

INFORMATION PAPER

SUBJECT: Foreign Military Sales Contract Contingent Fees

1. PURPOSE: To provide information on the new FMS contingent fee rule - DFAS 225.7303-4.

2. FACTS:

a. Contingent fees are generally allowable under DOD contracts provided the fees are determined by the contracting officer to be fair and reasonable and are paid to a bona fide employee or a bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business.

b. Contingent fees are not allowable in FMS contracts for the following countries [Australia, Taiwan, Egypt, Greece, Israel, Japan, Jordan, Korea, Kuwait, Pakistan, Philippines, Saudi Arabia, Turkey, Thailand, or Venezuela (Air Force)] unless payment has been identified and approved in writing by these countries before contract award. NO CHANGE FROM PRIOR ACQUISITION RULE. Same countries as listed in SAMM section 80103.D.

c. The prior Defense acquisition rule limited allowable contingent fees for contracts in support of a FMS case to \$50,000.

d. The new Defense acquisition rule [effective 9 March 98] permits allowable contingent fees [for countries other than listed above] to exceed \$50,000 per FMS case, provided payment has been identified and approved in writing by the foreign customer before contract award.

Mr. Larry D. Anderson
AMSAC-LA
617-8040
10 March 1998