



RESERVE FORCES POLICY BOARD

New Policies and Clearer Funding Flows for Reserve Component Operations in the Homeland

Final Report to the Secretary of Defense

April 9, 2012



CHAIRMAN

**OFFICE OF THE SECRETARY OF DEFENSE
RESERVE FORCES POLICY BOARD**

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INFO MEMO

FOR: SECRETARY OF DEFENSE

Arnold L. Punaro APR 9 2012

FROM: MajGen Arnold L. Punaro, USMCR (Ret), Chairman, Reserve Forces Policy Board

SUBJECT: Report of Reserve Forces Policy Board on New Policies and Clearer
Funding Flows for Reserve Component Operations in the Homeland

- The Reserve Forces Policy Board (RFPB) is a federal advisory committee established in law to provide you with independent advice and recommendations on strategies, policies and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components.
- The RFPB met on Wednesday, March 7, 2012 and voted to make seven recommendations to you concerning policies and funding flows for use of the National Guard and Reserves for operations in the Homeland (TAB A).
 1. Accelerate the Policy for Use of Reserve Forces in Disasters
 2. Update Regulations to Authorize Training Events with Operational Benefit
 3. Publish DoD Guidance and Criteria for Title 32 Operations
 4. Update the Emergency Response Fund
 5. Clarify FEMA Reimbursement of DoD
 6. Urge FEMA to Increase Reimbursement of States for National Guard Operations
 7. Urge States to Equalize Protections for National Guard Personnel on State Duty
- As required by the Federal Advisory Committee Act, the recommendations were deliberated and approved in an open, public session. The briefing presented to and approved by the Board (TAB B) will be posted to the RFPB web site. A full narrative report is forthcoming. Background information about the RFPB is at TAB C.
- The task force worked closely with the organizations in DoD and DHS with responsibilities in these areas.

COORDINATION: NONE

Prepared by: Maj Gen James N. Stewart, 703-681-0060

RECOMMENDATIONS

1. ACCELERATE POLICY FOR USE OF RESERVE FORCES IN DISASTERS – DoD, including OSD, the Joint Staff and the Services should work in tandem to assure speedy policy implementation of the new authority under 10 USC 12304a to employ Reserve units and individuals rapidly for disasters. Each should immediately issue interim guidance documents to establish procedures and eliminate obstacles to rapid sourcing and deployment. The objective should be to make substantial progress by June 1, 2012 so that, in time for hurricane season, the Services are capable of quickly sourcing and then deploying their Reserve forces quickly into disaster relief operations within 48 hours of unit notification.

2. UPDATE REGULATIONS TO AUTHORIZE TRAINING EVENTS WITH OPERATIONAL BENEFIT- The National Guard Bureau should formulate and issue to the States a revised version of National Guard Regulation 350-1 or other definitive set of guidelines, consistent with DoD Instruction 1215.06, clarifying that operational support for missions such as support to civil authorities may occur as a consequence of training. It should address the process for planning and modifying such training. Other Reserve Components should consider issuing similar guidance in light of their increased potential for employment in the homeland.

3. PUBLISH DOD GUIDANCE AND CRITERIA FOR TITLE 32 OPERATIONS – The Office of the Secretary of Defense and the National Guard Bureau should collaborate to develop guidelines and criteria that provide greater predictability for State leaders regarding the likelihood of approval by the Secretary of Defense for State requested operations under Section 502(f) of Title 32 by publishing relevant guidelines and criteria. Criteria such as catastrophic scope, national character and/or requirement of multi-state response should be considered.

4. UPDATE THE EMERGENCY RESPONSE FUND – DoD should update its Financial Management Regulation section governing the use of the Emergency Response Fund currently dated 1996. Additionally, the Department should make an assessment of the laws establishing and governing the Fund to identify any modifications of law which should be requested from Congress. Finally, the Department should include in its next budget request a replenishment of the Fund to a level necessary to minimize financial risk to DoD accounts resulting from unprogrammed / unbudgeted domestic disaster requirements.

5. CLARIFY FEMA REIMBURSEMENT OF DOD -- DoD should work with Department of Homeland Security, FEMA and the Office of Management and Budget to clarify in writing the policy for the reimbursement of the pay of both National Guard and Reserve forces when assigned missions by the Secretary of Defense for purposes of conducting disaster relief operations. Specifically, the dialogue should cover possible revision of 44 CFR 206.8 or the creation of an agreement in writing between DoD and FEMA regarding reimbursement for the military pay of National Guard personnel employed for disaster operations under 32 USC 502(f) and for Reserve personnel employed under the new authority of 10 USC 12304a.

6. URGE FEMA TO INCREASE REIMBURSEMENT OF STATES FOR NATIONAL GUARD OPERATIONS – The Secretary of Defense, in coordination with the Secretary of Homeland Security and the Office of Management and Budget, should request that the President direct the Administrator of FEMA to increase from 75% to 90% the Federal share of assistance for the use of National Guard forces in responding to federally declared disasters, thus providing States with a greater fiscal incentive to employ state-controlled assets and thereby reduce the instances of state requests to DoD for 100% federally funded military capabilities.

7. URGE STATES TO EQUALIZE PROTECTIONS FOR NATIONAL GUARD PERSONNEL ON STATE DUTY – The Secretary of Defense through both the Council of Governors and the National Council of State Legislators should advocate for State adoption of an updated set of model State statutes concerning protections and benefits for National Guard members on State Active Duty. An updated version of the model statute for State Active Duty developed by the National Guard Bureau in 2009 should be considered for this purpose. Likewise, DoD should also play an active role in urging and monitoring State adoption of the model statutes.



Reserve Forces Policy Board
 Subcommittee on Enhancing DoD's Role in the Homeland

Reserve Component Homeland Operations: New Policies and Clearer Funding Flows

As Approved by the RFPB - March 7, 2012

Major General R. Martin Umbarger

Chairman, RFPB Subcommittee on Enhancing DoD's Role in the Homeland

RFPB Subcommittee Staff Lead – COL Robert A. Preiss – Robert.preiss@osd.mil



Subcommittee Report Overview



Terms of Reference

At RFPB meeting 29 November, members of the Subcommittee raised to the Board several matters to be acted upon. These included: FEMA Reimbursement of DoD for National Guard operations under Title 32; Training operations to pre-position National Guard forces; and functionality of the Emergency Response Fund-Defense. Later, the Chairman raised DoD implementation of 10 USC 12304a as a matter to be acted upon. Subcommittee "Preparatory Work" meeting held on 22 January & 24 February.

Deliverables

Develop advice and recommendations to the Secretary of Defense on strategies, policies, and practices to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components. Focus on enhancing DoD's role in the homeland.

Subcommittee Members

Major General R. Martin Umbarger (Chair)
 Major General H. Michael Edwards
 Hon. Grier Martin
 Hon. Gene Taylor
 Ms. Maria Vorel

RFPB Staff Support

COL Robert A. Preiss
 CDR Steven P. Knight
 CWO George Rubesha



Process: Interviews

DOD OFFICIALS / EXPERTS

- Assistant Secretary of Defense for Homeland Defense (ASD-HD), Dr. Paul Stockton
- Chief of the National Guard Bureau (CNGB), Gen. Craig McKinley
- Deputy Commander, USNORTHCOM, LTG Frank Grass
- Director of Contingency Operations, OSD Comptroller, Ms. Angela Rogers
- Deputy Assistant Secretary of Defense for Reserve Affairs (Readiness Training and Mobilization), Mr. Paul Patrick
- Deputy Assistant Secretary of Defense for Reserve Affairs (Manpower and Personnel), Ms. Jessica Wright
- Deputy Assistant Secretary of Defense for Homeland Defense (Homeland Defense Integration & Defense Support to Civil Authorities), Mr. Robert Salesses
- Deputy Director of the Army National Guard (DDARNG), MG Tim Kadavy
- Deputy Director, Anti-Terrorism/Homeland Defense (J34), MG Jeff Matthis

- Assistant to the Chairman, JCS for National Guard Matters (ACJCS/NGRM), Maj Gen Kelly McKeague
- Fiscal Attorney, Office of DoD General Counsel, Mr. John Ruoff.
- Director, State Liaison & Educational Opportunity, OUSD(P&R), Mr. Ed Kringer

Non-DOD OFFICIALS / EXPERTS

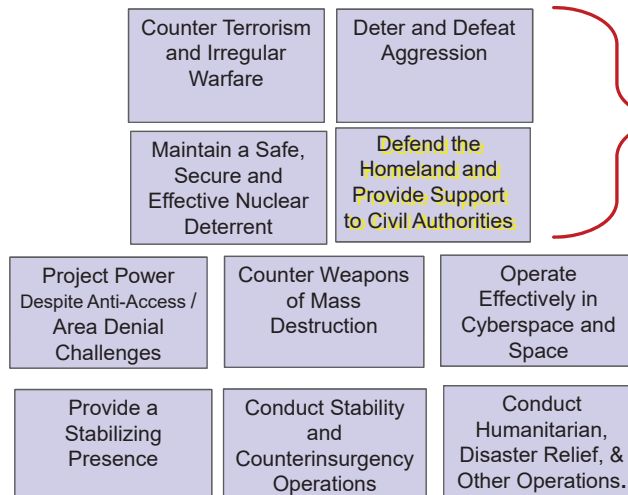
- Chief Counsel, FEMA, Mr. Brad Kieserman
- Associate Administrator for Response, FEMA, Mr. Robert Fenton
- Emergency Management Assistance Compact (EMAC) Program Director, National Emergency Management Assoc., Ms. Angela Cople
- Chairman, Homeland Security Committee, Adjutants General Association of the US, Maj Gen Timothy Lowenberg
- Senior Federal Affairs Counsel, National Conference of State Legislatures, Ms. Susan Frederick

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Defense Strategic Guidance Primary Missions of US Armed Forces

“The Joint Force will need to recalibrate its capabilities and make selective additional investments to succeed” in ten missions which “will largely determine the shape of the future Joint Force.”



But, the overall capacity of U.S. forces will be based on requirements of this mission subset.

Source: **Sustaining U.S. Global Leadership: Priorities for 21st Century Defense**, January 2012

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Summary of Recommendations



1. Accelerate the Policy for Use of Reserve Forces in Disasters
2. Update Regulations to Authorize Training Events with Operational Benefit
3. Publish DoD Guidance and Criteria for Title 32 Operations
4. Update the Emergency Response Fund
5. Clarify FEMA Reimbursement of DoD
6. Urge FEMA to Increase Reimbursement of States for National Guard Operations
7. Urge States to Equalize Protections for National Guard Personnel on State Duty

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FINDINGS & RECOMMENDATIONS

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Need RC Disaster Policy Sooner



ISSUE: Slow DoD policy process risks confusion and delay in deploying Reserve forces for disasters under new authority.

FINDINGS:

- NDAA '12 gives SECDEF new authority (10 USC 12304a) to order USAR, USAFR, USNR & USMCR to duty for disasters.
- ASD-HD feels DoD should have ability to use new authority by 1 June 2012 – in time for start of hurricane season.
- OASD-RA is lead for new DoD Instruction, but this process normally takes a year.
- Services appear to all be waiting for DoD guidance before making any substantial changes to Service mobilization policies and procedures.
 - **TODAY:** Service mob policies are focused on detailed & time-consuming prep of forces for overseas deployment.
 - **FUTURE:** Missions under this new authority inside the US homeland will demand far more speedy unit sourcing and deployment.

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Recommendation # 1



Accelerate the Policy for Use of Reserve Forces in Disasters – DoD, including OSD, the Joint Staff and the Services, should work in tandem to assure speedy policy implementation of the new authority under 10 USC 12304a to employ Reserve units and individuals rapidly for disasters. Each should immediately issue interim guidance documents to establish procedures and eliminate obstacles to rapid sourcing and deployment. The objective should be to make substantial progress by June 1, 2012 so that the Services are capable of quickly sourcing and then deploying their Reserve forces into a disaster relief operation within 48 hours of unit notification.

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Training Can Support Operations



ISSUE: During Hurricane Irene in 2010, NGB sought to conduct a training exercise, which would also yield the benefit of pre-positioning forces in case of possible need for disaster response, but some States were hesitant to modify training plans despite brief policy clarification provided by NGB.

FINDINGS:

- DoD policy allows operational mission requirements to be supported as a consequence of performing training.
- While the Air National Guard training regulation echoes the DoD policy verbatim, the Army National Guard training regulation is vague.
- A more fully articulated regulation or other policy issuance from NGB could alleviate future hesitation to leverage training events to position forces for disasters.

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Recommendation # 2






Update Regulations to Authorize Training Events with Operational Benefit – The National Guard Bureau should formulate and issue to the States a revised version of National Guard Regulation 350-1 or other definitive set of guidelines, consistent with DoD Instruction 1215.06, clarifying that operational support for missions, such as support to civil authorities, may occur as a consequence of training. It should address the process for planning and modifying such training. Other Reserve Components should consider issuing similar guidance in light of their increased potential for employment in the homeland.

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National Guard Duty Status Comparison




	<u>State Active Duty</u>	<u>Title 32</u>	<u>Title 10</u>
Command & Control	Governor	Governor	President
Where	IAW State Law	USA	Worldwide
Pay	State	Federal	Federal
Mission types	IAW State Law (Riot control, Emergency Response, etc.)	Training, And other federally authorized.	Overseas Tng, & as assigned after mobilization
Discipline	State Military Code	State Military Code	UCMJ
Tort Immunity	IAW State law	Federal Tort Claims Act	Federal Tort Claims Act
Support Law Enforcement	Yes	Yes	Limited by <i>Posse Comitatus</i>



32 USC 502(f)



(1) Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, a member of the National Guard may... be ordered to perform training or other duty in addition to that prescribed under subsection (a).

(2) The training or duty ordered to be performed ...may include ...
“Support of operations or missions undertaken by the member’s unit at the request of the President or Secretary of Defense.”

EXAMPLES

- Airport Security Mission, 2001
- G8 Summit, 2004
- Operation Winter Freeze, 2004
- Political Conventions, 2004 & 2008
- Hurricane Katrina, 2005
- Operation Jump Start, 2006
- Hurricanes Gustav and Ike, 2008
- Red River Floods, 2009
- SW Border, 2010

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State Requests for National Guard Operations Frequently Denied



ISSUE: DoD receives – and often denies – requests from States for SECDEF to approve 100% DoD-funded operations under 32 USC 502(f). Takes staff time. Friction with States.

FINDINGS:

- Operations under 32 USC 502(f) can be a useful tool.
 - Used 13 times in 9 years after 9-11: Hurricanes, Flood, Winter Storm, Security Events, etc.
 - Forces remain under State control.
 - 100% DoD funded.
- Explicit criteria could help manage expectations, provide predictability to States and reduce requests to DoD.
- Previously articulated criteria for a 502(f) operation: Effects of event are catastrophic, event is national in character, and/or requires a significant multi-state National Guard response.

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Recommendation # 3



Publish DoD Guidance and Criteria for Title 32

Operations – The Office of the Secretary of Defense and the National Guard Bureau should collaborate to develop guidelines and criteria that provide greater predictability for State leaders regarding the likelihood of approval by the Secretary of Defense for State requested operations under Section 502(f) of Title 32 by publishing relevant guidelines and criteria. Criteria such as catastrophic scope, national character and/or requirement of multi-state response should be considered.

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DoD's Disaster Reimbursement Account



ISSUE: The DoD Fund created for disasters is not functional

FINDINGS:

- Since 1989, there has been an “Emergency Response Fund, Defense” revolving account within DoD.
 - Originally \$100m “Available Until Expended” for reimbursable disaster assistance requests. Probably intended for domestic disasters. 1994 law change allowed use for DoD disaster expenses. Was then used for Non-reimbursable overseas disasters. Today: Only \$12m.
- Current Policy in DoD *Financial Management Regulation* is dated 1996 – more than 15 years old.
- Existing Law should be reviewed for possible revision.
 - Currently does not allow use for RC pay and allowances
 - Currently allows use of Fund for overseas disasters
- If updated and replenished, could be a useful tool to minimize disaster impact on RC as well as other DoD accounts

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Recommendation # 4



Update the Emergency Response Fund – DoD should update its Financial Management Regulation section governing the use of the Emergency Response Fund currently dated 1996. Additionally, the Department should make an assessment of the laws establishing and governing the Fund to identify any modifications of law which should be requested from Congress. Finally, the Department should include in its next budget request a replenishment of the Fund to a level necessary to minimize financial risk to DoD accounts resulting from unprogrammed / unbudgeted domestic disaster requirements.

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FEMA Administrator

"The other question I get goes back to money. Why don't you put us on Title 32 status and predeploy us under those authorities? We've been down this road before. I don't have a good answer. And in all likelihood if we do put you under Title 32 status and we move you ahead of time, it's going to come out of the General's budget because **I cannot transfer money.** And I've had attorneys on both sides tell me "yay" and "nay." But **I do not have current legal authority, according to my Chief Counsel, to transfer money from the Disaster Relief Fund to the Title 32 fund in DoD.**"

- FEMA Administrator Craig Fugate speaking at National Guard Joint Senior Leadership Conference, 8 November 2011

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FEMA Regulations

Code of Federal Regulations, Title 44, Sec 206.8
Reimbursement of other Federal agencies

FEMA Officials may approve reimbursement of the following Federal agency costs which are incurred in providing requested assistance.

1. **Overtime**, travel, and per diem of **permanent** Federal agency personnel.
2. **Wages**, travel, and per diem of **temporary Federal** agency personnel assigned solely to performance of services directed by [FEMA Officials] in the major disaster or emergency area ...
3. Travel and per diem of Federal military personnel assigned solely to the performance of services directed by [FEMA Officials] in the major disaster or emergency area designated by the Regional Director.
4. Cost of work, services, and materials procured under contract for the purposes of providing assistance directed, by [FEMA Officials].
5. Cost of materials, equipment, and supplies (including transportation, repair, and maintenance) from regular stocks used in providing directed assistance.
6. **All costs** incurred which are paid from trust, **revolving**, or other funds, and whose reimbursement is required by law.
7. Other costs submitted by an agency with written justification or otherwise **agreed to in writing** by [FEMA Officials]

Will Reservists under new 12304a qualify?

Does not explicitly include pay of National Guard in 502(?) but could be modified to do so

Such as ERF, D?

Need a FEMA-DoD MOU?

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FEMA Won't Reimburse RC Pay



ISSUE: Because AC pay is a “sunk cost” but RC pay is an “incremental cost” which FEMA won’t reimburse, DoD force choices (AC or RC) are shaped by cost. Could result in choice of force other than the one best for the job.

FINDINGS:

- By policy, FEMA will not reimburse any Federal Agency base salary for mission assignments. It will reimburse for incremental costs such as overtime pay and wages of temporary federal agency personnel .
- As recently as Hurricane Irene, FEMA refused reimbursement of RC Pay
 - DOD policy requires reimbursement of “military labor” costs.
 - GAO Report supports reimbursement of “military pay and allowances.”
 - Stafford Act appears to allow reimbursement.
 - Economy Act appears to require reimbursement for “any costs.”
- FEMA Policy is that FEMA will reimburse expenses agreed to in writing
- DOD can negotiate a written agreement and argue that RC Pay and Allowances are an incremental cost similar to wages of temporary federal agency personnel which ARE reimbursable.

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Recommendation # 5



Clarify FEMA Reimbursement of DoD – DoD should work with Department of Homeland Security, FEMA and the Office of Management and Budget to clarify in writing the policy for the reimbursement of the pay of both National Guard and Reserve forces when assigned missions by the Secretary of Defense for purposes of conducting disaster relief operations. Specifically, the dialogue should cover possible revision of 44 CFR 206.8 or the creation of an agreement in writing between DoD and FEMA regarding reimbursement for the military pay of National Guard personnel employed for disaster operations under 32 USC 502(f) and for Reserve personnel employed under the new authority of 10 USC 12304a.

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Disaster Expenses Drive States to Seek DoD-funded Operations



ISSUE: State budgets are under increasing pressure

- In disasters, States are fiscally overwhelmed sooner.
- Drives frequent requests to DoD for 100% federally funded operations under 32 USC 502(f).

FINDINGS:

- Stafford Act allows FEMA Reimbursement of “Not Less Than” 75% of most State costs for Federally-declared disasters.
- President can allow a higher %.
- An increase in FEMA reimbursement of States from 75% to 90% for National Guard disaster operations under State Active Duty would create incentive and capability for States to rely more on this solution rather than on 100% DoD-funded operations under 32 USC 502(f).

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Recommendation # 6



Urge FEMA to Increase Reimbursement of States for National Guard Operations – The Secretary of Defense, in coordination with the Secretary of Homeland Security and the Office of Management and Budget, should request that the President direct the Administrator of FEMA to increase from 75% to 90% the Federal share of assistance for the use of National Guard forces in responding to federally declared disasters, thus providing States with a greater fiscal incentive to employ state-controlled assets and, thereby, reducing the instances of state requests to DoD for 100% federally funded military capabilities.

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Unequal State Protections



ISSUE: Unequal Protections, Benefits and Pay of National Guard members on State Active Duty are frequently cited as reasons to use DoD-funded authority of 32 USC 502(f) instead.

- **Protections:** Federal Tort Claim Act, USERRA and SCRA
- **Benefits:** Several but particularly \$100k Death Gratuity
- **Pay:** Shortfall is largely a myth. In 90% of States, State Active Duty pay is same or higher than Federal military pay.

FINDINGS:

- Requires changes in State law.
- Not DoD's Problem – But DoD can exert helpful leadership
- There is past precedent for DoD to provide States with a model set of statutes that can be enacted.
 - Military Family & Community Policy liaison with States
 - NGB model statutes for UCMJ and for State Active Duty

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Recommendation # 7



Urge States to Equalize Protections for National Guard Personnel on State Duty –

The Secretary of Defense through both the Council of Governors and the National Council of State Legislators should advocate for State adoption of an updated set of model State statutes concerning protections and benefits for National Guard members on State Active Duty. An updated version of the model statute for State Active Duty developed by the National Guard Bureau in 2009 should be considered for this purpose. Likewise, DoD should also play an active role in urging and monitoring State adoption of the model statutes.

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Appendix



1. Defense Strategic Guidance - Defend the Homeland and Provide Support to Civil Authorities
2. 10 USC 12304a
3. National Guard Duty Status Comparison
4. 32 USC 502(f)
5. FEMA Administrator Quote
6. Stafford Act
7. FEMA Regulations - Reimbursement of other Federal agencies
8. DoD Policy Requires Reimbursement for DSCA
9. The Economy Act – 31 USC 1535

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10 USC 12304a



Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve:
order to active duty to provide assistance in response to a major disaster or emergency

“When a Governor requests Federal assistance in responding to a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), **the Secretary of Defense may, without the consent of the member affected, order any unit, and any member** not assigned to a unit organized to serve as a unit, of the Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve to active duty for a continuous period of **not more than 120 days** to respond to the Governor's request.”

Included in Public Law No: 112-81 but not in US Code

Usual and Customary Arrangement-

(1) DUAL-STATUS COMMANDER- When the Armed Forces and the National Guard are employed simultaneously in support of civil authorities in the United States, appointment of a commissioned officer as a dual-status commander serving on active duty and duty in, or with, the National Guard of a State under sections 315 or 325 of title 32, United States Code, as commander of Federal forces by Federal authorities and as commander of State National Guard forces by State authorities, should be the usual and customary command and control arrangement, including for missions involving a major disaster or emergency as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122). The chain of command for the Armed Forces shall remain in accordance with sections 162(b) and 164(c) of title 10, United States Code.

(2) STATE AUTHORITIES SUPPORTED- When a major disaster or emergency occurs in any area subject to the laws of any State, Territory, or the District of Columbia, the Governor of the State affected normally should be the principal civil authority supported by the primary Federal agency and its supporting Federal entities, and the Adjutant General of the State or his or her subordinate designee normally should be the principal military authority supported by the dual-status commander when acting in his or her State capacity.

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Emergency Response Fund, Defense (ERF, D) - Law



Public Law 101-165, November 21, 1989 (FY'90 Defense Appropriations)

- “Emergency Response Fund, Defense - \$100,000,000 to remain available until expended. The Fund shall be available for providing **reimbursement** to currently applicable appropriations of the Department of Defense for **supplies and services** provided in anticipation of requests from other Federal Departments and agencies and from State and local governments for assistance on a reimbursable basis to respond to natural or manmade disasters. The Fund may be used upon a determination by the Secretary of Defense that immediate action is necessary before a formal request for assistance on a reimbursable basis is received. There shall be deposited to the Fund (a) reimbursements received by the Department of Defense for the **supplies and services** provided by the Department in its response efforts and (b) appropriations made to the Department of Defense for the Fund. Reimbursements and appropriations deposited to the Fund shall remain available until expended.”

Public Law 103-139, November 11, 1993 (FY'94 Defense Appropriations)

- “SEC. 8131. The appropriation, “Emergency Response Fund, Defense” made under the heading “Emergency Response Fund” by the Department of Defense Appropriations Act, 1990 (Public Law 101-165) is amended by inserting the following immediately after the third sentence: “In addition to the foregoing, upon a determination by the Secretary of Defense that such action is necessary, the Fund may be used, in addition to other funds available to the Department of Defense for such purposes, for expenses of the Department of Defense which are incurred in supplying supplies or services furnished in response to natural or manmade disasters.”

NOTE: PL 103-335 (FY'95 Defense Appropriations) provided supplemental funds for Rwanda operation but did not materially alter the nature of the Fund.

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Stafford Act



Sec. 403. Essential Assistance

(a) In general - Federal agencies may, on the direction of the President, provide assistance **essential to meeting immediate threats to life and property** resulting from a major disaster, as follows:

(1) Federal resources, generally - **Utilizing**, lending, or donating to State and local governments **Federal equipment**, supplies, facilities, **personnel**, and other resources...

(3) Work and services to save lives and protect property - Performing on public or private lands or waters **any work** or services essential to saving lives and protecting and preserving property or public health and safety...

(b) Federal share - The Federal share of assistance under this section shall be **not less than** 75 percent of the eligible cost of such assistance.

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DoD Policy Requires Reimbursement for DSCA



“All requests for DSCA shall be written, and **shall include a commitment to reimburse the Department of Defense in accordance with sections 5121, et. seq., of ...“The Stafford Act”, section 1535 of title 31, U.S.C. (also known as “The Economy Act”)** ... , or other authorities except requests for support for immediate response, and mutual or automatic aid, ... Unless approval authority is otherwise delegated by the Secretary of Defense, all DSCA requests shall be submitted to the office of the Executive Secretary of the Department of Defense. For assistance provided [*by military commanders in Immediate Response*], civil authorities shall be informed that oral requests for assistance in an emergency must be followed by a written request that includes an offer to reimburse the Department of Defense at the earliest available opportunity. States also must reimburse the United States Treasury in accordance with section 9701 of [title 31 U.S.C]. **Support may be provided on a non-reimbursable basis only if required by law or if both authorized by law and approved by the appropriate DoD official.**”

-- DoD Directive 3025.18, Paragraph 4.d. (page 3), December 29, 2010



The Economy Act: 31 USC 1535



- (a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if—
 - (1) amounts are available;
 - (2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;
 - (3) the agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and
 - (4) the head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

- (b) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for **any part** of the estimated or actual cost **as determined by the agency or unit filling the order**. A bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

- (c) A condition or limitation applicable to amounts for procurement of an agency or unit placing an order or making a contract under this section applies to the placing of the order or the making of the contract.

- (d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is deobligated to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in—
 - (1) providing goods or services; or
 - (2) making an authorized contract with another person to provide the requested goods or services.

- (e) This section does not—
 - (1) authorize orders to be placed for goods or services to be provided by convict labor; or
 - (2) affect other laws about working funds.

The Reserve Forces Policy Board – Basic Overview

The Reserve Forces Policy Board (RFPB) is a federal advisory committee mandated by law in the Office of the Secretary of Defense to "serve as an independent adviser to the Secretary of Defense to provide advice and recommendations to the Secretary on strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components." As required by statute, the board also produces an annual report which the Secretary of Defense transmits to the President and Congress on reserve component matters the board considers appropriate to include in the report.

The board consists of 20 members; a civilian chairman, a general/flag officer from each of the seven reserve components, a two-star military executive, a senior enlisted advisor, plus ten other U.S. citizens, who may or may not be government employees, with significant knowledge of and experience in policy matters relevant to national security and reserve component matters.

The board is supported by a staff consisting of a Colonel or Navy Captain from each of the six DoD reserve components. There is also a Coast Guard staff officer. These officers also serve as liaisons between their respective components and the board. The law requires them "to perform their staff and liaison duties under the supervision of the military executive officer of the board in an independent manner reflecting the independent nature of the board."

Established in 1951, the board is one of the oldest advisory committees in the Department of Defense.

In the National Defense Authorization Act of 2011, Congress significantly revised the operating framework and membership of the RFPB. Previously, other than the chairman, the board included only DoD officials and made recommendations through the Assistant Secretary of Defense for Reserve Affairs. In 2008, the Commission on the National Guard and Reserves recommended that the RFPB's governing statute (10 USC 10301) be amended because the board was not structured to obtain and provide directly to the Secretary of Defense a wide range of independent advice on National Guard and Reserve matters due to the nature of its membership and its subordination to other offices within DoD. The revised law was effective 1 July 2011.

On 12 September 2011, retired Marine Corps Major General Arnold Punaro was sworn in as the first chairman of the board under the revised structure. Other new members were sworn in at an organizational meeting on 13 October.

The board is organized into four subcommittees: Sustainment, Readiness & Availability of the Operational Reserve; Continuum of Service / Personnel Policies; Homeland Operations; and Support for Service Members, Families & Employers. Subcommittees meet as required. The full board meets quarterly. The RFPB website is at <http://ra.defense.gov/rfpb/>.