2018 (Public Law 115-91) established quarterly and annual congressional reporting requirements for the DoD to report on the status of its open FMS cases to include the status of the associated procurements.

### (U) Findings

(U) The Military Department IAs managed the acquisition of defense articles and services to meet foreign partner FMS requirements. Of the 18 FMS cases reviewed, none had acquisition-related delays that negatively affected the agreed-upon period of performance for the delivery of defense articles and services. Instead, there were either no delays with the agreed-upon period of performance or the delays resulted from circumstances outside the control of the Military Department IAs. Specifically,

- (U) no delays occurred for eight FMS cases as a result of the DoD FMS acquisition process,
- (U) delays occurred for seven FMS cases because foreign partners changed requirements, and
- (U) delays occurred for three FMS cases because of contractor-related issues.

(U) The delays that negatively affected the agreed-upon period of performance for the delivery of defense articles and services were outside of the Military Department IAs control. Therefore, we are not making any recommendations related to the DoD's management of its FMS acquisitions.

(U) The DoD's reporting on the status of its FMS acquisitions did not fully comply with the congressional reporting requirements. Specifically, the Military Department IAs used inconsistent processes to track and report FMS acquisitions,



# (U) Results in Brief

## *(U) Audit of the Department of Defense Foreign Military Sales Acquisition Process*

### **(U) Findings (cont'd)**

(U) and we identified problems with Section 887 reporting for all 18 FMS cases reviewed. The Section 887 reporting problems included inaccurate, incomplete, and unsupported data. In addition, the Office of the Under Secretary of Defense for Acquisition and Sustainment did not obtain Section 887 reporting input from the Military Department IAs in a timely manner.

(U) As a result, the DoD Section 887 reporting inaccurately reflected the status of the DoD FMS acquisition process and was not submitted to Congress in a timely manner. The inaccurate and untimely reporting negatively affects the usefulness of the information provided to Congress. In addition, there are ongoing DoD initiatives directed by the Deputy Secretary of Defense to automate the tracking and reporting on the status DoD FMS acquisitions. The incomplete, inaccurate, and unsupported data this audit identified negatively affects the quality of the information used to support those initiatives.

### **(U) Recommendations**

(U) We recommend that the Assistant Secretary of the Army for Acquisition, Logistics, and Technology:

- (U) provide the results of all corrective actions initiated during the audit to improve the accuracy of Army FMS acquisition milestone system data; and
- (U) establish guidance, controls, and oversight to improve the accuracy of the FMS acquisition milestone data in Army automated information systems.

(U) We recommend that the Under Secretary of Defense for Acquisition and Sustainment coordinate with the Military Department IAs and issue guidance to require that the milestones established for the FMS acquisition process are clearly defined and consistently applied to meet the reporting requirements of Section 887 of the National Defense Authorization Act for FY 2018.

### **(U) Management Comments and Our Response**

(U) The Senior Audit Advisor for the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation, responding for the Assistant Secretary of the Army for Acquisition, Logistics, and Technology, agreed with the recommendations. Specifically, the Senior Audit Advisor agreed that the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation would provide the results of all corrective actions initiated during the audit to improve the accuracy of Army FMS acquisition milestone system data. In addition, the Senior Audit Advisor stated that the Deputy Assistant Secretary of the Army would develop a corrective action plan with milestones and coordinate with Army organizations to implement the established guidance and controls. The Senior Audit Advisor also stated that the Deputy Assistant Secretary of the Army would establish business rules to feed FMS data into the Army Common Operating Picture, the automated tool the Army uses to monitor its FMS acquisition process, and define roles and responsibilities.

(U) The Acting Deputy Assistant Secretary of Defense for Platform and Weapon Portfolio Management, responding for the Under Secretary of Defense for Acquisition and Sustainment, agreed with the recommendations, stating that the Under Secretary will work with the Military Department IAs and issue guidance to resolve and codify the definitions and process improvements captured in the recommendation.

(U) The comments addressed our recommendations; therefore, the recommendations are resolved and will remain open. We will close the recommendations once we verify that the information provided and actions taken by management fully address the recommendations. Please see the Recommendations Table on the next page for the status of recommendations.

***(U) Recommendations Table***

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Under Secretary of Defense for Acquisition and Sustainment	None	B.2	None
Assistant Secretary of the Army for Acquisition, Logistics, and Technology	None	B.1.a, B.1.b	None

**(U) Note:** The following categories are used to describe agency management’s comments to individual recommendations.

- **(U) Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **(U) Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **(U) Closed** – DoD OIG verified that the agreed upon corrective actions were implemented.







**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

January 12, 2022

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION  
AND SUSTAINMENT  
ASSISTANT SECRETARY OF THE ARMY FOR ACQUISITION,  
TECHNOLOGY, AND LOGISTICS  
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

(U) SUBJECT: Audit of the Department of Defense Foreign Military Sales Acquisition Process  
(Report No. DODIG-2022-053)

(U) This final report provides the results of the DoD Office of Inspector General's audit. We previously provided copies of the draft report and requested written comments on the recommendations. We considered management's comments on the draft report when preparing the final report. These comments are included in the report.

(U) The Under Secretary of Defense for Acquisition and Sustainment and the Assistant Secretary of the Army for Acquisition, Logistics, and Technology agreed to address the recommendations presented in the report; therefore, we consider the recommendations resolved and open. As described in the Recommendations, Management Comments, and Our Response section of this report, we will close the recommendations when you provide us documentation showing that all agreed-upon actions to implement the recommendations are completed. Therefore, please provide us within 90 days your response concerning specific actions in process or completed on the recommendations. Send your response to either [followup@dodig.mil](mailto:followup@dodig.mil) if unclassified or [rfunet@dodig.smil.mil](mailto:rfunet@dodig.smil.mil) if classified SECRET.

(U) If you have any questions, please contact me at [REDACTED].

A handwritten signature in black ink, appearing to read "T M W", with a long horizontal line extending to the right.

Timothy M. Wimette  
Deputy Assistant Inspector General for Audit  
Acquisition, Contracting, and Sustainment

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## (U) Introduction

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### (U) Objective

(U) The objective of this audit was to determine whether the DoD managed the acquisition of defense articles and services to meet partner country foreign military sales (FMS) requirements, and whether the metrics used by DoD components maximize the results of the FMS acquisition process.<sup>1</sup> This audit focused on the timeliness of the DoD FMS acquisition process and the accuracy of FMS acquisition data that the DoD reported to Congress.

(U) We conducted this audit in response to a reporting requirement contained in House Report 115-676, to accompany the National Defense Authorization Act (NDAA) for FY 2019. This is the second audit report the DoD Office of Inspector General (OIG) issued in response to the reporting requirement. The first audit report addressed the DoD FMS agreement development process.<sup>2</sup>

(U) We reviewed a nonstatistical sample of 18 DoD FMS cases, valued at \$14.9 billion that the Military Department Implementing Agencies (IAs) managed. See Appendix A for scope, methodology, and prior audit coverage.

### (U) Background

#### **(U) Congressional Requirement for a DoD Office of Inspector General Audit of the DoD Foreign Military Sales Program**

(U) In its reporting requirement, the House Committee on Armed Services explained that an efficient, thorough, and effective FMS process is vital to U.S. foreign policy and national security, and contributes to the health of the U.S. defense industrial base. The committee cited concerns raised by U.S. military leaders, the defense industry, and foreign partners that the FMS process is slow, cumbersome, and overly complicated. The committee directed the DoD OIG to conduct an audit regarding DoD implementation of FMS programs.<sup>3</sup>

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<sup>1</sup> (U) A defense article is any item, including end-items, major systems and equipment, parts, components, accessories and attachments, or technical data, that constitutes the U.S. Munitions List. A defense service is the furnishing of assistance (including training) to foreign persons in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles; or military training of foreign units and forces, including formal or informal instruction of foreign persons.

<sup>2</sup> (U) DODIG-2021-003, "Audit of the Department of Defense Process for Developing Foreign Military Sales Agreements," October 9, 2020.

<sup>3</sup> (U) See Appendix B for the complete congressional requirement.

## ***(U) DoD Foreign Military Sales Program***

(U) According to Defense Security Cooperation Agency (DSCA) officials, at the end of FY 2020, the DoD FMS program included 15,365 open cases, valued at \$620 billion, and involved 163 countries and international organizations.<sup>4</sup> Security assistance is a group of programs by which the United States provides defense articles, military education and training, and other defense-related services by grant, loan, credit, cash sales, or lease, in furtherance of its national policies and objectives. All programs are subject to the continuous supervision and general direction of the Secretary of State to best serve U.S. foreign policy interests; however, the Departments of Defense or State administer the programs.

(U) The Arms Export Control Act authorizes the sale of defense articles and services to eligible foreign customers under the FMS program and requires reporting of these sales to Congress when they meet certain criteria.<sup>5</sup> The FMS program encourages and enables foreign partners to work with the United States to achieve strategic objectives. The FMS program uses the DoD procurement system to support Government-to-Government sales of defense articles and services. The Department of State has overall responsibility of the program, including the approval of sales. The DoD administers the FMS program and manages procurements executed by Military Department and other DoD Component acquisition programs on behalf of foreign partners. The FMS program includes multiple DoD Components, including the DSCA, the Combatant Commands, the Joint Staff, and the Military Departments.

## ***(U) Defense Security Cooperation Agency***

(U) Under the authority of the Under Secretary of Defense for Policy, the DSCA directs, administers, and provides DoD-wide guidance to DoD Components for executing the FMS program. The mission of the DSCA is to advance U.S. national security and foreign policy interests by building the capacity of foreign security forces to respond to shared challenges. The DSCA carries out key administrative functions, such as overseeing the implementation of high-priority and urgent FMS cases and conducting negotiations with foreign partners. DSCA personnel coordinate with the Department of State to obtain approval of FMS cases and submit FMS cases to Congress for congressional notification when required.

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<sup>4</sup> (U) We use the terms “case” and “cases” throughout the report, and each case has a unique case identifier. However, a case can involve multiple case documents, including the Letter of Offer and Acceptance and any modifications or amendments.

<sup>5</sup> (U) The Arms Export Control Act of 1976 (Public Law No. 94-329, as amended and codified at 22 U.S.C. §§ 2751 et seq.). See Appendix C for the congressional notification criteria.



(U) The DSCA issued a Security Assistance Management Manual (SAMM) as DoD-wide policy, which describes the legal, regulatory, and policy requirements relating to the FMS program.<sup>6</sup> The DSCA provides the overall guidance, but delegated the administration of the FMS program in whole or in part to the Military Departments, Combatant Commands, Defense Agencies, and field activities implementing assigned responsibilities.

### ***(U) Implementing Agencies***

(U) The IAs are organizations that the DSCA authorized to receive foreign partner requests for defense articles and services. These organizations are responsible for developing and processing sales agreements in accordance with DSCA policy. The Military Departments were the IAs responsible for managing 95 percent of the open DoD FMS cases.<sup>7</sup> The IAs make purchases to fulfill FMS agreements between the United States and its foreign partners and conduct military education, training, and sales of defense articles and services in accordance with DSCA policy. They also provide technical information and data on weapon systems, tactics, doctrine, training, capabilities, logistic support, price, source, and availability for developing FMS cases. In addition, IAs ensure conformance with technology transfer, classified military information release, and disclosure policies for their respective areas of responsibility to support the DoD FMS program. The IAs have subject matter experts who review foreign partner requests and prepare cases.

### ***(U) DoD Foreign Military Sales Agreement Development Process***

(U) The DSCA and the IAs use the Defense Security Assistance Management System (DSAMS) to manage and track the progress of DoD FMS cases for the FMS agreement development process. The DoD FMS program requires a foreign partner to submit a Letter of Request (LOR) for defense articles and services. Foreign partners can provide LORs through formal correspondence, requests for proposal, discussions, e-mails, or letters. The IA is required to use the DSCA SAMM criteria to validate the sufficiency of the LOR and, once validated, enter the LOR data in DSAMS and acknowledge receipt of the LOR to the prospective purchaser.

<sup>6</sup> (U) DSCA Manual 5105.38-M, "Security Assistance Management Manual (SAMM)," April 30, 2012.

<sup>7</sup> (U) Percentages based on our audit universe data as of November 2020. See Appendix A for details.

(U) The IA's receipt of the LOR represents the start of the FMS agreement development phase. The IA then completes numerous steps to develop the Letter of Offer and Acceptance (LOA). The initial LOA is referred to as the Basic LOA and modifications and amendments are identified in numeric order (such as Modification 1 or Amendment 1).

(U) If circumstances warrant a change, LOAs can be modified, amended, or restated, as described below.

- **(U) Modification** – Minor administrative changes that do not alter the scope of the LOA and do not require the foreign partner's acceptance.
- **(U) Amendment** – Changes that alter the scope of the LOA and require the foreign partner's acceptance. A scope change may involve an increase or decrease in dollar value, quantity, lead-time, or other scope-altering change.
- **(U) Restatement** – Major changes that are needed after a document has been countersigned and offered to the foreign partner. If the foreign partner wants to retain the existing case identification designator, the DSCA can make another offer (a restatement) and include the major changes instead of canceling the offer and issuing a new case.<sup>8</sup>

### ***(U) DoD Foreign Military Sales Acquisition Process***

(U) The DoD FMS acquisition process begins when the foreign partner formally accepts the LOA and deposits funds with the Defense Finance and Accounting Service.<sup>9</sup> At this point, the case is in an "implemented" status and the Military Department IAs begin executing the FMS case. DoD contracting officers within the Military Department IAs solicit requests for proposals from industry and negotiate prices, as necessary, to award contracts to fulfill the FMS agreement.

(U) Case execution begins with the development of an acquisition requirements package (ARP) by a Military Department program office or systems life cycle command. The ARP typically contains a funding document based on an initial cost estimate, an item technical description or statement of work for the article or service to be acquired, and a delivery schedule. The completion of the ARP can take longer if the acquisition requires significant engineering or system integration, or involves sensitive technologies that require detailed release or security measures to ensure the foreign partner and United States Government maintain a technology advantage.

<sup>8</sup> (U) The case identifier is a six-letter code used to identify and track LOAs throughout the FMS process. The identifier is composed of three major components: (1) a two-letter country code to identify the requesting foreign partner, (2) a one-letter code to identify the IA, and (3) a three-position case designator to identify details on the article or service being provided.

<sup>9</sup> (U) For the implementation of some cases, the Defense Finance and Accounting Service verifies that the Federal Reserve Bank received the funds or verifies that the DSCA granted a deposit waiver.

(U) The Military Department uses the ARP to generate and award the contract to develop or acquire the requested article or service. Contracting timelines are dependent on a number of factors, including competition and source selection, use of contractors specified by the FMS customer, and the overall complexity of the contract. The DoD FMS acquisition process ends when the Military Department IA awards the contract(s) to acquire the articles and services necessary to fulfill the FMS requirement. Figure 1 shows the phases of the FMS acquisition process.

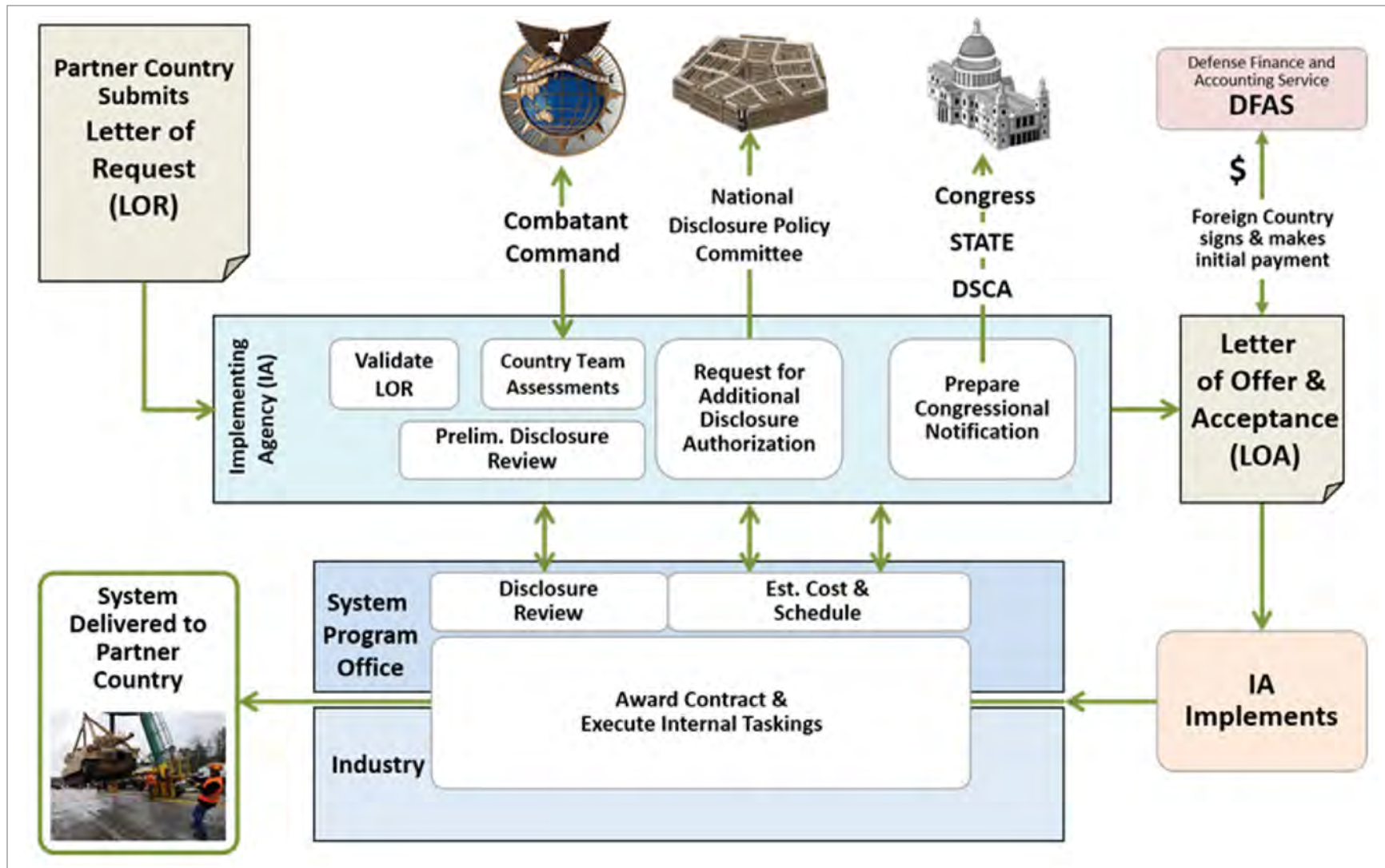
(U) Figure 1. Phases of the DoD Foreign Military Sales Acquisition Process



(U) Source: The OUSD(A&S).

(U) A major challenge involving case execution is that data associated with the DoD FMS acquisition process is not maintained in a single automated information system. Therefore, the DSCA does not have any direct visibility over the DoD FMS acquisition process. Each of the Military Department IAs have multiple acquisition and contracting systems and the systems are not integrated. Another challenge is that the relationship of contracts and FMS cases is not one to one. A single contract may support multiple DoD end-users and multiple FMS customers. In addition, multiple contracts may support a single FMS case and multiple FMS cases and contracts may be executed over the lifecycle of the program. Figure 2 shows the overall steps involved in the DoD FMS process, including the agreement development, acquisition, and delivery phases.

(U) Figure 2. DoD Foreign Military Sales Process



(U) Source: The Air Force Security Assistance and Cooperation Directorate.



(U) The IAs have the primary responsibility of providing security assistance to foreign partners through FMS. Military Department IAs include the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation, the Navy International Programs Office (IPO), and the Air Force Security Assistance and Cooperation Directorate. The U.S. Army Security Assistance Command (USASAC) is also responsible for executing various elements of Army FMS. These organizations have case managers responsible for assisting with FMS case development. The DSCA SAMP specifies that the IA will assign a case manager to each LOA to assist with case development, and to guide execution of the case after implementation.

(U) The IA is responsible for establishing case management functions and determining the organizational level at which these functions will be performed and managed. The DSCA SAMP also specifies that the term “case manager” may differ based on the organization to include country manager, command country manager, security assistance program manager, program support manager, or line manager, but all perform case management functions.<sup>10</sup>

***(U) Foreign Military Sales Case Files***

(U) DoD policy and the DSCA SAMP specify the type of documentation IA personnel are to maintain in FMS case files and provide retention requirements.<sup>11</sup> The types of documentation that DoD policy requires IA personnel retain for the agreement development process include the following.

- (U) LOR Documentation:
  - (U) Price and availability data
  - (U) Correspondences and other information relative to the LOR
- (U) Planning Information:
  - (U) Price and availability data and information used to prepare the LOA
  - (U) Responses to the foreign government if initially presented correspondence other than an LOA
  - (U) Correspondences related to exceptions or waivers
- (U) FMS Contractual Instruments Documentation:
  - (U) Congressional notification documentation
  - (U) LOA and any amendments or modifications and any memorandums of understanding or agreement relating to the LOA
  - (U) Correspondence related to internal review and coordination and related to transmittal to foreign government and acceptance

<sup>10</sup> (U) This report also uses the term “case manager” to refer to the various personnel who perform case management functions.

<sup>11</sup> (U) DoD Regulation 7000.14-R, “Financial Management Regulation,” Volume 15, “Security Cooperation Policy.”

(U) DSCA policy acknowledges that execution of a typical FMS case can span several years. Therefore, IA personnel must ensure access to documents that provide the audit trail to account for U.S. Government and foreign government funds and retain this documentation for 10 years after the date of the case closure. The documents may be maintained electronically if the files are complete, secure, and readily retrievable.

## **(U) Review of Internal Controls**

(U) DoD Instruction 5010.40 requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls.<sup>12</sup> We identified control weaknesses associated with the DoD's reporting on the status of its FMS acquisitions to comply with the congressional reporting requirements established in Section 887 of the NDAA for FY 2018 (Public Law 115-91).

(U) We will provide a copy of the report to the senior official responsible for internal controls in the Under Secretary of Defense for Acquisition and Sustainment and the Department of the Army, Navy, and Air Force.

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<sup>12</sup> (U) DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013, (Incorporating Change 1, June 30, 2020).

## **(U) Finding A**

### **(U) The DoD Managed Its Foreign Military Sales Acquisitions to Meet Foreign Partner Requirements**

(U) The Military Department IAs managed the acquisition of defense articles and services to meet foreign partner FMS requirements. Of the 18 FMS cases reviewed, none had acquisition-related delays that negatively affected the agreed-upon period of performance for the delivery of defense articles and services. Instead, there were either no delays with the agreed-upon period of performance or the delays resulted from circumstances outside the Military Department IAs' control.<sup>13</sup> Specifically,

- (U) no delays occurred for eight FMS cases as a result of the DoD FMS acquisition process,
- (U) delays occurred for seven FMS cases because foreign partners changed requirements, and
- (U) delays occurred for three FMS cases because of contractor-related issues.

(U) The delays that negatively affected the agreed-upon period of performance for the delivery of defense articles and services were outside of the Military Department IAs control. Therefore, we are not making any recommendations related to the DoD's management of its FMS acquisitions. An efficient, thorough, and effective FMS process is vital to U.S. foreign policy and national security, and contributes to the health of the U.S. defense industrial base.

### **(U) The Military Department Implementing Agencies Managed Their Foreign Military Sales Acquisitions to Meet Foreign Partner Requirements**

(U) The Military Department IAs managed the acquisition of defense articles and services to meet foreign partner FMS requirements for all 18 FMS cases reviewed. These cases generally involved non-unique items, such as aircraft, engines, missiles, radars, artillery systems and vehicles.

<sup>13</sup> (U) This represents the agreed-upon period of performance between DoD and the foreign partner as specified in the LOA and its amendments and modifications. We did not validate the actual deliveries as that phase of the FMS process was outside the scope of this audit.

(U) The implemented LOA represents a contract between the U.S. Government and the foreign partner to provide the requested defense articles and services within an agreed-upon period of performance. The period of performance for each LOA Line is specified by the number of months from the date of the Basic LOA implementation that deliveries will start and end. For example, the implementation date of a LOA is January 1, 2018, and the agreed-upon period of performance start is 12 months and the period of performance end is 24 months. For this LOA, the period of performance would call for the deliveries to start on January 1, 2019, and end on January 1, 2020. Amendments to the LOA can result in changes to the original agreed-upon period of performance and the changes should be reflected in the amended LOA.

(U) Once the LOA is implemented, many events must take place during case execution before the foreign partner receives all of the defense articles and services it requested. Some of these events are part of the DoD FMS acquisition process and other events occur outside of the DoD acquisition process. The development of the ARP and contract award are part of the DoD FMS acquisition process. The foreign partner can change its requirements, which can delay the contract award or result in a need to modify the contract after award. Subsequent to contract award or modification, the contractor must produce or provide the requested defense articles or services and deliver them to the foreign partner. Delays involving any of these events can negatively affect the agreed upon period of performance between the U.S. Government and the foreign partner.

(U) In determining whether the Military Department IAs managed the acquisition of defense articles and services to meet foreign partner requirements for our sampled cases, we evaluated the timeliness of the FMS acquisition process. In addition, we reviewed the agreed-upon period of performance between the U.S. Government and the foreign partner for the delivery of defense articles and services included in the LOA, amendments, or modifications. If there were any delays with the agreed-upon period of performance, we evaluated the cause of any associated delays and whether or not they were attributed to the Military Department IA's FMS acquisition process or other factors outside the Military Department IA's control.

(U) Table 1 shows a list of the 18 sampled DoD FMS case and whether or not the cases experienced a delay in the agreed-upon period of performance and, if so, the cause of the delay.



(U) Table 1. List of 18 Sampled DoD FMS Cases by Delay and Cause

Status of Period of Performance and Cause of Delay	Number of Cases
No Delay as a Result of the DoD FMS Acquisition Process	8
Foreign Partner Changed Requirements	7
Contractor-related Issues	3
<b>Total Cases Reviewed</b>	<b>18</b>

(U) Source: The DoD OIG.

**(U) Cases With No Period of Performance Delays**

(U) Of the 18 DoD FMS cases reviewed, no delays occurred with the agreed-upon period of performance for 8 cases as a result of the DoD FMS acquisition process. For example, the Navy coordinated with the United Kingdom Defence Procurement Office and implemented a case, valued at \$44.2 million, in January 2019 for the sale of 32 Phalanx Close-In Weapon System upgrade kits.<sup>14</sup> Figure 3 shows an example of a Phalanx System.



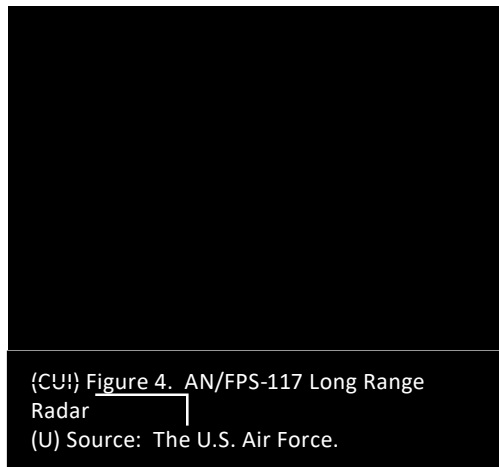
(U) Figure 3. Phalanx Close-in-Weapon System in Operation  
 (U) Source: The U.S. Navy.

<sup>14</sup> (U) The MK 15 Phalanx Close-In Weapon System provides ships of the U.S. Navy with an inner layer point defense capability against anti-ship missiles, aircraft and littoral warfare threats. The MK 15 Phalanx automatically detects, evaluates, tracks, engages, and performs kill assessment against anti-ship missiles and high-speed aircraft threats.

(U) The Naval Sea Systems Command (NAVSEA) fulfilled the FMS requirements by adding them to an existing Phalanx Close-In Weapon System Production contract that NAVSEA was preparing. NAVSEA officials stated that they planned to award the contract in June 2019 but missed that milestone and awarded the contract in August 2019. The LOA implemented between the Navy and the United Kingdom identified an agreed-upon period of performance to include delivery of the Phalanx close-in weapon system upgrade kits between December 2021 and November 2024. NAVSEA officials stated that they awarded the contract 2 months later than anticipated but the missed contract award milestone had no impact on the Navy's ability to meet their agreed-upon delivery schedule with the United Kingdom.

### ***(U) Cases With Period of Performance Delays Resulting From Foreign Partners Changing Requirements***

~~(CUI)~~ Of the 18 DoD FMS cases reviewed, delays occurred with the agreed-upon period of performance for 7 cases because foreign partners changed requirements. For example, the Air Force coordinated and implemented a case in August 2017 with [REDACTED]. The case, valued at \$193.4 million, involved upgrading existing AN/FPS-117 Long Range Radars; the sale of six GAP Filler Radars; and the sale of one Long Range Radar system.<sup>15</sup> Figure 4 shows an example of an AN/FPS-117 Long Range Radar.



~~(CUI)~~ In February 2018, Air Force program office personnel awarded a contract, valued at \$3.3 million, for a small portion of the overall requirement to upgrade of the existing Long Range Radar. However, according to Air Force officials, [REDACTED] directed a stop work order on the contract just prior to system install so it could award a direct commercial sale contract for contractor logistics support to maintain the radar.<sup>16</sup>

~~(CUI)~~ The Air Force had not been able to award any additional contracts for the case [REDACTED] significantly changed its requirements three times between March 2018 and March 2019. Specifically, [REDACTED] the requirement for GAP Filler Radars, identified a preference for a sole-source contract for the Long Range Radar, added a requirement for four AN/TPS-77 Multi-Role Radars, and added

<sup>15</sup> (U) The Long Range Radar is a radar field system used to improve early warning, enhance internal and external security, and protect national sovereignty to detect and destroy fixed and rotary wing aircraft.

<sup>16</sup> (U) A direct commercial sale is a sale of defense articles or defense services made under a Department of State-issued license by U.S. industry directly to a foreign buyer, and is not administered by the DoD through FMS procedures.

(~~CUI~~) a requirement for a competitive bid for a contract to replace its Air Operations Center.<sup>17</sup> The revised requirements resulted in an amendment to the LOA. Air Force personnel informed us in November 2020 that all case activities had been on hold since October 2018 per the direction of [REDACTED] and that they were waiting [REDACTED] to sign the amended LOA. The delay in the agreed-upon period of performance for this case occurred because the foreign partner changed its requirements.

**(U) Cases With Period of Performance Delays Resulting From Contractor-Related Issues**

(U) Of the 18 DoD FMS cases reviewed, delays occurred with the agreed-upon period of performance for 3 FMS cases because of contractor-related issues. These issues included contractors not meeting contract technical specifications and production delays.

(~~CUI~~) For example, Army program office personnel coordinated [REDACTED] and implemented a case, valued at \$121 million, in October 2009 for the sale of support equipment for commercial versions of the UH-60L Black Hawk (utility helicopter) and the DHC-6 Twin Otter Aircraft (passenger and utility aircraft). We reviewed Amendment 5, line 029, of the case implemented on July 19, 2018, that involved the sale of 46 AN/AAR-57 Common Missile Warning Systems, valued at \$35 million, categorized by the Army as Major Defense Equipment (MDE).<sup>18</sup> Figure 5 shows an example of the AN/AAR-57 Common Missile Warning System.



<sup>17</sup> (U) The TPS-77 radar’s multi-role single scan technology allows operators in specific sectors to select roles for the radar such as long range or medium range low-level flight surveillance, including helicopter detection.

<sup>18</sup> (U) The AN/AAR-57 Common Missile Warning System detects missiles and provides audible and visual warnings to pilots.

~~(CUI)~~ The Army reported an approximate 6-week delay in preparing the ARP but reported that the contract for the AN/AAR-57 Common Missile Warning Systems was awarded on time. The amended LOA implemented between the Army [REDACTED] [REDACTED] identified an agreed-upon period of performance to include delivery of the AN/AAR-57 Common Missile Warning Systems between April 2020 and June 2020. Army Program Executive Officer (PEO) Intelligence, Electronic Warfare, and Sensors officials stated that the scheduled delivery dates were delayed to the first quarter of 2021 through the first quarter of 2023 because of contractor-related issues. Specifically, a natural disaster disrupted the contractor's overseas supply chain and the contractor experienced production problems at its U.S. facility. The delay in the agreed upon period of performance for this case occurred because of contractor-related production problems.

### **(U) Importance of Timely Foreign Military Sales Acquisitions**

(U) The congressional reporting requirement that prompted this audit stated that the committee was aware of concerns raised by U.S. military leaders, the defense industry, and foreign partners that the FMS process is slow, cumbersome, and overly complicated. The results of this audit and cases sampled did not identify those concerns with the DoD FMS acquisition process. The Military Department IAs managed the acquisition of defense articles and services to meet the foreign partner's requirements and delays that negatively affected the agreed-upon period of performance for the delivery of defense articles and services were outside of their control. Therefore, we are not making any recommendations related to the DoD's management of its FMS acquisitions. An efficient, thorough, and effective FMS process is vital to U.S. foreign policy and national security, and the process contributes to the health of the U.S. defense industrial base.



## **(U) Finding B**

### **(U) The DoD Needs to Improve the Quality of the Foreign Military Sales Acquisition Data That It Reports to Congress**

(U) The DoD's reporting on the status of its FMS acquisitions did not fully comply with the congressional reporting requirements established in Section 887 of the NDAA for FY 2018 (Public Law 115-91).<sup>19</sup> Specifically, the Military Department IAs used inconsistent processes to track and report FMS acquisitions and we identified problems with the information reported under Section 887 for all 18 FMS cases reviewed. The Section 887 reports included inaccurate, incomplete, and unsupported data. In addition, the Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD[A&S]) did not obtain Section 887 reporting input from the Military Department IAs in a timely manner.

(U) The Army IA's reporting problems occurred, in part, because the Assistant Secretary of the Army for Acquisition, Logistics, and Technology did not establish adequate guidance, controls, and oversight to ensure the accuracy of the FMS acquisition milestone data in the automated information systems that the Army used for its Section 887 reporting. The reporting problems for all Military Department IAs occurred because the OUSD(A&S) did not issue sufficient guidance to require the Military Department IAs to:

- (U) consistently and accurately identify FMS cases that meet the Section 887 reporting requirements and establish FMS acquisition-related milestones and determine whether milestones are met or missed,
- (U) establish sufficient controls and oversight to ensure that the organizations responsible for Section 887 reporting performed the necessary steps to validate the accuracy of the FMS acquisition data, and
- (U) submit the required case information on FMS acquisition milestones in a timely manner.

(U) As a result, the DoD Section 887 reporting inaccurately reflected the status of the DoD FMS acquisition process and was not submitted to Congress in a timely manner. The inaccurate and untimely reporting negatively affects the usefulness of the information provided to Congress. In addition, there are ongoing DoD initiatives directed by the Deputy Secretary of Defense to automate the tracking

<sup>19</sup> (U) This is referred to as "Section 887" throughout the report. This audit only covered DoD's reporting of its FMS acquisition-related activities (referred to as Part B of Section 887 reporting) and did not cover DoD's reporting of its FMS case development activities (referred to as Part A of Section 887 reporting).

(U) and reporting on the status DoD FMS acquisitions. The incomplete, inaccurate, and unsupported data this audit identified negatively affects the quality of the information used to support those initiatives.

## **(U) The DoD's Reporting of Its Foreign Military Sales Acquisitions Did Not Fully Comply With Section 887 Reporting Requirements**

(U) The DoD established a process to comply with the Section 887 reporting requirements. However, the DoD's reporting on the status of its FMS acquisitions did not fully comply with the requirements of Section 887 to submit a list to Congress of each foreign military sale that:

- (U) missed an acquisition-related milestone on a quarterly basis, and
- (U) met or missed an acquisition-related milestone on an annual basis and a description of any extenuating factors explaining why the sale did not achieve the milestone.

(U) Specifically, the Military Department IAs used inconsistent processes to track and report FMS acquisitions and we identified problems with Section 887 reporting for all 18 FMS cases reviewed. The problems with Section 887 reporting included incomplete, inaccurate, and unsupported data. In addition, the OUSD(A&S) did not obtain Section 887 reporting input from the Military Department IAs in a timely manner.

### ***(U) Congressionally Mandated Section 887 Reporting Requirements***

(U) Congressionally mandated reporting requirements have increased the visibility over the timeliness of the Military Department IAs' FMS acquisition process. Section 887 of the NDAA for FY 2018 (Public Law 115-91), directed the Secretary of Defense to deliver a report describing the notional milestones and standard timelines associated with processing a foreign military sale.<sup>20</sup> The public law directed that such milestones and timelines may vary depending on the complexity of the foreign military sale, and must cover the period beginning on the date of receipt of a complete LOR (as described in chapter 5 of the DSCA SAMM) from a foreign country and ending on the date of the final delivery of a defense article or defense service sold through the foreign military sale. The public law established

<sup>20</sup> (U) The DoD submits the reports to the Committee on Armed Services, Committee on Foreign Relations, and Committee on Foreign Affairs.

(U) a quarterly reporting requirement from June 2018 until December 31, 2022, for the DoD to submit a list of each foreign military sale with a value greater than or equal to the dollar threshold for congressional notification:

- (U) for which the final delivery of a defense article or defense service has not been completed, and
- (U) that has not met a standard timeline to achieve a notional milestone.<sup>21</sup>

(U) The public law also established an annual reporting requirement from November 1, 2019, until December 31, 2022, to summarize the number separately by dollar value and notional milestone of each foreign military sale that:

- (U) met the standard timeline to achieve a notional milestone during the preceding fiscal year, and
- (U) did not meet the standard timeline to achieve a notional milestone and a description of any extenuating factors explaining why such a sale did not achieve such milestone.

### ***(U) DoD's Process to Comply With Section 887 Reporting Requirements***

(U) In June 2018, the OUSD(A&S) submitted the required report describing the DoD's notional FMS milestones and associated standard timelines to meet the public law requirements. The DoD Section 887 Report is composed of the following two parts.

- **(U) Part A** – Covers the period from the receipt of a complete LOR from the foreign partner until case implementation. The DSCA compiles the information for Part A.<sup>22</sup>
- **(U) Part B** – Covers the period after case implementation that includes the development of the ARP, contract award, and delivery.<sup>23</sup> The Military Department IAs compile the information for Part B.

(U) The DoD established Notional Milestone 4 for the period after case implementation that includes the development and completion of the ARP. The DoD established Notional Milestone 5 for the period after the completion of the ARP until contract award. Table 2 shows the two notional milestones for the DoD FMS acquisition process included in Part B.

<sup>21</sup> (U) The NDAA for FY 2018 originally required the Section 887 reporting to end on December 31, 2021. However, the NDAA for Fiscal Year 2021 extended the reporting period until December 31, 2022. See Appendix C for the FMS congressional notification thresholds.

<sup>22</sup> (U) This audit did not cover Section 887 Part A reporting.

<sup>23</sup> (U) Part B also includes the FMS delivery process, which was not part of our audit objective and not reviewed. The scope of this audit only included the FMS acquisition process, which includes the development of the ARP and contract award.

(U) Table 2. DoD Notional Milestones for the FMS Acquisition Phase

Notional Milestone Category	Timeline
<p><b>Milestone 4 – ARP Complete</b></p> <p>The ARP consists of all of the information regarding the desired acquisition that the contracting community needs to issue a solicitation and award the resulting contract for the FMS requirement. This includes negotiated statements of work, delivery schedules and any applicable technology transfer and release agreements.</p>	<p>The timeline specified in the FMS program master plan or 120 days if a timeline is not specified in the FMS program master plan.</p>
<p><b>Milestone 5 – Contract Award</b></p> <p>The time from the completion of an ARP until contract award.</p>	<p>The timeline specified in the program master plan. The timeline ranges from 270 to 365 days depending on the complexity of the contract. The DoD based the 270 days on the standard procurement administrative leadtime for contracts valued more than \$10 million and less than \$50 million and the DoD based the 365 days on the standard procurement administrative leadtime for complex contracts, or those valued over \$50 million.</p>

(U) Source: The OUSD(A&S).

(U) An OUSD(A&S) official indicated that the OUSD(A&S) coordinated with the Military Department IAs and the DSCA on how to report root causes for missing acquisition milestones in the Section 887 Annual Report for FY 2019. Table 3 shows the DoD's acquisition milestones root cause bins (subcategories) for Section 887 annual reporting.

(U) Table 3. DoD Reporting Acquisition Milestones Root Causes

Notional Milestone Category	Extenuating Factor or Root Cause “Bin”	Description
Milestone 4 – ARP Complete	4.1. Unable to reach agreement with partner on cost.	Negotiations over cost exceeded timeline.
	4.2. Unable to reach agreement with partner on program schedule.	Negotiations over schedules exceeded timeline.
	4.3. U.S. Government program office delay in finalizing acquisition package.	U.S. program office failed to meet timeline.
	4.4. Industry delay leading to delay in finalizing acquisition package.	Industry failed to provide information or agreement in time to support timeline.
	4.5. Requirements changed by partner. 4.6. Requirements changed by U.S. government. 4.7. Requirements changed due to unanticipated fact-of-life design, engineering, manufacturing (including supply chain) or technology integration issues arising after LOA implementation (includes Anti-tamper/changed security baseline).	Changed requirements forced changes to acquisition package or plan that resulted in a missed timeline.
Milestone 5 – Contract Award	5.1 U.S. government contracting delays.	Contract administrative process took longer than planned.
	5.2 Unable to agree with vendor(s) on contract terms.	Final contract negotiations took longer than planned.
	5.3 Partner asked for delay in finalizing contract.	Partner requested delay.

(U) Source: The OUSD(A&S).

**(U) Military Department Implementing Agencies Used Inconsistent Processes to Track and Report Foreign Military Sales Acquisitions and Had Section 887 Reporting Problems**

(U) The Military Department IAs used different processes for their Section 887 reporting. The inconsistent methodologies negatively affected the quality of DoD’s Section 887 reporting. Table 4 shows the primary inconsistencies this audit identified and that are discussed in detail throughout this report section.

(U) Table 4. Primary Inconsistencies With Military Department IA Section 887 Reporting

Section 887 Reporting Process	Army IA	Navy IA	Air Force IA
Only Tracked and Reported Cases With Major Defense Equipment	X		
Only Tracked and Reported Primary Case Line/Contract <sup>1</sup>		X	X
Established Service-Specific Milestones	X	X	
Followed the DoD Notional Milestones			X
Used a Master Spreadsheet to Manually Track Milestones		X	X
Used an Automated Information System to Track Milestones	X		
Did Not Track and Report Milestone 4 for ARP Complete		X	
Tracked Impact of Missed Milestone on Scheduled Deliveries		X	
Coordinated with Program Offices for Case Status <sup>2</sup>		X	X

<sup>1</sup> The Navy tracked and reported all MDE case lines in FY 2019 and changed its methodology to only track the primary case line in FY 2020.

<sup>2</sup> SAF/AQ coordinated with the Program Offices for 4 of 6 Air Force FMS cases reviewed.

(U) Source: The DoD OIG.

(U) The inconsistent processes used to track and report FMS acquisitions and other factors resulted in problems with Section 887 reporting for all 18 FMS cases reviewed.<sup>24</sup> We broke out the problems with Section 887 acquisition-related reporting in to the following categories.

- **(U) Category A** – milestone dates for the measurement of case progress that were inaccurate, incomplete, or unsupported.<sup>25</sup>
- **(U) Category B** - milestones that were incorrectly reported as met or missed, not reported, or reported in the wrong period.
- **(U) Category C** - the assignment of an incorrect root cause.

(U) Table 5 shows Section 887 reporting results for 18 Sampled FMS Cases by Military Department IA and the types of reporting problems.

<sup>24</sup> (U) We reviewed DoD Section 887 Reports from the 3rd Quarter of FY 2018 (first report containing Part B data) through the 4th Quarter of FY 2020 including the FY 2019 DoD Annual Section 887 Report. We did not review the FY 2020 DoD Annual Section 887 Report because the DoD did not issue it until September 8, 2021, which was after the end of our audit fieldwork.

<sup>25</sup> (U) All categories include the reporting of Milestone 4 or Milestone 5, or both Milestones.



(U) Table 5. Section 887 Reporting Problems for 18 Sampled FMS Cases

Military Department IA	Cases Reviewed	Cases With Section 887 Reporting Problems	Section 887 Reporting Problem Category
Air Force	6	6	B
Navy	6	6	B, C
Army	6	6	A, B
<b>Total</b>	<b>18</b>	<b>18</b>	

(U) Source: The DoD OIG.

(U) We identified concerns with the Military Department IAs ability to meet the intent of the Section 887 reporting requirements without further guidance from OUSD(A&S) to ensure the information is complete, accurate, supportable, consistently reported, and provides context on met or missed milestones.

**(U) Concerns With Air Force Implementing Agency’s Section 887 Reporting**

(U) The Air Force IA established an informal process to identify Air Force FMS cases and submit their acquisition status to OUSD(A&S) for inclusion in the DoD Section 887 quarterly and annual reports. We identified several concerns with the Air Force IA’s Section 887 reporting process and all six of our sampled Air Force FMS cases had Section 887 reporting problems, including milestones that were incorrectly reported as met or missed, not reported, or reported in the wrong period. Table 6 shows the Section 887 reporting results for our sampled six Air Force FMS cases.

(U) Table 6. Section 887 Reporting Problems With Sampled Air Force FMS Cases

(CUI) FMS Case Identifier	Weapon System or Upgrade	Section 887 Reports With Milestone 4 Problems	Section 887 Reports With Milestone 5 Problems
DE-D-YAO	Advanced Medium Range Air-to-Air Missiles	N/A	1st Quarter FY 2020
██████	Long Range Radar	4th Quarter FY 2018, 1st and 3rd Quarters FY 2019, and FY 2019 Annual	4th Quarter FY 2019, and 1st to 4th Quarters FY 2020
██████	F-16 Operational Flight Profile and Identification Friend or Foe Mode 5 Upgrade	FY 2019 Annual	3rd and 4th Quarters FY 2019, and 1st Quarter FY 2020

(CUI)

(U) Table 6. Section 887 Reporting Problems With Sampled Air Force FMS Cases (cont'd)

(CUI) FMS Case Identifier	Weapon System or Upgrade	Section 887 Reports With Milestone 4 Problems	Section 887 Reports With Milestone 5 Problems
██████████	F100-PW-220/E Engine Material Management Program	3rd and 4th Quarters FY 2018, 1st and 3rd Quarters FY 2019, and FY 2019 Annual	2nd and 4th Quarters FY 2019, and 1st Quarter FY 2020
██████████	C-130J Hercules Aircraft	FY 2019 Annual	FY 2019 Annual
██████████	Large Aircraft Infrared Countermeasures System on A330 Multi-Role Tanker Transport Aircraft	N/A	2nd Quarter FY 2020  (CUI)

(U) Source: The DoD OIG.

(U) The Air Force Section 887 reporting problems resulted from several factors, including Secretary of the Air Force for Acquisition (SAF/AQ) personnel:

- (U) not updating their master case file spreadsheet of applicable FMS cases for each Section 887 reporting period,
- (U) not always coordinating with the Air Force program office responsible for the case on the case's status or making program office personnel aware of the Section 887 reporting requirements, and
- (U) not obtaining OUSD(A&S) guidance on modifying milestones for foreign partner requests that significantly change requirements or requests to place acquisition efforts on hold.

**(U) AIR FORCE SECTION 887 REPORTING PROCESS**

(U) The Air Force IA did not maintain sufficient data in an automated information system to identify FMS acquisitions and reference them to the specific FMS cases that generated the requirements or track the status of FMS cases from case implementation through contract award. Because of the system limitations, the Air Force IA used a manually intensive process to track and report the status of its FMS acquisitions.

(U) As part of the Air Force IA's Section 887 reporting process, SAF/AQ personnel rely on Secretary of the Air Force for International Affairs personnel to obtain a query from DSCA's DSAMS to identify Air Force FMS cases with a value greater than or equal to the dollar threshold for congressional notification that meets the Section 887 reporting requirements.<sup>26</sup> The Air Force query does not filter on MDE and includes cases with MDE, Significant Military Equipment, or other equipment. SAF for International Affairs personnel provide the query results to SAF/AQ personnel in the form of an Excel spreadsheet. SAF/AQ personnel indicated that they have a manually intensive process that involves the use of an Excel spreadsheet as the master file to track and report Air Force FMS cases for Section 887 reporting.

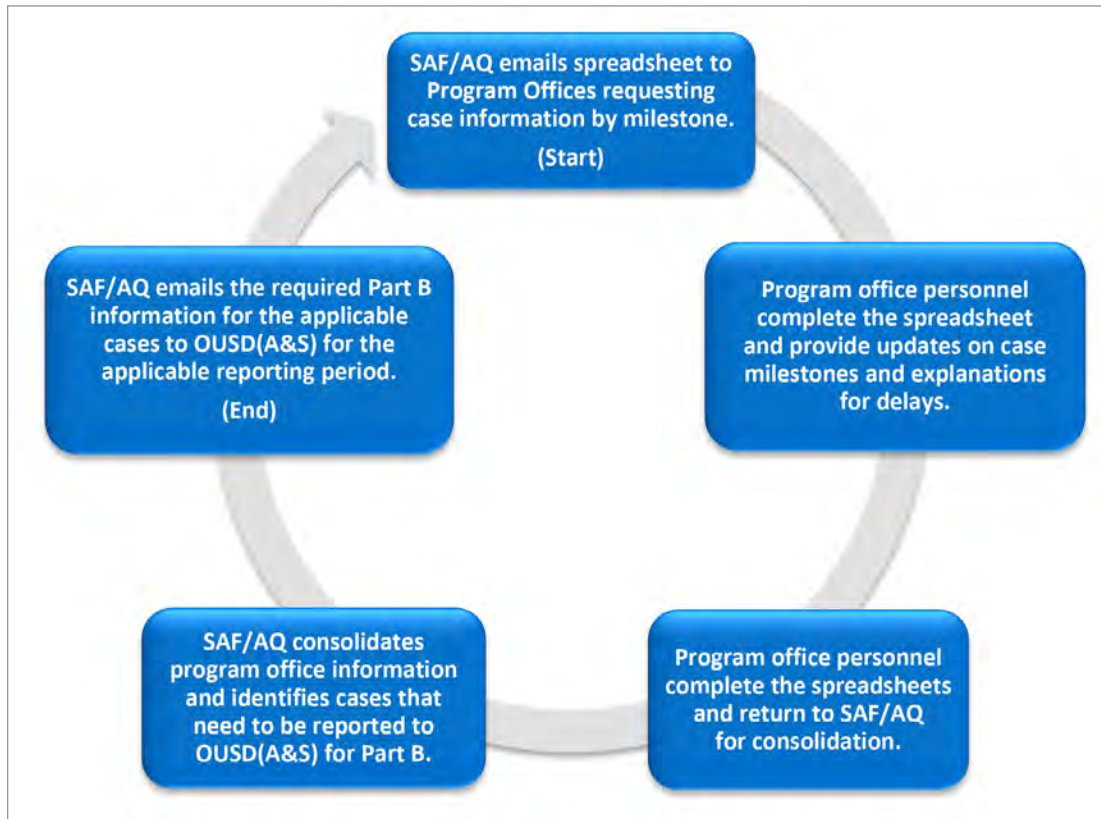
(U) The Air Force only reports met or missed milestones that were associated with the contract providing the major end item or contracted services most relevant to the end-user capability requested by a foreign partner. For example, according to a SAF/IA official, in an F-16 aircraft major weapons sale FMS case, the Air Force only reported on the contract providing the delivery of the F-16 aircraft and did not report sub-contracts or other contracts for services, subcomponents, or additional support items.

(U) As part of the Air Force Section 887 reporting process, SAF/AQ personnel conduct a data call to the various Air Force program offices. The data call includes an Excel spreadsheet for the program offices to complete and return for any cases that have milestones expected to be reached during the reporting period. The program office personnel return the spreadsheets to SAF/AQ, where personnel update the master file and provide the Section 887 reporting data to the OUSD(A&S). Figure 6 shows the flow of data between the various organizations involved with Air Force Section 887 reporting.

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<sup>26</sup> (U) SAF/AQ is involved in the integration of full-life cycle acquisition into strategy, requirements, policy, processes, funding, program execution, information technology, and workforce management to deliver the capabilities necessary to accomplish the Air Force's missions including the Air Force's FMS process. The SAF for International Affairs provides support for data calls or information requests associated with Section 887 reporting. See Appendix C for congressional reporting requirements.

(U) Figure 6. Data Flow Between Organizations for Air Force Section 887 Reporting



(U) Source: The DoD OIG.

(U) When establishing FMS acquisition milestones, SAF/AQ personnel generally followed the Second Quarter FY 2018 Section 887 Report that OUSD(A&S) submitted to Congress, which described the DoD’s FMS notional milestones, its rationale, and associated standard timelines. Specifically, the Air Force established its milestones as described below.

- (U) Milestone 4 (ARP Complete)—LOA implementation Date plus 120 days.
- (U) Milestone 5 (Contract Award)—Milestone 4 date plus either 270 or 365 days depending upon the case’s dollar value.

(U) The Air Force used the completion date of the Acquisition Strategy or equivalent as the completion date for Milestone 4.<sup>27</sup> This date can sometimes occur before LOA implementation in certain circumstances. For example, the Air Force Fighters and Advanced Aircraft PEO requires its program offices to conduct an Acquisition Strategy Panel prior to offering the LOA to a country

<sup>27</sup> (U) Federal Acquisition Regulation Part 34.004 requires the development of an acquisition strategy tailored to the particular major system acquisition program that represents the overall plan for satisfying the mission need in the most effective, economical, and timely manner. The Air Force uses the terms Acquisition Strategy Plan/Panel/Review for their plan.

(U) for review and signature.<sup>28</sup> Milestone 5 can be impacted when the Acquisition Strategy or equivalent is completed prior to implementation. Specifically, the starting point for either the 270 days or 365 days is based on the actual ARP completion date and not the LOA implementation date plus 120 days. Therefore, if the ARP completion date occurs a significant amount of time before the LOA implementation it can impact all future milestones and make the FMS case appear to be delayed when it may have not been.

***(U) THE AIR FORCE DID NOT UPDATE ITS MASTER CASE FILE FOR EACH SECTION 887 REPORTING PERIOD***

(U) Although Air Force personnel established a process to identify and report on Air Force FMS cases for Section 887 reporting, they failed to keep the universe of cases up to date. Our review of the Air Force master file identified cases that were not included in DoD Section 887 reports. In response to our inquiries, a SAF for International Affairs official acknowledged that the Air Force identified 35 Air Force FMS cases that it should have tracked and reported. This involved Section 887 reporting between the third quarter FY 2018 and the fourth quarter FY 2020. The official indicated that they identified the 35 cases by comparing DSAMS queries to the Air Force master file of FMS cases for Section 887 reporting. The Air Force continued its research to determine a complete list of cases to ensure that the FY 2020 Annual Section 887 Report was complete and accurate. However, by the end of our audit fieldwork in May 2021, the Air Force had not provided its input to OUSD(A&S) for the FY 2020 Annual Report, and we were unable to verify the completeness of the reported cases.

***(U) THE AIR FORCE SECTION 887 REPORTING PROCESS DID NOT ALWAYS INVOLVE COORDINATING WITH THE PROGRAM OFFICE***

(U) For our sampled Air Force FMS cases, SAF/AQ personnel did not always task responsible program office personnel for necessary input to the Section 887 Quarterly and Annual Reports because of their lack of oversight. Air Force program office personnel, associated with our six sampled Air Force FMS cases, were not aware of the Section 887 reporting requirements or lacked an understanding of the process including:

- (U) how the information was compiled,
- (U) who compiled the information and what the program office's responsibility was, and
- (U) how the information was used.

<sup>28</sup> (U) Air Force Program Executive Officer for Fighters and Advanced Aircraft Memorandum, "Fighters and Advanced Aircraft (F&AA) Acquisition Strategy Policy," September 21, 2020.

(U) In addition, program office personnel needed clarification on the definitions of the FMS acquisition milestones and how those milestones were measured for Section 887 reporting.

(~~CUI~~) For example, the Air Force IA negotiated an agreement, valued at \$983.4 million, for the sale of six C-130J Hercules aircraft and support to [REDACTED].<sup>29</sup> The case identifier was [REDACTED] and the case was implemented on October 3, 2018. Figure 7 shows an example of a C-130J Hercules aircraft.



(U) This case was one of the 35 Air Force FMS cases that the SAF for International Affairs and SA/AQ should have tracked and included in Section 887 Reports between the third quarter FY 2018 and the fourth quarter FY 2020. A SAF for International Affairs official indicated that this case was not updated on the Air Force's master file of FMS cases for Section 887 reporting due to a transition in tracking responsibilities between the SAF for International Affairs and SAF/AQ.

(U) Although the Air Force IA personnel responsible for Section 887 reporting included this case as part of their master file of FMS cases that needed to be tracked and reported, they did not coordinate with the Air Force program office personnel to obtain the status of the FMS milestones for the case. As a result, Air Force IA personnel were not aware that FMS acquisition Milestones 4 and 5 were met in FY 2019 and did not report the status of the case on the FY 2019 Section 887 Annual Report.

<sup>29</sup> (U) The C-130 Hercules primarily performs the tactical portion of the airlift mission. The aircraft is capable of operating from rough, dirt strips and is the prime transport for air dropping troops and equipment, including oversized cargo, into hostile areas.



***(U) THE AIR FORCE IMPLEMENTING AGENCY DID NOT OBTAIN GUIDANCE ON MODIFYING MILESTONES FOR FOREIGN PARTNER REQUESTS THAT SIGNIFICANTLY CHANGED REQUIREMENTS OR REQUESTS TO PLACE ACQUISITION EFFORTS ON HOLD***

~~(CUI)~~ The Air Force IA did not request OUSD(A&S) guidance on modifying milestones for foreign partner requests that significantly change requirements or to place DoD FMS acquisition efforts on hold. The Air Force FMS case [REDACTED], discussed in Finding A of this report, for the sale of radars and associated installation, integration, and training [REDACTED] is an example of this occurring.

(U) Although the Air Force IA properly reported this FMS case as having missed Milestone 5 on the Third Quarter FY 2019 Section 887 Report and the FY 2019 Annual Section 887 Report, the Air Force IA did not include this case on subsequent Section 887 reports as having missed Milestone 5 even though the milestone had not been met. This occurred because of a lack of guidance on the Section 887 reporting requirements for the circumstances involving this case in which acquisition activities go on hold at the foreign partner's request and also foreign partner's request to significantly change its requirements.

~~(CUI)~~ Subsequent to the August 1, 2017, LOA implementation, [REDACTED] requested multiple revisions to the LOA between March 2018 and March 2019. The revisions significantly changed the requirements including canceling certain radar requirements and requesting additional radars and capabilities, which increased the case value by approximately \$50 million and extended the delivery schedule. In addition, an Air Force program office official stated that in October 2018 the foreign partner directed the Air Force to hold off on awarding the contracts to support the new requirements.

(U) On January 17, 2020, the U.S. Government offered LOA Amendment 1 to the foreign partner and, after extending the offer multiple times, the amendment was implemented on February 2, 2021. An Air Force program office official indicated that the PEO plans to award two contracts with one being a contract for long-range radars, which will fulfill a majority of the LOA Amendment 1 requirements. The Air Force IA did not include the case on any Section 887 Reports between the 4th Quarter FY 2019 and 4th Quarter FY 2020. We asked SAF/AQ personnel how the milestones for a case should be reported when the case was on hold at the foreign partner's request. The SAF/AQ official was not sure how that scenario should be reported and provided us with two possible reporting options.

(U) An Air Force program office official indicated a revised timeline of events associated with this case as follows:

- (U) Milestone 4 target completion – June 2, 2021 (February 2, 2021, LOA Amendment 1 implementation date plus 120 days).
- (U) Milestone 5 target completion – June 2, 2022 (June 2, 2021 target Milestone 4 completion date plus 365 days).

(U) We asked the Air Force IA personnel responsible for Section 887 reporting for clarification on whether the acquisition milestones should be revised when LOAs are amended. An Air Force IA official informed us that they planned to coordinate with other personnel internally within the Air Force as well as with OUSD(A&S) personnel to determine whether the reporting milestones should be revised based on LOA amendments. However, the Air Force IA official did not provide us with the outcome of their coordination.

(U) We asked the OUSD(A&S) official responsible for compiling the DoD Section 887 quarterly and annual reports whether the reporting milestones should be revised when LOAs are amended. Based on our inquiries, OUSD(A&S), DSCA, and the Military Department IAs met in June 2021 and agreed to a consistent approach for handling LOA amendments. The OUSD(A&S) official provided the following details.

(U) In the case of an LOA Amendment during the reporting period, a logical standard is used to report a case's Milestone 4 "Acquisition Requirements Package Complete" and Milestone 5 "Contract Award" metric. An Amendment is processed when there is a change in scope (increase or decrease) and is typically initiated by the partner. If a partner submits an LOR to amend a case to change the scope of line items subject to Section 887 reporting BEFORE the originally planned milestone metric is missed, the updated planned milestones, delivery schedules, quantities, etc. associated with the Amendment are deemed current upon partner acceptance/implementation of that document. The IA will adjust milestone performance reporting based on the dates associated with the latest case Amendment. If the change in scope occurs AFTER the originally planned milestone metric is missed, the milestone is recorded as a missed milestone until the new baseline is agreed.

### ***(U) Concerns With the Navy Implementing Agency's Section 887 Reporting***

(U) The Navy IA established an informal process to identify Navy FMS cases and submit its acquisition status to OUSD(A&S) for inclusion in the DoD Section 887 quarterly and annual reports. We identified several concerns with the Navy IA's Section 887 reporting and all six of our sampled Navy FMS cases had problems

(U) with Section 887 reporting including milestones that were not correctly reported, not reported, or reported in the wrong period. We also identified two cases where the Navy assigned an incorrect root cause bin on the FY 2019 Annual Section 887 Report. Table 7 shows the Section 887 reporting results for the six sampled Navy FMS cases.

(U) Table 7. Section 887 Reporting Problems With Sampled Navy Cases

(CUI) FMS Case Identifier	Weapon System or Upgrade	Section 887 Reports With Milestone 5 Problems*
[REDACTED]	AH-1Z Helicopters	1st and 2nd Quarter FY 2019
FI-P-LBN	MK41 Vertical Launch System	1st and 2nd Quarter FY 2020
[REDACTED]	Standard Missile-3 Block IIA	3rd and 4th Quarter FY 2019, FY 2019 Annual, and 1st Quarter FY 2020
[REDACTED]	P-8A Aircraft	N/A
[REDACTED]	FA-18E/F Aircraft	3rd Quarter FY 2018, 3rd Quarter FY 2019 and FY 2019 Annual
UK-P-LWD	Phalanx Block 1B Upgrade Kits	3rd Quarter FY 2019

(CUI)

\*The Navy also did not track or report Milestone 4 for any of the six cases reviewed.

(U) Source: The DoD OIG.

(U) The Navy Section 887 reporting problems resulted from a number of factors including Navy IA personnel:

- (U) not tracking and reporting Milestone 4 for ARP complete,
- (U) using inconsistent methods for reporting undefinitized contract actions, and
- (U) not validating the root causes assigned to cases missing Milestone 5 on the FY 2019 Section 887 Annual Report.

(U) Aside from its Section 887 reporting problems, the Navy was the only Military Department IA that tracked the impact of missed milestone on scheduled deliveries. Although this is not a specific Section 887 reporting requirement, the information helps add context to the delays associated with the FMS acquisition process and whether or not the Military IA can still meet the agreed-upon period of performance for scheduled deliveries to the foreign partner. The Navy's Section 887 case tracking spreadsheet contains a column for the program office to update with information on the reason for the missed milestone and the summary of its impact.

***(U) NAVY SECTION 887 REPORTING PROCESS***

(U) The Navy IA, like the Air Force IA, did not maintain sufficient data in its automated information systems to identify FMS acquisitions and tie them to the specific FMS cases that generated the requirements or track the status of FMS cases from case implementation through contract award. Because of the system limitations, the Navy IA used a manually intensive process to track and report the status of its FMS acquisitions.

(U) The Navy Section 887 reporting process differed from the DoD's notional FMS milestones and associated standard timelines that the Air Force used for its Section 887 reporting. The Navy International Program Office (IPO) is responsible for the Navy's Section 887 reporting.<sup>30</sup> We asked the Navy IPO official responsible for Section 887 reporting if the Navy followed any specific DoD or Navy policy for identifying and reporting cases that meet Section 887 reporting requirements. The Navy IPO official did not identify any Navy-specific policy and also stated there is no single system or automated tools that track all Navy planned and actual milestone occurrences. The Navy IPO relied on the manual data inputs provided by Navy System Command Security Cooperation Offices.

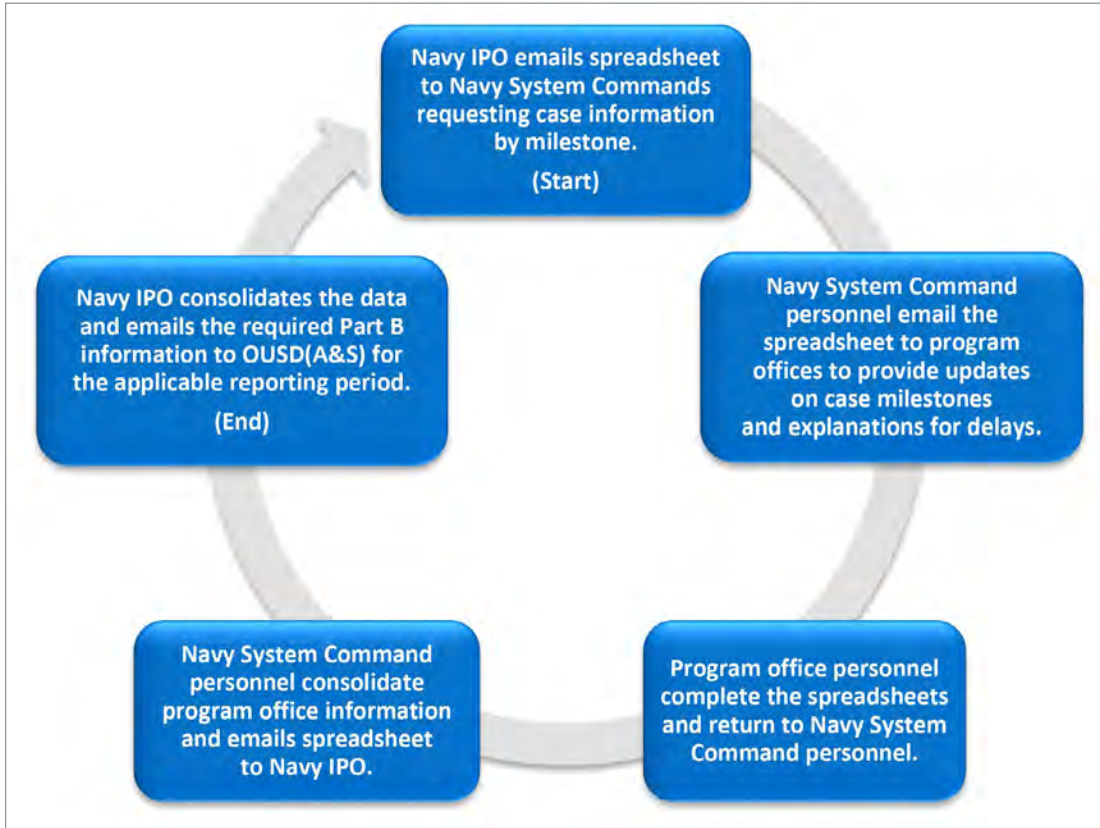
(U) The Navy IPO uses an ad hoc (as needed) report that DSCA developed to compile a list of cases that meet Section 887 reporting criteria. Navy IPO personnel provided us with their procedures for executing the query and creating an Excel file for updating their listing of cases for Section 887 reporting. The procedures require selection of all cases that required congressional notification and were implemented in the quarter being reported.

(U) Navy IPO personnel developed a Section 887 reporting template in the form of an Excel spreadsheet and solicits input quarterly and annually from Navy System Commands. Navy System Command Security Cooperation Office case managers execute and manage FMS cases. Navy System Command personnel are responsible for evaluating their assigned cases and establishing milestones, determining if the case meets the applicable quarterly or annual reporting requirement, and submitting whether the case met or missed Section 887 reporting milestones if a milestone was scheduled to occur during the reporting cycle. For Section 887 reporting from FY 2018 through the third quarter of FY 2020, the Navy reported the status of all MDE contracts associated with its cases that met the congressional reporting requirements. However, starting in the fourth quarter of FY 2020, the Navy IPO issued guidance to only report the status of the contract for the major end item, typically line 001 of the LOA, instead of the status on all MDE contracts.

<sup>30</sup> (U) The Navy IPO is responsible for managing and implementing International Security Assistance programs, Cooperative Development programs, and Technology Security policy. The Navy IPO is a reporting unit to the Assistant Secretary of the Navy for Research, Development and Acquisition.

(U) This revised methodology was the same methodology the Air Force used to report its FMS cases. Figure 8 shows the data flow between organizations for Navy Section 887 reporting.

(U) Figure 8. Data Flow Between Organizations for Navy Section 887 Reporting



(U) Source: The DoD OIG.

(U) The Navy IPO stated that the program or case master plan defines timelines for reporting whether a case met or missed Milestones 4 and 5. Navy IPO personnel stated that if the program or plan did not specify milestones, then the nominal timeline for Milestone 4 is 120 days, and the timeline for Milestone 5 is either 270 or 365 days as defined by the Section 887 reporting requirements. For all six Navy FMS cases we reviewed, Navy personnel used Navy-Specific milestones for Section 887 reporting and not the DoD Nominal milestones defined by the Section 887 reporting requirements.

(U) NAVAIR and NAVSEA executed and managed the six cases we reviewed. The Missile Defense Agency (MDA) awarded the contract for one of the six FMS cases and reported the Section 887 data for the case through the NAVSEA. The NAVAIR and NAVSEA each use unique management tools to track the acquisition progress from planning the initial acquisition through contract award. The NAVAIR uses the Program Management Tool, and the NAVSEA uses the SeaPort System.

***(U) THE NAVY IMPLEMENTING AGENCY RARELY REPORTED MILESTONE 4 FOR ACQUISITION REQUIREMENTS PACKAGE COMPLETE***

(U) NAVAIR and NAVSEA did not specifically track or report Milestone 4 for any of our six sampled Navy FMS cases. In addition, our review of DoD Section 887 quarterly reports issued between the third quarter FY 2018 and the fourth quarter FY 2020 found that the Navy only reported that two FMS cases missed Milestone 4 during that timeframe. In addition, the Navy did not report any cases meeting or missing Milestone 4 on the FY 2019 Annual Section 887 Report as required. In contrast, the Army and Air Force IAs routinely reported on Milestone 4 as required by the OUSD(A&S).

(U) In response to our inquiries regarding the Navy's general lack of reporting for Milestone 4, NAVAIR and NAVSEA officials stated that case managers did not have sufficient guidance to track Milestone 4 because it was a subjective milestone. A NAVSEA official also stated that the DoD Notional Milestone assumes that there was a linear path from case implementation to the completion of the ARP. However, this was not always the case such as if the FMS requirements were added to an existing DoD contract for which the ARP was completed before to the FMS case implementation. For five of the six Navy FMS cases we reviewed, the FMS requirements were added to existing DoD contracts by a modification or other means.

(U) The Navy's methodology for not tracking and reporting Milestone 4 data differed from the Air Force's methodology. As mentioned, the Air Force personnel generally followed the Second Quarter FY 2018 Section 887 Report that OUSD(A&S) submitted to Congress, which described the DoD's FMS notional milestones, its rationale, and associated standard timelines. Specifically, the Air Force established Milestone 4 to be the LOA implementation date plus 120 days and at that point, the Air Force would report on whether or not the calculated Milestone 4 was met or missed. For cases where the Air Force completed Milestone 4 prior to LOA implementation, the Air Force would report that the case met the milestone on the established Milestone 4 date (LOA implementation plus 120 days). In contrast, the Navy rarely reported any Milestone 4 events.



***(U) THE MISSILE DEFENSE AGENCY AND NAVY IMPLEMENTING AGENCY HAD INCONSISTENT METHODS FOR USING DEFINITIZED AND UNDEFINITIZED CONTRACT ACTIONS TO TRACK AND REPORT MILESTONE 5***

(U) DoD organizations use undefinitized contract actions to authorize contractors to begin work and incur costs prior to reaching final agreement on contract terms, specifications, or price. The contracting action is subsequently definitized when there is an agreement on, or determination of, contract terms, specifications, and price.<sup>31</sup> For two cases, the MDA and Navy IA had inconsistent methods for using definitized and undefinitized contract actions to measure and report Milestone 5.

~~(CUI)~~ For example, the Navy coordinated with [REDACTED] and implemented a case [REDACTED] valued at \$133.3 million, in March 2018 for the sale of four Standard Missile-3 Block IIA missiles.<sup>32</sup> Figure 9 shows a launch of a Standard Missile-3 from a ship.

(U) The Navy also coordinated with the MDA because the MDA issued the contract for the Standard Missile-3 Block IIA missiles. The MDA fulfilled the FMS requirements by modifying an existing contract for Standard Missile-3 Block IIA missile that the MDA issued in 2015.

MDA officials added the FMS requirements to their contract as an undefinitized contract

action in May 2018, which authorized the contractor to begin work and incur costs. MDA officials stated that they planned for the contract to be definitized in the second quarter of FY 2019 but that action was delayed until December 2019. MDA officials also stated that technical factors unrelated to the contracting and FMS processes delayed the Standard Missile-3 Block IIA Initial Production Decision and precluded the MDAs ability to definitize the contract award until December 2019. The technical factors involved the contractor failing testing and not meeting the contract specifications.



(U) Figure 9. Launch of a Standard Missile-3 Block IIA Missile  
(U) Source: The MDA.

<sup>31</sup> (U) Defense Federal Acquisition Regulation Supplement Subpart 217.74, "Undefinitized Contract Actions," Revised September 13, 2019.

<sup>32</sup> (U) The Standard Missile-3 Block IIA missile is a short to intermediate range unitary and separating ballistic missile used to defeat threats in mid-course with the AEGIS weapon system. The Sea-Based Weapon Systems (also known as Aegis Ballistic Missile Defense) is the integrated naval component within the MDA providing critical regional and homeland defensive capability within the Missile Defense System.

(U) The MDA, through NAVSEA, reported that the case missed Milestone 5 in Second Quarter FY 2019 Section 887 Report because the contract was not definitized in that quarter as planned. Because Milestone 5 was missed in the third and fourth quarters of FY 2019 and in the first quarter of FY 2020 until the definitized contract action took place in December 2019, the MDA should have also included the case in Section 887 reports for those periods but did not. If the MDA would have used the May 2018 undefinitized contract action to measure Milestone 5, it would not have reported the case as missing Milestone 5.

(U) For another Navy case we reviewed, the NAVSEA program office used an undefinitized contract action to measure Milestone 5. The Navy IA coordinated with the Government of Finland, Finnish Defence Forces, and implemented a case (FI-P-LBN), valued at \$50 million, on February 22, 2019. The case involved the sale of four MK41 Vertical Launch Systems, spare parts, training, and engineering services.<sup>33</sup> Figure 10 shows an example of the MK41 Vertical Launch System.



(U) Figure 10. MK41 Vertical Launch System  
(U) Source: The U.S. Navy.

(U) NAVSEA personnel incorrectly reported that the case missed Milestone 5 on the First and Second Quarter FY 2020 Section 887 Reports. NAVSEA officials subsequently indicated that the case actually met milestone 5 during the second quarter of FY 2020 because NAVSEA awarded an undefinitized contract action on February 14, 2020, which was prior to their February 18, 2020, planned contract award milestone date reflected in their Seaport system. NAVSEA personnel stated that they were unsure of the proper way to report the case for Section 887 Reporting because they stated that there was no guidance to address whether or not they should use undefinitized or definitized contract actions to measure Milestone 5.

<sup>33</sup> (U) The MK 41 VLS supports the CG 47 and DDG 51 Class Warship combat ships and is used for anti-aircraft and anti-submarine warfare, naval surface fire support, and ballistic missile defense missions.

***(U) THE NAVY IMPLEMENTING AGENCY DID NOT ALWAYS IDENTIFY THE CORRECT ROOT CAUSE FOR DELAYS***

(U) The Navy IA did not always identify the correct root cause for delays associated with missing Milestone 5 because of errors or unknown reasons. Our analysis of the FY 2019 Annual Section 887 Report identified that the Navy reported three cases as missing Milestone 5 for contract award but the root cause that the Navy cited was related to the FMS delivery phase, including:

- (U) U.S. Government delay in delivery process, and
- (U) vendor did not meet agreed-upon delivery schedule.<sup>34</sup>

~~(CUI)~~ One of these cases [REDACTED] involved a case that the NAVAIR coordinated with [REDACTED] and implemented on February 8, 2018. The case, valued at \$5.2 billion, involved the sale of 22 F/A-18E and 6 F/A-18F Fighter Attack Aircraft, spare parts, training, and engineering services.<sup>35</sup> Figure 11 shows an example of an F/A-18 Fighter Attack Aircraft.



(U) Figure 11. F/A-18 Fighter Attack Aircraft  
 (U) Source: The U.S. Navy.

(U) This case involved substantial non-recurring engineering efforts for the development and integration of the Advanced Cockpit System, International Active Electronically Scanned Array radar, and redesign of obsolete aircraft components, aircrew training, and 3 years of sustainment. Development challenges affected the ability to complete flight test efforts to qualify aircraft subsystems for full-rate production.

<sup>34</sup> ~~(CUI)~~ One of the three cases [REDACTED] was included as part of the 6 sampled Navy cases for this audit and the other two cases (EG-P-LFW and SZ-P-LAS) were not included in the audit sample.

<sup>35</sup> (U) The F/A-18 E/F Super Hornet Aircraft is an all-weather, twin engine, mid-wing, multi-mission, carrier-suitable tactical aircraft primarily used as a fighter escort and for fleet air defense.

(U) The NAVAIR reported that the aircraft production contract for the case missed Milestone 5 on the Third Quarter FY 2019 Section 887 Report and on the FY 2019 Annual Section 887 Report. However, the NAVAIR cited a root cause for missing Milestone 5 as “Vendor did not meet agreed-to delivery schedule.” We inquired as to why the assigned root cause referred to a delivery issue instead of a contract award issue. NAVAIR officials acknowledged that they inaccurately reported the case missing Milestone 5 but instead should have reported the case missing a delivery milestone.<sup>36</sup>

~~(CUI)~~ The reported root cause was also inaccurate for another sampled Navy FMS case [REDACTED] discussed earlier involving the sale of four Standard Missile-3 Block IIA missiles to [REDACTED]. The case was reported as missing Milestone 5 for contract award on the Section 887 Annual Report for FY 2019. The root cause assigned in the Section 887 Report was, “U.S. Government contracting time took too long.” However, in response to our inquiries, MDA officials who awarded the contract explained that technical factors unrelated to the contracting and FMS processes delayed the SM-3 Block IIA Initial Production Decision and precluded the MDAs ability to definitize the contract award until December 2019. The technical factors involved the contractor failing testing and not meeting the contract specifications. The MDA officials stated that they did not assign a root cause attributing the delay to the U.S. Government contracting. The officials instead provided a narrative for FY 2019 Section 887 reporting indicating that negotiations were ongoing and the contract could not be awarded until the Initial Production Decision.

### ***(U) Concerns With the Army Implementing Agency's Section 887 Reporting***

(U) The Army IA established an informal process to identify Army FMS cases and submit their acquisition status to OUSD(A&S) for inclusion in the DoD Section 887 Quarterly and Annual reports. We identified several concerns with the Army IA's Section 887 reporting and all six of our sampled Army FMS cases had problems with Section 887 reporting including inaccurate, incomplete or unsupported milestones, and milestones that were incorrectly reported as met or missed, or not reported. Table 8 shows the Section 887 reporting results for the six sampled Army FMS cases.

<sup>36</sup> (U) The OUSD(A&S) established a separate notional milestone for delivery, which takes place after Milestone 5 and represents the foreign partner's acceptance of items or services as agreed to in the LOA and subsequently captured in the program master plan and contract.

(U) Table 8. Section 887 Reporting Problems With Sampled Army Cases

(CUI) FMS Case Identifier	Weapon System or Upgrade	Section 887 Reports With Milestone 4 Problems	Section 887 Reports With Milestone 5 Problems
██████████	Apache Helicopter	3rd Quarter FY 2018, and FY 2019 Annual	4th Quarter FY 2018, and FY 2019 Annual
██████████	Black Hawk Helicopter	2nd Quarter FY 2019, and FY 2019 Annual	FY 2019 Annual
IN-B-UAK	155mm Howitzer	FY 2019 Annual	N/A
██████████	Tube-Launched, Optically Tracked, Wireless Guided Missile	FY 2019 Annual	N/A
██████████	Light Armored Vehicles	FY 2019 Annual	N/A
██████████	Medium Tactical Vehicles	Not Included in any Army Section 887 Reports – No MDE lines on the LOA	Not Included in any Army Section 887 Reports – No MDE lines on the LOA  (CUI)

(U) Source: The DoD OIG.

(U) The Army Section 887 reporting problems resulted from several factors, including Army IA personnel:

- (U) not coordinating with the Army program offices responsible for the case on the case’s status,
- (U) filtering its cases to only include those involving MDE, and
- (U) reporting all MDE lines for cases instead of the lines associated with the production of the major weapons system.

(U) In addition, the Assistant Secretary of the Army for Acquisition, Logistics, and Technology did not establish adequate guidance, controls and oversight to ensure the accuracy of the FMS acquisition milestone data in the automated information systems that the Army used for its Section 887 reporting.

**(U) ARMY IMPLEMENTING AGENCY SECTION 887 REPORTING PROCESS**

(U) The Army IA, in contrast to the Navy and Air Force IAs, had an automated information system that identified FMS acquisition milestones for FMS cases and lines and tracked the status of FMS case and lines from the completion of the acquisition requirements package through contract award. The Army uses a Common Operating Picture (COP) to monitor its FMS acquisition process. The Army COP is a tool used to view data from the FMS execution systems of record, the Army Centralized Integrated System – International Logistics.



(U) The COP provides a macro level view with drill down capability of many of the key FMS processes including LOA Development, Execution, and Contracting. The Case Execution Analyzer is a web-based application used within the United States Army Security Assistance Command (USASAC) to manage the execution of FMS cases.

(U) The USASAC is responsible for the Army's Section 887 reporting.<sup>37</sup> We asked the USASAC officials responsible for Section 887 reporting if USASAC followed any specific DoD or Army policy for identifying and reporting cases that meet Section 887 reporting requirements and received conflicting responses. USASAC officials initially stated that USASAC does not follow any specific DoD or Army policy and to the official's knowledge neither DoD or the Army has published any such guidance. However, in response to our inquiries on how Army established FMS acquisition milestones for our sampled cases, USASAC personnel stated that they followed the June 2018 Section 887 Report that OUSD(A&S) submitted to Congress. The report described the DoD's notional FMS milestones and associated standard timelines to meet the public law requirements. However, we determined that the Army methodology differed from the DoD's notional FMS milestones and associated standard timelines.

(U) As part of the Army's Section 887 reporting process, USASAC personnel used a query they developed to identify Army FMS cases in DSAMS with a value greater than or equal to the dollar threshold for congressional notification that meet the Section 887 reporting requirements.<sup>38</sup> USASAC personnel filter the data to only include Army FMS cases that include MDE.

(U) USASAC personnel maintain the FMS case data in an Excel spreadsheet and then query FMS acquisition milestone data from the Centralized Integrated System – International Logistics. USASAC personnel stated that the Centralized Integrated System - International Logistics is the Army FMS case execution system of record and that its data could be viewed in the Army COP. This data includes the FMS case number, LOA line, ARP required date, ARP received date, target (estimated) contract award date, and actual contract award date.<sup>39</sup> USASAC personnel stated that they did not select contracts for Section 887 reporting but instead selected cases and lines from their DSAMS report. For the cases and lines, requisitions and related contract data and dates were evaluated to determine if it met the timeframe for reporting. USASAC personnel filtered and aggregated

<sup>37</sup> (U) The OUSD(A&S) established a separate notional milestone for delivery, which takes place after Milestone 5 and represents the foreign partner's acceptance of items or services as agreed to in the LOA and subsequently captured in the program master plan and contract.

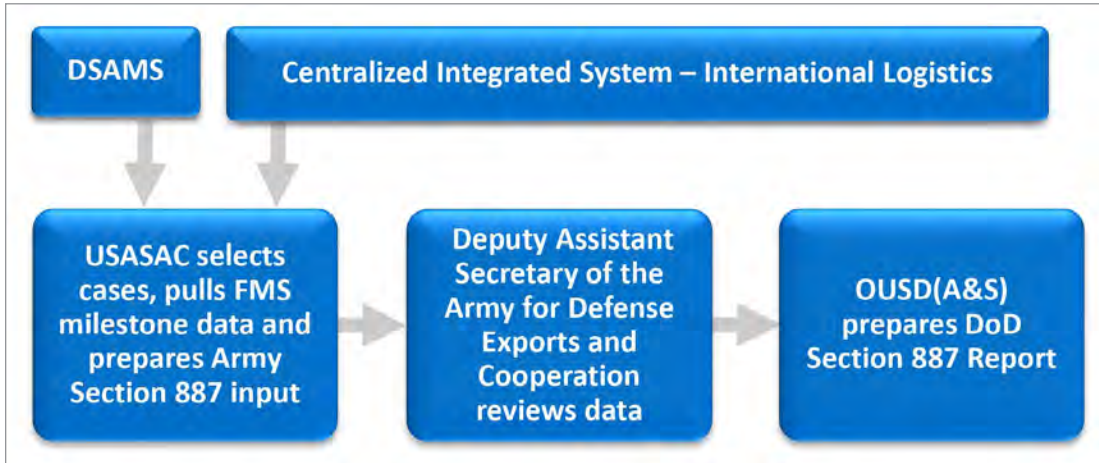
<sup>38</sup> (U) See Appendix C for the FMS congressional notification thresholds.

<sup>39</sup> (U) The Army used the terms target award date and award estimated date to describe the planned contract award date for Milestone 5. This report refers to this date as the target award date.



(U) the data based on the Section 887 reporting requirements, and they coordinated with USASAC Regional Offices to gather feedback and rationale for late items, which was placed on the final report as a comment. USASAC then provided the completed report, through the Office of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation, to the OUSD(A&S). Figure 12 shows the data flow between systems and organizations for Army Section 887 reporting.

(U) Figure 12. Data Flow Between Systems and Organizations for Army Section 887 Reporting



(U) Source: The DoD OIG.

(U) USASAC officials explained that Milestone 4 and Milestone 5 data was based on metrics monitored through the Army COP. Specifically, USASAC personnel measure Milestone 4 as described below.

- (U) Milestone 4 met if the ARP Received Date is prior to the ARP Required Date.
- (U) Milestone 4 missed if the ARP Received Date is after the ARP Required Date.

(U) The Army established a 120-day standard for developing the ARP, which involved preparing all documents necessary to initiate a contract action and releasing them to the Army Contracting Command Center or other organization that is responsible for the acquisition. The ARP milestone information can be system generated, manually entered, or fed from the Army Contracting Command's automated information system.

(U) USASAC personnel measure Milestone 5 as described below.

- (U) Milestone 5 met if the Contract Award Date is prior to the Target Contract Award Date.
- (U) Milestone 5 missed if the Contract Award Date after to the Target Contract Award Date.

(U) The target award date is the estimated date the requirement is expected to be placed on contract once the Army Contracting Command accepts the completed ARP. This date can be manually input by the Army or can be electronically received from Army Contracting Command. The date is based on the complexity of the contract and the timeframe the contract needs to be awarded to meet the agreed-upon delivery schedule in the LOA.

***(U) THE ARMY IA DID NOT COORDINATE WITH ARMY PROGRAM OFFICES FOR SECTION 887 REPORTING***

~~(CUI)~~ The Army IA did not coordinate with Army program offices for any of the six sampled Army cases, which resulted in Section 887 reporting errors. Army IA personnel stated that they relied on system data and that it was not feasible to validate all data feeds flowing into the Army COP, so they chose to trust the data. For example, the Army IA negotiated an agreement, valued at \$137 million, for the sale of Radio Frequency Tube-Launched, Optically Tracked, Wireless Guided Missiles, Launchers, Support Equipment, and Services to [REDACTED]. The case identifier was [REDACTED] and the case was implemented on May 4, 2016.<sup>40</sup> Figure 13 shows an example of the Tube-Launched, Optically Tracked, Wireless Guided missile.



(U) Figure 13. Tube-Launched, Optically Tracked, Wireless Guided Missile Mounted on a Military Vehicle  
(U) Source: The U.S. Army.

<sup>40</sup> (U) The Tube-Launched, Optically Tracked, Wireless Guided missile is a heavy anti-tank precision assault weapon system consisting of a launcher and a missile and provides the warfighter with precise, lethal, direct fires against main battle tanks, field fortifications, heavy weapons teams, snipers and other targets while minimizing collateral damage.

(U) The Army IA reported the case as meeting Milestone 4 on the FY 2019 Section 887 Annual Report. USASAC personnel informed us that they included the case on the FY 2019 Section 887 Annual Report because the ARP-received date of August 15, 2019, was before August 30, 2019, which was the ARP-required date. In response to our inquiries, the program office responsible for preparing the ARP to acquire the missiles provided the request to put the missiles on contract that was dated March 14, 2017, and the Army awarded the associated contract on September 30, 2017. The program office stated that it was not contacted by the USASAC for the FY 2019 Section 887 annual reporting. The case should have never been included on any DoD Section 887 Reports because the Milestone 4 event of ARP complete was completed on March 14, 2017, which was a year before the requirement for the DoD to submit its initial Section 887 Report in the second quarter of FY 2018.

~~(CUI)~~ For two other sampled Army FMS cases (Case Identifiers IN-B-UAK & [REDACTED]), USASAC also relied on incomplete FMS acquisition milestone data and incorrectly reported missing Milestone 4 on the FY 2019 Annual Section 887 Report. USASAC reported the cases as missing Milestone 4 because the ARP required date was blank for both cases. USASAC personnel did not contact the program offices responsible for preparing the ARPs for the cases. In response to our inquiries, the program offices informed us that the ARP for case IN-B-UAK was completed on November 27, 2015, and the ARP for case [REDACTED] was completed on August 14, 2008. Both program offices stated that there were no delays with their respective cases. For case [REDACTED], the Program Manager for Light Armored Vehicles provided supporting documents showing that the LOA was implemented on November 5, 2009, and the contract was awarded 19 days later on November 24, 2009, which seemed timely, yet the case was cited as missing an acquisition-related milestone 10 years later. Neither case should have been included on any DoD Section 887 Reports because the ARPs were completed several years before the requirement for the DoD to submit its initial Section 887 Report in the second quarter of FY 2018.

(U) Although USASAC personnel used system data to determine whether a case met or missed a FMS acquisition milestone, USASAC personnel responsible for Section 887 reporting did not maintain the data. USASAC personnel cited concerns that they did not have detailed insight into the data they used for Section 887 reporting to evaluate when dates were posted or change. USASAC personnel also stated that their Section 887 reporting had changed since they first began reporting in 2018 and explained that in late FY 2018 and early FY 2019, the reporting was based on database entries alone. USASAC personnel acknowledged that those entries were not validated and mistakes could have occurred. They also

(U) acknowledged that it was not feasible to validate all data feeds flowing into the Army COP, so they chose to trust the data. USASAC personnel stated that in FY 2020, they began conducting in-depth research on cases that missed milestones within the databases and to validate the database entries, they coordinated with Country Program Managers, Security Assistance Management Directorates, PEO/Program Managers, and the Army Contracting Command.<sup>41</sup>

***(U) ARMY IMPLEMENTING AGENCY ONLY REPORTED CASES WITH MAJOR DEFENSE EQUIPMENT***

(U) As mentioned, the Army IA's process for selecting cases for Section 887 reporting involved filtering the cases to only include cases with MDE. We asked USASAC personnel to explain their rationale for filtering on MDE and if it was based on OUSD(A&S) guidance and, if so, to provide the guidance. USASAC personnel stated, "It was decided by DSCA and the Military Departments (first discussed in 2018 and reinforced in February 2020) to report on MDE for the Section 887 Quarterly and Annual reports." However, no supporting documentation was cited or provided. The Army IA's case selection process differed from the Air Force and Navy IAs because those IAs did not filter MDE when identifying cases for Section 887 reporting; which resulted in inconsistent reporting between the Military Department IAs.

~~(CUI)~~ For example, the Army IA negotiated an agreement, valued at \$87 million, for the sale of multiple variations of medium tactical vehicles, support equipment, training, services, and technical assistance in support of the Terminal High Altitude Area Defense program to [REDACTED].<sup>42</sup> The case identifier was [REDACTED], and the case was implemented on November 29, 2018. Because this case did not include MDE, the Army filtered it out during its case selection process and did not include it in any Section 887 reports. In contrast, the Air Force and Navy IAs did not filter MDE as part of their case selection process and would have included this type of case as part of their Section 887 reporting.

(U) The inconsistent case selection processes affected the number and value of DoD FMS cases the Military Department IAs included for Section 887 reporting. By filtering on MDE the Army IA excluded 14 cases, valued of \$983 million, from the DoD FY 2019 Section 887 Annual Report. All 14 cases required congressional notification and therefore should have been included in the Section 887 reports to Congress.

<sup>41</sup> (U) We were unable to validate whether the Army improved its Section 887 reporting as we were unable to review and analyze the FY 2020 DoD Annual Section 887 Report because the DoD did not issue it until September 8, 2021, which was after the end of our audit fieldwork.

<sup>42</sup> (U) The medium tactical vehicles included cargo, fuel tanker, wrecker, and other trucks categorized as Significant Military Equipment or non-Significant Military Equipment.

***(U) ARMY IMPLEMENTING AGENCY REPORTED ALL MAJOR DEFENSE EQUIPMENT LINES FOR CASES***

(U) Our review of USASAC Section 887 reporting for our sampled Army FMS cases found that USASAC reported on individual MDE lines that make up the overall case. In contrast to the Army IA's methodology, the Navy and Air Force only report on the major MDE line for a case. For example, if the major MDE line was supported by an aircraft production contract, the Navy and the Air Force only tracked and reported on milestones for the aircraft production contract and not contracts for other MDE lines.

~~(CUI)~~ One sampled Army FMS case (██████████) involved multiple MDE lines for which the requirements were fulfilled by multiple contracts and managed by multiple PEOs. These contracts involved FMS acquisition milestones spanning several Section 887 reporting periods, which created challenges for Army Section 887 reporting. For example, the Army IA negotiated an agreement, valued at \$1.9 billion, for the sale of 9 new build AH-64E Apache Helicopters and the remanufacture and upgrade of 27 existing AH-64E Apache Helicopters and associated spare parts and logistics support with ██████████ ██████████. Figure 14 shows an example of an Apache Helicopter.<sup>43</sup>



(U) Figure 14. Apache Helicopter  
(U) Source: The U.S. Army.

<sup>43</sup> (U) The Apache is a twin-engine, four-blade, tandem-seat attack helicopter capable of destroying armor, personnel and materiel targets in obscured battlefield conditions.



~~(CUI)~~ This was a very complex case that was implemented on January 9, 2018. In addition, there were two implemented amendments to the LOA and another amendment was in process during the audit resulting from the foreign partner changing requirements. The Army tracked and reported five unique MDE lines for this case that involved five unique contracts and multiple actions against those contracts that spanned several Section 887 reporting periods. Table 9 shows the reported MDE lines, responsible PEOs, and Section 887 reporting periods for Army FMS Case [REDACTED].

(U) Table 9. ~~(CUI)~~ Reported MDE Lines, PEOs, and Section 887 Reporting for FMS Case [REDACTED]

LOA Line Number	LOA Line Number Description*	Responsible Army PEO	Section 887 Reporting Periods
001 and 002	New Build and Remanufactured Apache Helicopters	Aviation	FY 2019 Annual
001 and 002	Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor (MTADS/PNVS)	Aviation	FY 2019 Annual
001	T-700-GE-701D Engines	Aviation	2nd Quarter FY 2020
110 and 111	Common Missile Warning System (CMWS), AN/AAR-57(V)7	Intelligence, Electronic Warfare and Sensors	3rd Quarter FY 2018 4th Quarter FY 2018
116	Embedded Global Positioning System/Inertial Navigation System (EGI)	Aviation	3rd Quarter FY 2018

\*Note: Each row in this table is supported by a different (unique) contract.

(U) Source: The DoD OIG.

(U) Army PEO Aviation personnel informed us that the primary LOA lines were 001 and 002 and involved the new build and remanufactured Apache Aircraft. PEO Aviation personnel also stated that the FMS requirements for the case were added to an existing multiyear contract that covered both Army and FMS requirements. In addition, PEO Aviation personnel stated that the contract actions and execution were on or ahead of schedule to meet the FMS customer's delivery requirements. LOA lines 001 and 002 were also supported by separate contacts for Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensors and Engines that would be installed on the Apache Aircraft during production. PEO Aviation personnel stated that the other LOA lines (110, 111, and 116) were not required to support production aircraft deliveries and involved assets to support aircraft qualification, and kits and spares that would be sent to the foreign partner.



(U) The Navy IA, starting in FY 2020, and the Air Force IA Section 887 reporting methodologies for this type of case for the acquisition of major aircraft weapon system would involve only reporting the primary lines and associated contracts for the aircraft production and not for all of the other MDE lines.

***(U) THE ARMY LACKED GUIDANCE, CONTROLS, AND OVERSIGHT TO ENSURE THE ACCURACY OF THE FOREIGN MILITARY SALES ACQUISITION MILESTONE DATA IN ITS AUTOMATED INFORMATION SYSTEM***

(U) The Army IA Section 887 reporting problems occurred because the Army did not establish adequate guidance, controls, and oversight for the USASAC to ensure the accuracy of the FMS milestone data in its automated information systems. Army IA personnel stated that they relied on system data and that it was not feasible to validate all data feeds flowing into the Army COP, so they chose to trust the data. For all six sampled Army cases, the FMS acquisition milestone data was inaccurate, incomplete, or unsupported.

(U) Specifically, the system dates USASAC used for Section 887 reporting of Milestone 4 and for Milestone 5 were inaccurate, incomplete, or unsupported. We made multiple requests to obtain evidence to support these dates and conducted interviews with personnel from several Army organizations including the USASAC, the Army Contracting Command and Army program offices. The USASAC personnel who used the system data for Section 887 reporting cited concerns that they did not have detailed insight into the data to evaluate when dates were posted or changed, and they did not validate the data. Army Contracting Command personnel could not explain how the ARP-required and target-award dates were established but stated that they would work with the program offices to provide acquisition-related information for our sampled Army FMS cases. Program office personnel could not provide evidence on specifically how the ARP required and target award dates were established. Program office personnel cited concerns with the accuracy of the data residing in the Army COP and explained that the dates shown in the Army COP were entered by USASAC personnel who were not the “owners” of the data. The program office personnel explained that they were responsible for developing the ARPs but did not provide input to the Army COP or have access to it. Program office personnel also cited the lack of standard definitions for the ARP required dates and target award dates and that there was no guidance on what dates to use for those circumstances when a contract was already in place.

~~(CUI)~~ The Army established a 120-day standard for developing the ARP as part of Milestone 4, which aligned with the DoD’s Notional FMS milestone 4 methodology of adding 120 days to the LOA implementation date. However, as identified in Army process flow documents and as explained by USASAC personnel, the Army

~~(CUI)~~ methodology added the 120 days to the requisition extract date instead of the LOA implementation date. Specifically, subsequent to LOA implementation the Army generates requisitions for the LOA lines and the Army standard for generating the requisitions is 10 days. However, for cases [REDACTED], four of the LOA lines for MDE exceeded the 10-day standard and the timeframe from case implementation to requisition extract ranged from 11 to 134 days. This means that instead of Milestone 4 reflecting the DoD Notional Milestone 4 timeframe of case implementation date plus 120 days, it was case implementation date plus 131 to 254 days.

~~(CUI)~~ For FMS case [REDACTED], USASAC or any of the program offices were unable to support the ARP required dates for Milestone 4 or the target award dates for Milestone 5 for any of the five lines listed above in Table 9. Therefore, we were unable to determine the accuracy of the Army IA's Section 887 reporting for that case. For example, the system data for LOA lines 001 for the Apache Helicopter with Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor identified the ARP required date of April 30, 2019, and the ARP received date was blank. The PEO Aviation was unable to support the April 30, 2019, ARP required date that USASAC personnel used for Section 887 reporting but provided the ARP used to initiate the contracting action that was dated June 20, 2018. We also calculated the ARP-required date using the Army logic of adding 120 days to the requisition extract date. However, this calculation resulted in an ARP-Required date of September 20, 2018.

~~(CUI)~~ The Army system data contained multiple fields to record entries for the Milestone 5 target award dates. Specifically, unique fields existed for the award estimated initial date, award estimated revision date, and the award estimated date. For the LOA lines we reviewed, USASAC personnel based their Section 887 reporting decision by comparing the award actual date to the award estimated date. However, the award estimated date reflected the award estimated revision date meaning that the milestones were sometimes adjusted during the FMS acquisition process. As a result, Army personnel had the opportunity to adjust the dates to meet milestones. Table 10 shows the adjusted Milestone 5 dates for LOA lines 001 and 002 for Case [REDACTED] and both lines were reported by USASAC as meeting Milestone 5 for Section 887 reporting.

(U) Table 10. ~~(CUI)~~ Adjusted Milestone 5 Dates for LOA Lines 001 and 002 of FMS Case ██████████

LOA Line Number	LOA Line Number Description	Award Estimated Initial Date	Award Estimated Revision Date	Award Estimated Date	Award Actual Date	Section 887 Reporting Decision
001	New Build AH-64E Apache Helicopters	10/1/2018	10/5/2018	10/5/2018	10/5/2018	Met
001 and 002	New Build AH-64E Apache Helicopters	8/28/2019	9/13/2019	9/13/2019	9/4/2019	Met

(U) Source: The DoD OIG.

(U) Both line numbers in Table 10 would have missed Milestone 5 if the award actual date was compared to the award estimated initial date for Section 887 reporting.

(U) In response to our inquiries regarding specific support for the FMS acquisition milestones, Apache program management personnel stated that they researched the capabilities and historical aspects of their Milestone Database. They explained that the system was not setup to record milestones relative to a baseline so they did not have a Milestone Database file that could simply show actual versus estimated. Instead, the database was designed to keep the process on track toward an acceptable award date that would ultimately still support aircraft deliveries to country in accordance with the LOA. The Apache program management personnel also stated that due to the many factors involved that can affect overall program schedule, beyond just the contracting schedule, milestones may be adjusted left or right of previous schedules and still meet the overall program delivery requirements.

(U) In April 2021, we discussed our concerns regarding the Army system data used for Section 887 reporting with officials from the Office of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology and provided them with a summary of the preliminary audit results for the six sampled Army FMS cases. An Army official agreed to review the results and coordinate with other responsible Army organizations and initiate corrective actions to address

(U) the problems. In June 2021, the Office of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology provided a summary of the following corrective actions that the Army initiated or planned to initiate to address the problems this audit identified.

- (U) Discussions on the preliminary findings were held with the USASAC Process and Performance Management Office, the office that mines the data that feeds the Army COP, regarding the process and procedures in place, or in the queue to improve the reliability of the Army COP data. There is now mandatory coordination in place for that office to sync with the USASAC Strategic Integration, and Policy and Analysis team to validate the case data before finalizing the submission for the Section 887 Report. The team will reach back to the country program managers and case developers co-located with the Program Offices at the Life Cycle Management Commands, where applicable. This provides an added level of checks and balances to improve reporting accuracy.
- (U) The USASAC Process and Performance Management Office is reinstating internal and external “COP User Group” meetings. The internal meetings will be geared towards Regional Operations Directors, country program managers, the USASAC Strategic Integration, and Policy and Analysis team, and the external meetings will now be open to the Army Security Assistance Enterprise at large to include the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation and the Program Offices. These interactive forums will be held quarterly to address issues, concerns, and changes to reporting methodology. Key topics such as manual contract updates that feed in to the Army COP and Section 887 reporting will be covered. The slide content will be archived and available to users for training.
- (U) In 2020, the Army Contracting Command mandated that the Target Award Date field in the Virtual Contracting Enterprise be a “required” date, improving the capacity to evaluate if contracts are awarded on time. The USASAC Process and Performance Management Office is reviewing auto-populated metrics, such as the 120-day ARP “required” date, to determine if it needs to be adjusted. There will be some analysis and discussion with the community to explore the possibility of setting the ARP date by commodity. There is also an initiative in progress to assess and address the latency delay on Virtual Contracting Enterprise contracting data populating the Army COP.

(U) We acknowledge that the Office of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology, and other Army organizations initiated corrective actions during the audit. However, additional actions are needed to improve the accuracy of the Army system data used for Army Section 887

(U) reporting. We request that the results be provided, upon completion, of all corrective actions initiated during the audit to improve the accuracy of the Army system data used for Army Section 887 reporting.

(U) The Army should establish guidance, controls, and oversight to improve the accuracy of the FMS milestone data in the automated systems it uses for Section 887 reporting. At a minimum, these actions should:

- (U) identify the specific Army organizations responsible for developing and inputting the milestone dates,
- (U) provide instructions on how the dates should be established and modified,
- (U) document the process flow and calculation methodologies for system-calculated or system-fed dates,
- (U) require investigation and correction of inaccurate and blank or incomplete dates, and
- (U) require the retention of evidence supporting the establishment of the dates.

### **(U) Untimely DoD Section 887 Reporting**

(U) The OUSD(A&S) did not issue guidance to require the Military Department IAs to submit the required case information on FMS acquisition milestones in a timely manner. As a result, the OUSD(A&S) was not timely in issuing its Section 887 reports to Congress.

(U) Section 887 required that no later than November 1, 2019, and annually thereafter until December 31, 2022, the DoD to submit an annual report to Congress that summarized the FMS cases that met and did not meet the standard timeline to achieve a notional milestone and a description of any extenuating factors explaining why the FMS case did not achieve the milestone. Because the fiscal year ends on September 30, the November 1 deadline gave the DoD 32 days to provide timely information to Congress on the DoD FMS process. However, Section 887 did not specify a timeframe for when the DoD was required to submit each of its quarterly reports.

(U) The DoD's Section 887 reporting to Congress has taken significantly longer to issue than the required 32 days for the initial annual report. Table 11 shows that it took the OUSD(A&S) an average of 161 days to issue its reports to Congress after the end of the reporting period.

(U) Table 11. Timeliness of the DoD's Section 887 Report Submissions to Congress

Section 887 Reporting Period	Date of Reporting Period End	Date Report Signed by OUSD(A&S)	Number of Days After Reporting Period End
2nd Quarter, FY 2018 <sup>1</sup>	March 31, 2018	June 7, 2018	68
3rd Quarter, FY 2018	June 30, 2018	October 31, 2018	123
4th Quarter FY 2018	September 30, 2018	January 31, 2019	123
1st Quarter, FY 2019	December 31, 2018	April 28, 2019	118
2nd Quarter, FY 2019	March 31, 2019	August 19, 2019	141
3rd Quarter, FY 2019	June 30, 2019	October 31, 2019	123
4th Quarter FY 2019	September 30, 2019	January 29, 2020	121
FY 2019, Annual Report	September 30, 2019	February 2, 2020	125
1st Quarter, FY 2020	December 31, 2019	May 17, 2020	138
2nd Quarter, FY 2020	March 31, 2020	September 15, 2020	168
3rd Quarter, FY 2020	June 30, 2020	February 17, 2021	232
4th Quarter FY 2020	September 30, 2020	March 31, 2021	182
FY 2020, Annual Report	September 30, 2020	September 8, 2021	343
<b>Average Number of Days to Issue the Report to Congress</b>			<b>161</b>

<sup>1</sup> The initial Section 887 report issued by OUSD (A&S) did not include Part B that required coordination with the Military Services for FMS acquisition milestone information. Therefore, we removed the number of days required to generate the report from the average number of days.

(U) Source: The DoD OIG.

(U) The OUSD(A&S) attributed the delays to the compilation and reporting of FMS case data by the Military Service IAs and the coronavirus pandemic. However, the OUSD(A&S) did not establish guidance on when the Military Service IAs were required to submit their information to OUSD(A&S). Therefore, when one reporting period was delayed it delayed all future reporting. For example, OUSD(A&S) personnel indicated that the delay in compiling and issuing the FY 2020 Section 887 Annual Report negatively affected the compiling and issuing of the First Quarter FY 2021 Section 887 Report.

(U) The OUSD(A&S) official responsible for DoD Section 887 reporting received input from the Military Department IAs for Part B, Section 887 reporting as described below for the FY 2020 Annual Report.

- (U) November 13, 2020—the Army IA provided input
- (U) February 5, 2021—OUSD(A&S) requested that the Navy and Air Force IAs provide their input by February 18, 2021
- (U) February 18, 2021—the Navy IA provided input



- (U) June 10, 2021—the Air Force IA provided input
- (U) September 8, 2021—OUSD(A&S) issued the DoD's FY 2020 Section 887 Annual Report to the applicable Congressional Committees

(U) The OUSD(A&S) official responsible for compiling the DoD's Section 887 Report stated that the Air Force IA was the primary organization responsible for delaying the FY 2020 Annual Report. As mentioned, the Air Force IA's Section 887 reporting involved a manually intensive process. In response to our inquiries, the OUSD(A&S) official stated that the Air Force requested numerous extensions for providing input to the FY 2020 Section 887 Annual Report. Air Force personnel informed OUSD(A&S) that their input was delayed because it required a manual review of the Air Force database of over 180 FMS cases to ensure they reported on all the cases that missed or met milestones during the reporting period.

(U) While we recognize the importance of ensuring data is accurate and complete when reporting, there is also an element of timeliness that is just as important. These reports are as of a specific point in time. Ensuring that the quarterly and annual reports are issued timely allows for both DoD stakeholders and Congress to be aware of FMS cases that met or missed key milestones in the FMS acquisition process. This will allow for greater visibility of both success as well FMS cases that could have been improved.

### **(U) The DoD Did Not Issue Sufficient Guidance on Section 887 Reporting**

(U) The OUSD(A&S) did not issue sufficient guidance to require the Military Department IAs to:

- (U) consistently and accurately identify FMS cases that meet the Section 887 reporting requirements and establish FMS acquisition-related milestones and determine how milestones are met or missed,
- (U) establish sufficient controls and oversight to ensure that the organizations responsible for preparing the Section 887 reports performed the necessary steps to validate the accuracy of the FMS acquisition data, and
- (U) submit the required case information on FMS acquisition milestones in a timely manner.

(U) An OUSD(A&S) official responsible for compiling the Section 887 quarterly and annual reports provided us an overview of the process. On a quarterly and annual basis, the OUSD(A&S) performs a data call requesting each of the Military Department IAs to provide information on whether they met or missed Milestone 4

(U) and Milestone 5 for cases that had a milestone scheduled for the given period. The Army, Navy, and Air Force IAs provide a spreadsheet with the required information and the OUSD(A&S) compiles the information in to Part B of the quarterly and annual Section 887 reports. The FY 2019 Section 887 Annual Report contained these fields: Case, Country, Service, Description, Milestone, Total Case Value, 887 Reporting Period, Root Cause (bin) for Delay, and Comments.

(U) The OUSD(A&S) official informed us that there was no formal guidance issued to the Military Department IAs but there had been periodic working group meetings to discuss the Section 887 reporting process. However, the results of these working groups were not formally documented.

(U) The OUSD(A&S) should coordinate with the Military Department IAs and issue guidance to address the problems this report identified and require that the Section 887 milestones established for the FMS acquisition process are clearly defined, consistently applied and reported in a timely manner. At a minimum, the guidance should require consistency among the Military Department IAs in:

- (U) selecting cases for Section 887 reporting purposes,
- (U) reporting the various categories of defense equipment,
- (U) establishing acquisition milestones for the different types of acquisition scenarios and contract types,
- (U) modifying milestones based on cases placed on hold at the foreign partner's request or when the foreign partner significantly changes its requirements, and
- (U) tracking the impact of missed milestones.

(U) The guidance should also require the Military Department IAs to establish a quality assurance process to ensure the reported information is accurate, supportable, and timely, and at a minimum, include:

- (U) validating the accuracy of the root cause assigned to delays associated with missing FMS milestones,
- (U) coordinating with program offices or other organizations responsible for managing cases and educating personnel in those organizations on Section 887 reporting requirements,
- (U) retaining evidence to support reported milestones,
- (U) reporting milestone status in the proper reporting periods, and
- (U) providing timely input for quarterly and annual reports.

## **(U) DoD Initiatives to Improve the Tracking and Reporting of Foreign Military Sales Acquisitions**

(U) The DoD had ongoing initiatives to improve the FMS acquisition process. These initiatives included the DoD Advanced Analytics initiative and the DSCA Security Cooperation Common Operating Picture (COP) initiative.

### ***(U) DoD Advanced Analytics Initiative***

(U) On December 14, 2020, the Secretary of Defense issued a memorandum on the DoD Advanced Analytics Allies and Partners Dashboard. The memorandum explained that the Deputy Secretary tasked the Advanced Analytics within the Office of the Under Secretary of Defense, Comptroller, to develop an application that includes data and metrics from DoD components to track DoD implementation of critical initiatives and achievement of goals and objectives within a single application using timely, accurate, and complete information. As part of this effort, the Advanced Analytics was developing an Allies and Partners Dashboard with key stakeholders across the DoD to capture key data sets and performance metrics for various DoD initiatives. DSCA officials informed us in August 2021 that the Advanced Analytics changed the name of the Allies and Partners dashboard and split it in to two themes: Business Health and Strategic Competition. The FMS Dashboard that was housed within the Allies and Partners dashboard resides within Business Health and the name was changed to Security Cooperation (SC) Programs. The SC Programs dashboard would include visualizations monitoring priority FMS cases over the course of their lifecycle and DoD performance based on established standards and milestones.

(U) The memorandum explained that the Advanced Analytics partnered with the DSCA and the OUSD(A&S) to capture FMS case development and performance data. The Deputy Secretary emphasized that in order for the SC Programs dashboard to meet his objective, security cooperation and FMS data need to be linked to authoritative DoD data spanning logistics, acquisition, contracts, and financials and that the DSCA had been working to incorporate case development data with case execution and implementation data. The memorandum acknowledged that critical data elements required to properly link the data and establish an automated and comprehensive picture were missing and that the DoD could not capture or report FMS procurement and acquisition data consistently. To address the gap, the Deputy Secretary directed the Military Departments to coordinate with the DSCA, Advanced Analytics, and OUSD(A&S) to:

- (U) develop a plan of action and milestones to move the department towards automation of the required data within the Advanced Analytics environment,

- (U) identify interim and long-term solutions for capturing the required data, and
- (U) track acquisition and contracting data in a way that facilitates linking it to with other DoD security cooperation and FMS data.

(U) The Deputy Secretary explained that his goal was for the DoD to ultimately move away from time-consuming manual data entries and achieve data automation leveraging systems of record and the DSCA was tasked to lead the effort. DSCA officials stated that they were working with the Advanced Analytics to combine efforts in developing a joint integrated plan of actions and milestones that would meet the requirements of the Deputy Secretary's memorandum and the Advanced Analytics efforts for broader data ingestion and automation.

### ***(U) Defense Security Cooperation Agency Security Cooperation Common Operating Picture Initiative***

(U) DSCA officials informed us in November 2020 that they were developing a Security Cooperation Common Operating Picture (COP) within the OUSD Comptroller Advanced Analytics environment with the intent of collecting program and case development, execution, contracting, and financial data from various sources. This data will then be used to present a holistic and comprehensive picture of security cooperation and security assistance programs, delivering training and weapons systems and building institutional capacity for international partners in support of their national defense. The Security Cooperation COP will enable planners, managers, analysts, and senior leadership to make data-driven decisions on strategic interests, improve synchronization, and provide visibility into the full lifecycle of cases and programs.

(U) This effort is part of DSCA's collaboration with OUSD Policy, OUSD(A&S), and the Military Department IAs to develop a SC Programs dashboard within the OUSD Comptroller Advanced Analytics environment. The SC Programs dashboard is a sub-component to the Secretary's Business Health application and is intended to track a subset of FMS cases. The tool is envisioned to provide senior leadership insight into not only where these cases are in development and execution, but also DoD performance against established standards. The DSCA plans to leverage both the SC Programs dashboard and Security Cooperation COP initiatives to link case development data that resides in the DSAMS with execution and contracting data across various DoD systems.

(U) The DSCA coordinated with the Military Departments to complete a data call to support development of the Advanced Analytics-based SC Programs dashboard. A DSCA official provided us with a document showing the key takeaways from the data call that identified several concerns. Specifically, the exercise revealed that although most critical data elements were tracked in DoD case development, case execution, or contracting databases and systems, none of these systems were integrated, which necessitates manual crosswalk. The exercise also revealed that in regards to the case implementation and execution phases, the DSCA did not have access to authoritative data sources capturing implementation and execution data elements. The Military Departments were only tracking certain data elements that supported this tasking, and there were no consistent, unified performance metrics across execution and contracting systems.

(U) In May 2021, we met with DSCA officials to obtain an update on the status of their initiatives. DSCA officials acknowledged that they had a lot of difficulty linking data together. Specifically, linking a case's development data with its execution data was difficult because the case identification data did not seem to always flow through the various systems for each IA. DSCA officials stated that they were working with the Army data because it was the furthest along of the IAs and they hoped to have their data validated and ready for Security Cooperation COP use by the end of the year. In response to our inquiries as to whether DSCA planned to validate the Army data, DSCA officials stated that they would rely on the IAs to ensure their data were accurate and reliable as they were the owners and responsible for their data.

(U) At the time of our discussion, DSCA was planning to have a prototype by June 30, 2021, and then go live a year later in June 2022. DSCA officials stated that the FMS acquisition metrics and standards that they were using for the Security Cooperation COP (and separately the SC Programs dashboard within Advanced Analytics Executive Analytics Strategic Competition application) were the milestones listed in the OUSD(A&S) June 2018 Section 887 Report on DoD Notional Milestones.

(U) We realize that the DoD and DSCA initiatives are in their early stages. However, we have concerns that if the Military Department IAs, especially the Army, do not address the problems that we identified with their Section 887 reporting and the integrity of the system data used for that reporting, that inaccurate and incomplete information will populate the SC Programs dashboard and Security Cooperation COP and negatively impact the quality of the information reported by those systems.

## **(U) Impact of Inaccurate and Untimely Section 887 Reporting**

(U) The DoD did not meet the intent of the congressionally mandated Section 887 reporting requirement. Additionally, the data that the DoD reported inaccurately reflected the status of the DoD FMS acquisition process and was not provided to Congress in a timely manner. The inaccurate and untimely Section 887 reporting negatively impacts the usefulness of the reported information for Congress. In addition, there are ongoing DoD initiatives directed by the Deputy Secretary of Defense to automate the tracking and reporting on the status DoD FMS acquisitions. The incomplete, inaccurate, and unsupported data this audit identified negatively affects the quality of the information used to support those initiatives.

## **(U) Recommendations, Management Comments, and Our Response**

### ***(U) Recommendation B.1***

**(U) We recommend that the Assistant Secretary of the Army for Acquisition, Logistics, and Technology:**

- a. **(U) Provide the results, upon completion, of all corrective actions initiated during the audit to improve the accuracy of the foreign military sales acquisition milestone data in the Army automated information systems used to meet the reporting requirements of Section 887 of the National Defense Authorization Act for FY 2018.**

### ***(U) Assistant Secretary of the Army for Acquisition, Logistics, and Technology Comments***

(U) The Senior Audit Advisor for the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation, responding for the Assistant Secretary of the Army for Acquisition, Logistics, and Technology, agreed with the recommendation. Specifically, the Senior Audit Advisor agreed that the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation would provide the results of all corrective actions initiated during the audit to improve the accuracy of Army FMS acquisition milestone system data. The Senior Audit Advisor also stated that the Deputy Assistant Secretary of the Army would develop a corrective action plan with milestones and coordinate with Army organizations to implement the established guidance and controls and document those results after implementation. The estimated completion date is November 30, 2022.



### ***(U) Our Response***

(U) Comments from the Senior Audit Advisor addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close this recommendation once we verify that the information provided and actions taken by the Assistant Secretary of the Army for Acquisition, Logistics, and Technology fully addresses the recommendation.

**b. (U) Establish guidance, controls and oversight to improve the accuracy of the foreign military sales acquisition milestone data in the Army automated information systems used to meet the reporting requirements of Section 887 of the National Defense Authorization Act for FY 2018.**

**These actions should, at a minimum:**

- **(U) Identify the specific Army organizations responsible for developing and inputting the dates for acquisition requirements package required, acquisition requirements package complete, estimated or target contract award, and actual contract award.**
- **(U) Provide instructions on how the dates should be established and modified for the different types of acquisition scenarios including if a case will require a new contract or if the case requirements will be added onto an existing government contract through a modification or other means.**
- **(U) Require documentation of the process flow and calculation methodologies for system-calculated or system-fed dates.**
- **(U) Require the investigation and correction of inaccurate and blank (incomplete) dates.**
- **(U) Require the retention of evidence supporting the establishment of the dates for management, congressional, and audit use.**

### ***(U) Assistant Secretary of the Army for Acquisition, Logistics, and Technology Comments***

(U) The Senior Audit Advisor for the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation, responding for the Assistant Secretary of the Army for Acquisition, Logistics, and Technology, agreed with the recommendation. Specifically, the Senior Audit Advisor agreed that the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation would establish guidance, controls, and oversight to improve the accuracy of FMS acquisition milestone data in the Army automated information systems. The Senior Audit Advisor also stated that the Deputy Assistant Secretary of the Army would establish business rules to feed FMS data into the Army COP and also define roles and responsibilities. The estimated completion date is July 31, 2022.

### ***(U) Our Response***

(U) Comments from the Senior Audit Advisor addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close this recommendation after we verify that the information provided and actions taken by the Assistant Secretary of the Army for Acquisition, Logistics, and Technology fully addresses the recommendation.

### ***(U) Recommendation B.2***

**(U) We recommend that the Under Secretary of Defense for Acquisition and Sustainment coordinate with the Military Department Implementing Agencies and issue guidance that requires the milestones established for the foreign military sales acquisition process be clearly defined and consistently applied to meet the reporting requirements of Section 887 of the National Defense Authorization Act for FY 2018. The guidance should, at a minimum:**

- **(U) Require the Military Department Implementing Agencies to obtain at the beginning of each quarter a query of all congressional notified cases from the Defense Security Cooperation Agency's Defense Security Assistance Management System and updating the list of cases required to be tracked and reported.**
- **(U) Address the different types of acquisition scenarios including if a case will require a new contract or if the case requirements will be added onto an existing government contract through a modification or other means. For cases where the requirements are added to an existing contract, develop a consistent methodology for reporting Milestone 4 (Acquisition Requirements Package Complete) or reevaluate the need to report the milestone.**
- **(U) Address the different types of contracts to include whether to use definitized or undefinitized contract actions for completion of Milestone 5 (Contract Award).**
- **(U) Require consistent reporting of cases involving major defense equipment and cases involving significant military equipment or other types of equipment or services.**
- **(U) Address how to report cases that involve multiple Letter of Offer and Acceptance lines and associated contracts for major defense equipment.**
- **(U) Require the establishment of a quality assurance process to ensure the reported information is accurate, complete, and reliable, to include validating the accuracy of the root cause assigned to delays associated with missing foreign military sales acquisition milestones.**

- **(U) Require the Implementing Agency's to report milestones met or missed in the proper reporting period and for them to continue to report cases that missed a milestone in all subsequent reporting periods until the milestone event is reached.**
- **(U) Require coordination with the Program Executive Office, Program Manager, or other organizations responsible for managing the case during each reporting period to obtain updated information regarding the case status and obtain the root cause of any potential delays. Require Military Department Implementing Agency personnel to educate personnel in those organizations on the reporting requirements and processes.**
- **(U) Clarify how foreign partner requests to place DoD acquisition activities on hold should affect milestones and reporting.**
- **(U) Clarify how foreign partner requests that significantly change requirements and result in amendments to Letters of Offer and Acceptance should affect acquisition-related milestones and reporting.**
- **(U) Require all Military Department Implementing Agencies to track the impact of missing milestones on the agreed-upon period of performance with the foreign partner for the delivery of defense articles and services.**
- **(U) Require the retention of evidence supporting the milestone information used to compile the annual and quarterly reports for management, congressional, and audit use.**
- **(U) Establish cut off dates for when the Military Department Implementing Agencies are required to provide quarterly and annual input on their foreign military sales acquisitions to the Office of the Under Secretary of Defense for Acquisition and Sustainment. The dates should allow time for that office to compile the information and provide the DoD's report to Congress within the 32-day reporting benchmark that Congress established.**

### ***(U) Under Secretary of Defense for Acquisition and Sustainment Comments***

(U) The Acting Deputy Assistant Secretary of Defense for Platform and Weapon Portfolio Management, responding for the Under Secretary of Defense for Acquisition and Sustainment, agreed with the recommendations, stating that the Under Secretary will work with the Military Department IAs to resolve and codify the definitions and process improvements captured in

(U) this recommendation. The Acting Deputy also stated that the Under Secretary will coordinate with the Military Department IAs and issue guidance that requires the milestones established for the FMS acquisition process be clearly defined and consistently applied to meet the Section 887 reporting requirements. The estimated completion date is February 8, 2022.

***(U) Our Response***

(U) Comments from the Acting Deputy Assistant Secretary of Defense addressed the specifics of the recommendation; therefore, the recommendation is resolved but will remain open. We will close this recommendation after we verify that the information provided and actions taken by the Under Secretary of Defense for Acquisition and Sustainment fully addresses the recommendation.

## (U) Appendix A

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### (U) Scope and Methodology

(U) We conducted this performance audit from September 2020 through October 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

(U) We reviewed the following criteria.

- (U) Title 22, United States Code, Chapter 39 – Arms Export Control
- (U) National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91)
- (U) William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283)
- (U) DoD Directive 5105.65, “Defense Security Cooperation Agency (DSCA),” October 26, 2012
- (U) DSCA Manual 5105.38-M, “Security Assistance Management Manual,” April 30, 2012
- (U) Department of the Army Pamphlet 12-1, “Security Assistance Procedures and Operations,” March 31, 2016
- (U) Department of the Air Force Manual 16-101, “Security Cooperation (SC) and Security Assistance (SA) Management,” August 2, 2018
- (U) Defense Federal Acquisition Regulation Supplement, Part 217—Special Contracting Methods, Subpart 217.74, “Undefinitized Contract Actions,” Revised September 13, 2019.

(U) We interviewed and conducted data calls with officials from the following DoD organizations.

- (U) OUSD(A&S)
- (U) DSCA
- (U) Assistant Secretary of the Army for Acquisition, Technology, and Logistics; USASAC; Army Contracting Command; and multiple Army program offices
- (U) Navy IPO, NAVAIR, NAVSEA, and multiple Navy program offices

- (U) SAF for International Affairs, SAF/AQ, multiple Air Force program offices
- (U) MDA

(U) We selected a nonstatistical sample of 18 cases, valued at \$14.9 billion, that would allow us to include a wide variety of foreign partners, weapon systems, and dollar value. Our sample consisted of 6 cases each from the Army, Navy, and Air Force involving 18 unique weapon systems and 14 different foreign partners. All 18 DoD FMS cases met the requirements for congressional notification.<sup>44</sup>

(U) We used nonstatistical methods and selected:

- (U) 16 cases, valued at \$14 billion, included in DoD Section 887 Reports between the third quarter of FY 2018 and the second quarter of FY 2020.<sup>45</sup>
- (U) One Air Force case, valued at \$791.8 million, from the Air Force case file spreadsheet that met the congressional notification requirements but was not included in DoD Section 887 Reports between the third quarter of FY 2018 and the second quarter of FY 2020.
- (U) One Army case, valued at \$87.3 million, from DSAMS that met the congressional notification requirements but was not included in DoD Section 887 Reports between the third quarter of FY 2018 and the second quarter of FY 2020.

(U) We obtained a universe of 59,625 records from the DSCA-managed DSAMS extracted by the DSCA on November 19, 2020.<sup>46</sup> We analyzed the data and identified 9,071 open LOA records, valued at \$405 billion, that the Military Department IAs managed. We pulled key information from the universe for our sampled cases to include the case implementation date, description, value, and details on any modifications and amendments. Because we used nonstatistical methods, our sample cannot be projected to a population of DoD FMS cases or any subpopulation of DoD FMS cases.

(U) We obtained and reviewed case documentation from the Military Department IAs for each of the sampled cases, including:

- (U) Foreign partner LORs,
- (U) LOAs,

<sup>44</sup> (U) See Appendix C for congressional notification requirements.

<sup>45</sup> (U) The DoD Section 887 Reports between the third quarter of FY 2018 and the second quarter of FY 2020 contained 98 unique Army, Navy, and Air Force FMS cases with a total reported value of \$61.6 billion.

<sup>46</sup> (U) This included open and closed FMS case records and Building Partner Capacity program records for all IAs. We excluded Building Partner Capacity program records from our review because they involve DoD funding and do not involve a request from the foreign partner.



- (U) FMS contract file data, and
- (U) Program office, acquisition and contracting personnel, and case manager records supporting the FMS acquisition process.

(U) We interviewed and conducted data calls with Military Department IA personnel responsible for FMS acquisitions and case management to determine the reasonableness of the FMS acquisition processing time and the causes for any delays. We compared the Military Department IA documentation to requirements set forth in DoD, DSCA, and Military Department IA policy. We reviewed DoD Section 887 Reports from FY 2018 through the fourth quarter of FY 2020. We also reviewed system data and interviewed and conducted data calls with OUSD(A&S) and Military Department IA personnel responsible for tracking and reporting FMS milestone data contained in those reports.

(U) This report was reviewed by the DoD Components associated with this oversight project to identify whether any of their reported information, including legacy FOUO information, should be safeguarded and marked in accordance with the DoD CUI Program. In preparing and marking this report, we considered any comments submitted by the DoD Components about the CUI treatment of their information. If the DoD Components failed to provide any or sufficient comments about the CUI treatment of their information, we marked the report based on our assessment of the available information.

## **(U) Internal Control Assessment and Compliance**

(U) We assessed internal controls and compliance with laws and regulations necessary to satisfy the audit objective. In particular, we assessed whether the DoD managed the acquisition of defense articles and services to meet partner country foreign military sales requirements, and whether the metrics used by DoD components maximize the results of the foreign military sales acquisition process. We also assessed the accuracy of FMS acquisition data that the DoD reported to Congress. However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

## **(U) Use of Computer-Processed Data**

(U) We used computer-processed data from DSAMS to perform this audit; however, the conclusions and recommendations in this report are supported by evidence other than DSAMS data. To test the reliability of the data, we reviewed DSAMS documentation, interviewed DSCA and Military Department IA personnel, and compared the DSAMS data to supporting documentation in the FMS case and

(U) contract files. We determined that the DSAMS data were sufficiently reliable for selecting FMS cases, assessing the timeliness of the DoD FMS acquisition process, and assessing the accuracy of FMS acquisition data that the DoD reported to Congress.

(U) We also used computer-processed data from the Army COP to perform this audit. To test the reliability of the data, we reviewed Army COP documentation, interviewed Army personnel, and compared the Army COP data to supporting documentation in the FMS case and contract files. For the six sampled Army cases, we found the data in the Army COP that Army personnel used for Section 887 reporting to be inaccurate, incomplete, and unsupported. We made a recommendation for the Army to establish guidance, controls, and oversight to improve the accuracy of the FMS acquisition milestone data in the Army COP.

## **(U) Prior Coverage**

(U) During the last 5 years, the Government Accountability Office (GAO) and the DoD Office of Inspector General (DoD OIG) issued three reports discussing the acquisition phase of the DoD FMS program. Unrestricted GAO reports can be accessed at <http://www.gao.gov>. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

### **(U) GAO**

(U) GAO-17-703, “Foreign Military Sales - DoD Needs to improve Its Use of Performance Information to Manage the Program,” August 2017

(U) The GAO found that the DoD’s performance on FMS has improved, but the DoD was not meeting two out of three performance metrics for the timely processing of FMS requests and does not collect data for the third metric. DoD officials cited several factors that adversely affected their ability to meet the timeliness goals, such as changing customer requirements or delays due to policy concerns regarding particular sales.

(U) GAO-17-682, “Foreign Military Sales - Expanding Use of Tools to Sufficiently Define Requirements Could Enable More Timely Acquisitions,” August 2017

(U) The GAO found that several factors may contribute to delays or increased prices in FMS. For example, program officials noted that general acquisition issues, such as delayed contract awards and unforeseen events during production, can similarly affect FMS.

**(U) DoD OIG**

(U) Report No. DODIG-2021-003, "Audit of the Department of Defense Process for Developing Foreign Military Sales Agreements," October 9, 2020.

(U) The DoD OIG determined that although the DoD coordinated foreign partner requirements with the DSCA, Military Departments, and other organizations, the Military Department IAs exceeded the DSCA's processing standards for how long it should take to develop FMS agreements for 70 delayed cases reviewed. The DoD OIG also determined that the Military Department IAs did not accurately record receipt of foreign partner Letters of Request in DSAMS for 72 of 80 sampled cases. Specifically, an average of 70 days elapsed between the receipt of the foreign partner's Letter of Request and the Letter of Request receipt date recorded in DSAMS. In addition, the Military Department IAs did not comply with DSCA policy on establishing the case initialization and Letter of Request complete milestones in DSAMS.

## **(U) Appendix B**

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### **(U) Congressional Requirement for a DoD Office of Inspector General Audit of the DoD Foreign Military Sales Program**

(U) An efficient, thorough, and effective Foreign Military Sales (FMS) process is vital to U.S. foreign policy and national security, and it contributes to the health of the U.S. defense industrial base. The committee is aware, however, of concerns raised by U.S. military leaders, the defense industry, and foreign partners that the FMS process is slow, cumbersome, and overly complicated.

(U) Therefore, the committee directs the DoD Inspector General to conduct an audit regarding the DoD implementation of FMS programs and, upon completion of the audit, to submit a final report to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives. The committee further directs the Inspector General to meet with the House Committee on Armed Services and the House Committee on Foreign Affairs not later than June 30, 2018, to scope the audit fully. Additionally, the committee directs the Inspector General to provide an interim briefing to the House Committee on Armed Services and the House Committee on Foreign Affairs not later than November 30, 2018, on the manner that it intends to conduct such audit.<sup>47</sup>

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<sup>47</sup> (U) House Report 115-676, to accompany the National Defense Authorization Act for FY 2019.

## (U) Appendix C

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### (U) Foreign Military Sales Congressional Notification Requirements

(U) Congressional notification is required for FMS cases that meet certain dollar thresholds established for different procurement categories, and Congress has a specified timeframe to review submitted documentation before the offer is presented for delivery of defense articles.

(U) Under Section 36(b) of the Arms Export Control Act, Congress must be formally notified 30 calendar days before a government-to-government foreign military sale of:

- (U) major defense equipment valued at \$14 million or more,
- (U) defense articles or services valued at \$50 million or more, or
- (U) design and construction services valued at \$200 million or more.

(U) In the case of such sales to North Atlantic Treaty Organization members, Japan, Australia, Israel, Republic of Korea, or New Zealand, Congress must be formally notified 15 calendar days before a sale can proceed. However, the prior notice threshold values are higher:

- (U) major defense equipment valued at \$25 million or more,
- (U) defense articles or services valued at \$100 million or more, or
- (U) design and construction services valued at \$300 million or more.

(U) The IAs must provide the required information to the DSCA for preparation and submission of congressional notification reports, including key information such as cost estimates; a sensitivity of technology statement identifying the extent of the sensitive technology and classified information and a justification for the sale in view of the technology sensitivity; and a military justification.<sup>48</sup> Upon expiration of the statutory 15- or 30-day review period, and if Congress has not enacted a joint resolution objecting to the proposed sale, the LOA document may be coordinated, countersigned, and offered to the purchaser.

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<sup>48</sup> (U) Sensitivity of technology refers to the detrimental effect on national security interests of the United States that could be caused by unauthorized disclosure or diversion of defense equipment, technical data, training, services, or documentation transferred in connection with a proposed sale.

# (U) Management Comments

## (U) Under Secretary of Defense for Acquisition and Sustainment



ACQUISITION AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

November 3, 2021

MEMORANDUM FOR PROGRAM DIRECTOR, ACQUISITION, CONTRACTING,  
AND SUSTAINMENT, OFFICE OF THE INSPECTOR GENERAL

SUBJECT: Response to the Department of Defense Inspector General’s Draft Report for  
Audit of Foreign Military Sales Acquisition Process (Project No.  
D2020-D000AX-0174)

This memorandum provides the Office of the Under Secretary of Defense for Acquisition and Sustainment response to the Department of Defense Inspector General’s Draft Report for Audit of Foreign Military Sales Acquisition Process. The Department concurs with the recommendation. We will work with the Military Services to issue guidance to address the recommendations as noted in the attachment. My point of contact for this matter is [REDACTED]

[REDACTED], who may be reached at [REDACTED] or [REDACTED].

RUOCCO.JAME [REDACTED]  
S.A. [REDACTED]  
[REDACTED]  
Acting Deputy Assistant Secretary of Defense  
Platform and Weapon Portfolio Management

Attachment:  
As stated



## (U) Under Secretary of Defense for Acquisition and Sustainment (cont'd)

### Attachment

**Office of the Under Secretary of Defense for Acquisition and Sustainment (A&S)  
Response to DoD IG Draft Audit of Foreign Military Sales Acquisition Process  
(Project No. D2020-D000AX-0174)**

**Recommendation B.2.: Under Secretary of Defense for Acquisition and Sustainment coordinate with the Military Department Implementing Agencies and issue guidance that requires the milestones established for the foreign military sales acquisition process to be clearly defined and consistently applied to meet the reporting requirements of Section 887 of the National Defense Authorization Act for FY 2018. The guidance should, at a minimum:**

- Require the Military Department Implementing Agencies to obtain at the beginning of each quarter a query of all congressional notified cases from the Defense Security Cooperation Agency's Defense Security Assistance Management System and update the list of cases required to be tracked and reported.
- Address the different types of acquisition scenarios including if a case will require a new contract or if the case requirements will be added onto an existing government contract through a modification or other means. For cases where the requirements are added to an existing contract, develop a consistent methodology for reporting Milestone 4 (Acquisition Requirements Package Complete) or reevaluate the need to report the milestone.
- Address the different types of contracts to include whether to use definitized or undefinitized contract actions for completion of Milestone 5 (Contract Award).
- Require consistent reporting of cases involving major defense equipment and cases involving significant military equipment or other types of equipment or services.
- Address how to report cases that involve multiple Letters of Offer and Acceptance lines and associated contracts for major defense equipment.
- Require the establishment of a quality assurance process to ensure the reported information is accurate, complete, and reliable, including validating the accuracy of the root cause assigned to delays associated with missing foreign military sales acquisition milestones.
- Require the Implementing Agencies to report milestones met or missed in the proper reporting period and for them to continue to report cases that missed a milestone in all subsequent reporting periods until the milestone event is reached.

## (U) Under Secretary of Defense for Acquisition and Sustainment (cont'd)

### Attachment

- Require coordination with the Program Executive Office, Program Manager, or other organizations responsible for managing the case during each reporting period to obtain updated information regarding the case status and obtain the root cause of any potential delays. Require Military Department Implementing Agency personnel to educate personnel in those organizations on the reporting requirements and processes.
- Clarify how foreign partner requests to place DoD acquisition activities on hold should affect milestones and reporting.
- Clarify how foreign partner requests that significantly change requirements and result in amendments to Letters of Offer and Acceptance should affect acquisition-related milestones and reporting.
- Require all Military Department Implementing Agencies to track the impact of missing milestones on the agreed-upon period of performance with the foreign partner for the delivery of defense articles and services.
- Require the retention of evidence supporting the milestone information used to compile the annual and quarterly reports for management, congressional, and audit use.
- Establish cut off dates for when the Military Department Implementing Agencies are required to provide quarterly and annual input on their foreign military sales acquisitions to the Office of the Under Secretary of Defense for Acquisition and Sustainment. The dates should allow time for that office to compile the information and provide the DoD's report to Congress with the 30-day reporting benchmark that Congress established.

**Response:** Concur. The Office of the Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)) will work with the Military Department Implementing Agencies to resolve and codify the definitions and process improvements captured in this recommendation. USD(A&S) will coordinate with the Military Department Implementing Agencies and issue guidance that requires the milestones established for the foreign military sales acquisition process be clearly defined and consistently applied to meet the reporting requirements of section 887 of the National Defense Authorization Act for FY 2018.

## (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology)



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY  
ACQUISITION LOGISTICS AND TECHNOLOGY  
103 ARMY PENTAGON  
WASHINGTON DC 20310-0103

SAAL-ZN

3 November 2021

### MEMORANDUM FOR

Department of Defense Office of the Inspector General (DoDIG), Acquisition,  
Contracting and Sustainment, 630 Morrison Road, Gahanna, OH 43230-5318  
U.S. Army Audit Agency – Fort Bragg Field Office, Audit Coordination and Follow-up  
Office, 1-2336 Hamilton Street, Fort Bragg, NC 28310-5000

SUBJECT: Management Comments – DoDIG Draft Report: (CUI) DoD Foreign Military  
Sales Acquisition Process (D2020AX-0174)

1. Reference DoDIG, Draft Report-Audit of the DoD Foreign Military Sales Acquisition  
Process, Project No. D2020-D000AX-0174.000, 5 October 2021.

2. The Deputy Assistant Secretary of the Army for Defense Exports and Cooperation  
(DASA-DE&C) concurs with the findings contained in the DoDIG Draft Audit Report on  
the DoD Foreign Military Sales Acquisition Process.

3. The DoDIG Draft Audit report contains two recommendations addressed to DASA-  
DE&C.

a. DASA-DE&C concurs with Recommendation B.1.a to provide the results, upon  
completion, of all corrective actions initiated during the audit to improve the accuracy of  
the foreign military sales acquisition milestone data in the Army automated information  
systems used to meet the reporting requirements of Section 887 of the National  
Defense Authorization Act (NDAA) for FY 2018.

(1) Actions we plan to take: Develop a corrective action plan with milestones.  
Coordinate with Army organizations to implement established guidance and controls,  
then document those results after implementation.

(2) The estimated completion date is 30 November 2022.

b. DASA-DE&C concurs with Recommendation B.1.b to establish guidance, controls  
and oversight to improve the accuracy of the foreign military sales acquisition milestone  
data in the Army automated information systems used to meet the reporting  
requirements of Section 887 of the NDAA for FY 2018.

(1) Actions we plan to take: We plan to establish business rules to feed data into  
the Common Operating Picture (COP) and also define roles and responsibilities.

## (U) Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (cont'd)

SAAL-ZN  
SUBJECT: Management Comments – Department of Defense Office of the Inspector General (DoDIG) Draft Report: (CUI) DoD Foreign Military Sales Acquisition Process (D2020AX-0174)

(2) The estimated completion date is 31 July 2022.

4. The point of contact for this action is [REDACTED], Senior Audit Advisor, CPA, and can be reached at [REDACTED].

BARTLETT.CURT  
.A [REDACTED] [REDACTED]

[REDACTED]  
Senior Audit Advisor, CPA  
Deputy Assistant Secretary of the Army  
for Defense Exports and Cooperation  
(DASA (DE&C))

## (U) Acronyms and Abbreviations

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<b>ARP</b>	Acquisition Requirements Package
<b>COP</b>	Common Operating Picture
<b>DSAMS</b>	Defense Security Assistance Management System
<b>DSCA</b>	Defense Security Cooperation Agency
<b>GAO</b>	Government Accountability Office
<b>IA</b>	Implementing Agency
<b>LOA</b>	Letter of Offer and Acceptance
<b>LOR</b>	Letter of Request
<b>MDA</b>	Missile Defense Agency
<b>MDE</b>	Major Defense Equipment
<b>NAVAIR</b>	Naval Air Systems Command
<b>NAVSEA</b>	Naval Sea Systems Command
<b>NDAA</b>	National Defense Authorization Act
<b>Navy IPO</b>	Navy International Programs Office
<b>OIG</b>	Office of Inspector General
<b>OUSD(A&amp;S)</b>	Office of the Under Secretary of Defense (Acquisition and Sustainment)
<b>PEO</b>	Program Executive Officer
<b>SAF/AQ</b>	Assistant Secretary of the Air Force/Acquisition
<b>SAMM</b>	Security Assistance Management Manual
<b>SC</b>	Security Cooperation
<b>USASAC</b>	U.S. Army Security Assistance Command

## (U) Glossary

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**(U) Case Manager.** IA personnel responsible for FMS case development and to guide execution of the FMS case after implementation also referred to as country manager, command country manager, security assistance program manager, program support manager, or line manager.

**(U) Defense Article.** Any item, including end-items, major systems and equipment, parts, components, accessories and attachments, or technical data that constitutes the U.S. Munitions List.

**(U) Defense Service.** The furnishing of assistance (including training) to foreign persons in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles; or military training of foreign units and forces, including formal or informal instruction of foreign persons.

**(U) Foreign Military Sale.** That portion of U.S. security assistance sales programs that require agreements/contracts between the U.S. Government and an authorized foreign partner nation or international organization for defense articles and services to be provided to the recipient from current stock or new procurement under DoD-managed contracts, regardless of the source of financing.

**(U) Foreign Partner Nation.** A nation with which the DoD conducts security cooperation activities or works within a specific situation or operation.

**(U) Implementation.** The Implementing Agency takes action to execute the FMS case once the purchaser has signed the case and provided the U.S. Government with any required initial deposit and it is entered in all applicable data systems.

**(U) Implementing Agency.** Organizations that the DSCA authorized to receive foreign partner requests for defense articles and services.

**(U) Letter of Offer and Acceptance.** U.S. DoD letter by which the U.S. Government offers to sell to a foreign government or international organization U.S. defense articles and defense services pursuant to the Arms Export Control Act.

**(U) Letter of Request.** The term used to identify a request from an eligible FMS participant country for the purchase of U.S. defense article and services. The letter may be in message or letter format.



**(U) Major Item.** A complete assembly designed to perform a specific function within itself that has significant impact on mission accomplishment (for example, aircraft, radar equipment, vehicles, and support equipment) as distinguished from an individual part or component.

**(U) Section 887.** Section 887 of the National Defense Authorization Act for FY 2018 (Public Law 115-91) established quarterly and annual congressional reporting requirements for the DoD to report on the status of its open FMS cases to include the status of the associated procurements.

**(U) Security Assistance.** A group of programs by which the United States provides defense articles, military education and training, and other defense related services by grant, loans, credit, cash sales, or lease in furtherance of national policies and objectives.

**(U) Security Cooperation.** All activities undertaken by the DoD to encourage and enable international partners to work with the U.S. to achieve strategic objectives to build defense and security relationships, promote specific U.S. security interests, develop allied and friendly military capabilities for self-defense and multinational operations, and provide U.S. forces with peacetime and contingency access to host nations.

**(U) Security Cooperation Organization.** DoD organizations stationed in foreign countries to manage security assistance and other military programs.

**(U) Unfinalized Contract Action.** DoD organizations use unfinalized contract actions to authorize contractors to begin work and incur costs prior to reaching final agreement on contract terms, specifications, or price. The contracting action is subsequently finalized when there is an agreement on, or determination of, contract terms, specifications, and price.



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703.604.8324

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[public.affairs@dodig.mil](mailto:public.affairs@dodig.mil); 703.604.8324

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