



Department of Defense

DIRECTIVE

NUMBER 3160.01
August 25, 2008

USD(P)

SUBJECT: Homeland Defense Activities Conducted by the National Guard

- References:
- (a) Sections 502 and 901-908 of title 32, United States Code
 - (b) Sections 115, 3013, 8013, and 10502 of title 10, United States Code
 - (c) Section 1301 of title 31, United States Code
 - (d) DoD 8910.1-M, "Department of Defense Procedures for Management of Information Requirements," June 30, 1998
 - (e) Sections 1811-1814 and 1826 of Public Law 110-181, "National Defense Authorization Act for Fiscal Year 2008"
 - (f) DoD Directive 5105.77, "National Guard Bureau (NGB)," May 21, 2008

1. PURPOSE. This Directive implements sections 901-908 of Reference (a) according to the authority in section 903 of Reference (a) to establish DoD policy and assign responsibilities for employing the National Guard to conduct homeland defense activities.

2. APPLICABILITY. This Directive:

a. Applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

b. Does not supersede the responsibilities and authorities of the Secretary of the Army and the Secretary of the Air Force according to Reference (b) nor the requirements for appropriations according to Reference (c).

c. Applies to the Governors and the Adjutants General of the States. Except as described in this Directive with regard to homeland defense activities for which the Secretary of Defense provides funds to a Governor to employ National Guard units or members in accordance with section 902 of Reference (a), nothing in this Directive shall be construed as a limitation on the authority of the Governor of a State to employ any unit of the National Guard of that State, when such unit is not in Federal service, to perform functions authorized by the laws of the State concerned.

3. DEFINITIONS

a. The terms “homeland defense activity” and “State” are defined in section 901 of Reference (a).

b. For the purposes of this Directive, unless the context herein indicates otherwise, the term “National Guard” means the Army National Guard, the Air National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

4. POLICY. It is DoD policy consistent with sections 901-908 of Reference (a) that:

a. The Secretary of Defense may provide funds for a Governor to employ the National Guard to conduct homeland defense activities that the Secretary determines to be necessary and appropriate.

b. The Governors of the States may request homeland defense activity funding for:

(1) Deliberate, Planned Activities. Requests may be submitted prior to the anticipated date of a planned homeland defense activity.

(2) Exceptional Circumstances. Requests may be submitted during or after National Guard execution of a homeland defense activity in a State active duty status. Governors shall submit the request as quickly as circumstances permit allowing members to be subsequently placed in full-time National Guard duty status (section 502(f) of Reference (a)).

c. All duty performed according to this Directive shall be considered to be full-time National Guard duty in accordance with section 502(f) of Reference (a). Members of the National Guard performing full-time National Guard Duty in the Active Guard and Reserve Program may support or execute homeland defense activities.

d. The period for which members of the National Guard may perform duty according to this Directive shall be limited to 180 days. The Governor of the State may, with the concurrence of the Secretary of Defense, extend the period one time for an additional 90 days to meet extraordinary circumstances.

e. Members of the National Guard performing duty according to this Directive shall, in addition to performing such duty, participate in the training required in section 502(a) of Reference (a). Pay, allowances, and other benefits of members participating in the training shall be the same as those to which they are entitled while performing duty according to this Directive; members are not entitled to additional pay, allowances, or other benefits for participation in the training. Members of the National Guard shall not participate simultaneously in the two separate duty statuses set forth in sections 502(a) and 502(f) of Reference (a) within the same 24-hour duty day.

f. To ensure that use of the National Guard for homeland defense activities does not degrade the training and readiness of the National Guard, the following requirements shall apply in determining the homeland defense activities the National Guard may perform.

(1) The performance of the homeland defense activities shall not adversely affect the quality of that training or otherwise interfere with the ability of the National Guard to perform its other military functions.

(2) The performance of the homeland defense activities shall not degrade the other military skills of the National Guard.

g. In the case of any homeland defense activity for which the Secretary of Defense determines that participation of the National Guard of a State is necessary and appropriate, the Secretary may provide funds to that State in an amount the Secretary determines is appropriate for the following costs, from funds available to the Department for related purposes.

(1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of the National Guard of that State.

(2) The operation and maintenance of the equipment and facilities of the National Guard of that State.

(3) The procurement of services and equipment and the leasing of equipment for the National Guard of that State.

5. RESPONSIBILITIES. See Enclosure 1.

6. INFORMATION REQUIREMENTS. The reporting requirements in this Directive have been assigned Report Control Symbol (RCS) DD-POL(A)2329 in accordance with DoD 8910.1-M (Reference (d)).

7. RELEASABILITY. UNLIMITED. This Directive is approved for public release. Copies may be obtained through the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This Directive is effective immediately.


Gordon England
Deputy Secretary of Defense

Enclosures

1. Responsibilities
2. Sample Request for Funding

ENCLOSURE 1

RESPONSIBILITIES

1. ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND DEFENSE AND AMERICA'S SECURITY AFFAIRS (ASD(HD/ASA)). The ASD(HD/ASA), under the authority, direction, and control of the Under Secretary of Defense for Policy (USD(P)), exercising overall supervision of the homeland defense activities of the Department of Defense and performing other duties as directed by the Secretary of Defense, shall:

a. Serve as the Principal Staff Assistant and policy advisor to the Secretary of Defense and the USD(P) with responsibility for homeland defense activities conducted by the National Guard.

b. In coordination with the DoD Components, advise and make recommendations to the Secretary of Defense on the employment of and funding for National Guard forces when performing homeland defense activities.

c. Develop, coordinate, and issue policy guidance and oversee the implementation of policy for homeland defense activities of the National Guard.

d. In accordance with section 908 of Reference (a), prepare and submit an annual report to the Congressional defense committees regarding any assistance provided and activities carried out pursuant to this Directive during each fiscal year. The report shall be submitted not later than March 31 of the year following the end of the fiscal year and shall include the following.

(1) The numbers of members of the National Guard excluded pursuant to section 115(i)(13) of Reference (b) from being counted for the purpose of end strengths authorized pursuant to section 115(a)(1) of Reference (b).

(2) A description of the homeland defense activities conducted with funds provided in accordance with Reference (a).

(3) An accounting of the amount of the funds provided to each State.

(4) A description of the effect of National Guard participation in homeland defense activities on the military training and readiness of the National Guard.

e. Review requests for funding for homeland defense activities against the following criteria.

(1) The request conforms to the statutory definition of a homeland defense activity in section 901 of Reference (a).

(2) An actual or credible threat to the United States exists.

(3) The Secretary of Defense determines that the homeland defense activity for the protection of infrastructure or assets is critical to national security.

- (4) The request complies with Federal laws and regulations.
- (5) The activity is necessary and appropriate for National Guard participation.
- (6) Performance of the activity does not:

- (a) Adversely impact the training or readiness of a member or unit of the National Guard to perform the military functions of the member or unit.

- (b) Degrade the military skills of the members of the National Guard performing the activity.

- (c) Adversely impact the preparedness of the total National Guard force.

- (7) Funds are available and/or authorized in support of the objectives of paragraph 4.b.(2) of the basic document of this Directive.

- f. Advise the Chairman of the Joint Chiefs of Staff, the Secretary of the Army, and the Secretary of the Air Force of requests for National Guard homeland defense activities and solicit Service feedback regarding the impact on readiness of such activity requests.

2. UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE (USD(I)). The USD(I) shall advise the ASD(HD&ASA) on homeland defense threats to the United States.

3. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)). The USD(P&R) shall:

- a. In coordination with the Secretary of the Army, the Secretary of the Air Force, and the Commander of the United States Special Operations Command (USSOCOM), develop, coordinate, and issue policy guidance and oversee the implementation of policy for the training of the National Guard to ensure its readiness to execute homeland defense activities.

- b. Advise the ASD(HD&ASA) on the necessity and appropriateness of National Guard participation in homeland defense activities.

- c. Advise the Secretary of Defense on the impact of homeland defense activities on the military training and readiness of the National Guard.

4. GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE (GC, DoD). The GC, DoD, shall advise the ASD(HD&ASA) on the consistency of requests for funding of National Guard homeland defense activities with applicable laws, Presidential directives, Executive orders, and DoD issuances.

5. SECRETARY OF THE ARMY AND SECRETARY OF THE AIR FORCE. The Secretary of the Army and the Secretary of the Air Force shall:

- a. Support National Guard homeland defense activities.
- b. Advise the Chairman of the Joint Chiefs of Staff on requests for National Guard homeland defense activities that affect the readiness of the National Guard.
- c. Coordinate with and support the Chief of the National Guard Bureau (NGB) in carrying out his or her responsibilities with respect to National Guard homeland defense activities.
- d. Manage and provide sufficient resources in a timely manner for only those activities approved by the Secretary of Defense specifically associated with sections 902-906 of Reference (a).
- e. Provide for accounting and other procedures necessary to manage expenditures for homeland defense activities according to sections 905 and 908 of Reference (a).
- f. Provide an accounting of the amount of the funds provided to each State to the ASD(HD/ASA) for inclusion in the annual report mandated by section 908 of Reference (a).

6. CHAIRMAN OF THE JOINT CHIEFS OF STAFF. The Chairman of the Joint Chiefs of Staff shall review and assess requests from the Governors of the States for National Guard homeland defense activities, recommend approval or disapproval, and advise the Secretary of Defense on the following.

- a. Potential impacts on the operational deployment and employment of forces assigned to the Combatant Commands.
- b. The necessity and appropriateness of National Guard participation in the requested activities and the impact on readiness.
- c. The compatibility of the requested homeland defense activities with, and any conflicts with, other Federal military operations.

7. COMMANDERS OF THE COMBATANT COMMANDS. The Commanders of the Combatant Commands, through the Chairman of the Joints Chiefs of Staff, shall coordinate with the NGB to facilitate NGB synchronization of State homeland defense activity plans with the appropriate Combatant Commanders to ensure National Guard activities funded in accordance with this Directive do not conflict with ongoing Federal missions.

8. COMMANDERS OF THE GEOGRAPHIC COMBATANT COMMANDS. In addition to performing the responsibility in section 7 of this enclosure, the Commanders of the Geographic Combatant Commands having responsibility for the areas of operation (AORs) in which

requested homeland defense activities will occur shall advise the Secretary of Defense, through the Chairman of the Joint Chiefs of Staff, regarding:

- a. The compatibility of the requested homeland defense activities with military operations ongoing within their respective AORs.
- b. The necessity and appropriateness of the request from an operational perspective.

9. COMMANDER, USSOCOM. In addition to performing the responsibility in section 7 of this enclosure, the Commander, USSOCOM, shall coordinate with the Secretary of the Army and the Secretary of the Air Force to develop, coordinate, and issue policy guidance and oversee the implementation of policy for the training of the National Guard to ensure its readiness to execute homeland defense activities.

10. CHIEF, NGB. The Chief, NGB, shall:

- a. Serve as a principal advisor to the Secretary of Defense, through the Chairman of the Joint Chiefs of Staff, on matters involving non-Federalized National Guard forces and on other matters as determined by the Secretary of Defense pursuant to section 1811 of Public Law 110-181 (Reference (e)); serve as the principal advisor to the Secretary of the Army and the Secretary of the Air Force on National Guard matters pursuant to section 10502(c) of Reference (b).

- b. Assist the State Adjutants General in supporting, synchronizing, and facilitating National Guard homeland defense activities for which the Secretary of Defense has approved funding.

- c. Assist the State Adjutants General in assessing the impact(s) of requested homeland defense activities on the military training and readiness of the National Guard.

- d. Assist and coordinate with the State Adjutants General in assessing the necessity and appropriateness of National Guard participation in requested homeland defense activities.

- e. Coordinate with the State Adjutants General to ensure the required mission reports and other information, as appropriate, are provided to the appropriate Combatant Commanders through the Chairman of the Joint Chiefs of Staff.

- f. Advise the Secretary of the Army and the Secretary of the Air Force of Secretary of Defense requests for National Guard homeland defense activities; maintain information from executed homeland defense activities for Congressional and other reports.

- g. Advise the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Secretary of the Army, and the Secretary of the Air Force on operational matters, responsibilities, and programs regarding National Guard homeland defense activities.

- h. Assist the Secretary of Defense in assessing the necessity and appropriateness of requests for DoD funding for National Guard homeland defense activities.

i. Serve as an advisor to the Combatant Commanders on National Guard matters pertaining to homeland defense activity plans; support planning and coordination with the appropriate State Adjutants General to ensure National Guard activities funded in accordance with this Directive are integrated with the appropriate Combatant Command homeland defense activity plan and do not conflict with ongoing Federal missions.

j. In accordance with DoD Directive 5105.77 (Reference (f)), serve as the channel of communication on all matters pertaining to National Guard homeland defense activities between (1) the Secretary of Defense and the Heads of the DoD Components (including the Secretary of the Army and the Secretary of the Air Force) and (2) the States. Direct liaison between the entities in (1) and (2) should occur only in an emergency when time does not permit compliance with this Directive. In each such instance, the Chief, NGB, should be informed of the communication.

k. Assist the State Adjutants General in fulfilling the responsibilities set forth in section 11 of this enclosure.

11. GOVERNORS OF THE STATES. The Governors of the States shall:

a. Retain command and control of all National Guard forces within their respective States that are executing homeland defense activities on active duty pursuant to sections 901-908 of Reference (a).

b. Include the following in requests for funding assistance for the homeland defense activities of the National Guard. (See sample letter of request at Enclosure 2.)

(1) The specific intended homeland defense activities.

(2) An explanation of why participation of National Guard units or members is necessary and appropriate.

(3) A certification that the activities will be conducted at a time when the units or members to be involved are not in Federal service.

c. Submit requests for homeland defense activity funding as far in advance of planned activities as possible, and for exceptional circumstances, as quickly as the circumstances permit.

d. Coordinate with the NGB to facilitate NGB synchronization of State homeland defense activity plans with the appropriate Combatant Commanders to ensure National Guard activities funded in accordance with this Directive do not conflict with ongoing Federal missions.

ENCLOSURE 2

SAMPLE REQUEST FOR FUNDING

All State requests shall be addressed to the Executive Secretary of the Department of Defense from the Governor of the State.

GOVERNOR OFFICIAL LETTERHEAD

Date

Executive Secretary
Office of the Secretary of Defense
1030 Defense Pentagon
Washington, DC 20310-1030

Subject: Request for Homeland Defense Activity Funding

Dear [enter name of current Executive Secretary]:

1. In accordance with sections 901-908 of title 32, United States Code, request funding to execute the following homeland defense activities in the State of [enter State].

a. [Specify the first type of homeland defense activity, anticipated length of time, unit(s) identified to execute it, and estimated number of personnel.]

b. [Specify the second type of homeland defense activity, anticipated length of time, unit(s) identified to execute it, and estimated number of personnel. Enter additional subparagraphs for additional missions.]

2. [Justify the need for each homeland defense activity identified above and provide assurance that State and/or local authorities are overwhelmed and/or do not have the capability for the activity.]

a. [Provide a rationale for why the National Guard units(s) and personnel are necessary and appropriate; i.e., identify their unique capabilities.]

b. [Clarify that the activity will not conflict with unit training or degrade unit readiness and that the units and personnel are not in Federal service.]

c. [Provide a creditable threat and/or intelligence assessment pertaining to each activity.]

3. I certify that this homeland defense activity will be conducted at a time when the National Guard units or members to be involved are not in Federal service.

4. My point of contact for this request is [enter name, office, telephone number, and e-mail address].

[enter signature block]