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SUBCHAPTER I—CIVIL DEFENSE

PART 185—DEFENSE SUPPORT OF CIVIL AUTHORITIES (DSCA)

Sec.
185.1 Purpose.
185.2 Applicability and scope.
185.3 Definitions.
185.4 Policy.
185.5 Responsibilities.

AUTHORITY: Legal authority includes, 10 U.S.C. sections 113, 331–335, 371–382, 2553, 2554, 2555, and 2564; 31 U.S.C. 1535–1536 (Economy Act); 42 U.S.C. section 5121 et seq. (Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Stafford Act)); and Public Law 94–524, as amended (Presidential Protection Assistance Act of 1976).

SOURCE: 76 FR 2248, Jan. 13, 2011, unless otherwise noted.

§ 185.1 Purpose.

This part:

(a) Establishes policy and assigns responsibilities for DSCA, also referred to as civil support.

(b) Supplements the regulations (in DoD Directive 5525.5)[1] required by section 375 of title 10, United States Code (U.S.C.), regarding military support for civilian law enforcement.

(c) Sets forth policy guidance for the execution and oversight of DSCA when requested by civil authorities or by qualifying entities and approved by the appropriate DoD official, or as directed by the President, within the United States, including the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States or any political subdivision thereof.

(d) Authorizes immediate response authority for providing DSCA, when requested.

(e) Authorizes emergency authority for the use of military force, under dire situations, as described in § 185.4(i) of this part.

[1] Available for downloading at *http://www.dtic.mil/whs/directives/corres/pdf/552505p.pdf*

§ 185.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, 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) Applies to the Army National Guard and the Air National Guard (hereafter referred to collectively as the ''National Guard'') personnel when under Federal command and control. Also applies to National Guard personnel when the Secretary of Defense determines that it is appropriate to employ National Guard personnel in title 32, U.S.C., status to fulfill a request for DSCA, the Secretary of Defense requests the concurrence of the Governors of the affected States, and those Governors concur in the employment of National Guard personnel in such a status.

(c) Applies to all DSCA (except the specific forms of DSCA listed in paragraph (d) of this section), including but not limited to:

(1) Mutual or automatic aid, also known as reciprocal fire protection agreements (see chapter 15A of title 42 U.S.C.).

(2) DoD fire and emergency services programs (see DoD Instruction 6055.06)[2].

(3) Support of special events in accordance with applicable laws and DoD policy (see DoD Directive 2000.15)[3].

(4) United States Army Corps of Engineers (USACE) activities as the DoD Coordinating and Primary Agency for

[2] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/605506p.pdf*.

[3] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/200015p.pdf*.

Emergency Support Function #3, Public Works and Engineering, of the National Response Framework.

(5) Defense support to civilian law enforcement agencies (see DoDD 3025.12[4] and DoD Directive 5525.5).

(d) Does not apply to the following:

(1) Support in response to foreign disasters provided in accordance with DoD Directive 5100.46[5].

(2) Joint investigations conducted by the Inspector General of the Department of Defense, the Defense Criminal Investigative Service, and the military criminal investigative organizations with civil law enforcement agencies on matters within their respective jurisdictions using their own forces and equipment.

(3) Detail of DoD personnel to duty outside the Department of Defense in accordance with DoD Instruction 1000.17[6].

(4) Counternarcotics operations conducted under the authority of section 1004 of Public Law 101–510 (1991).

(5) Support provided by the USACE when accomplishing missions and responsibilities under the authority of section 701n of title 33, U.S.C. and Executive Order 12656.

(6) Assistance provided by DoD intelligence and counterintelligence components in accordance with DoD Directive 5240.01[7], Executive Orders 12333 and 13388, DoD 5240.1–R[8], and other applicable laws and regulations.

(7) Military community relations programs and activities administered by the Assistant Secretary of Defense for Public Affairs (see DoD Directive 5410.18[9] and DoD Instruction 5410.19[10]).

(8) Sensitive support in accordance with DoD Directive S–5210.36[11].

(9) Activities performed by the Civil Air Patrol in support of civil authorities or qualifying entities when approved by the Air Force as auxiliary missions in accordance with section 9442 of title 10, U.S.C. and DoD 3025.1–M[12] except as restricted by § 185.4(j) of this part.

(10) Innovative readiness training (formerly called ''civil-military cooperative action programs'') (*see* DoD Directive 1100.20)[13].

§ 185.3 Definitions.

Civil Authorities. See Joint Publication 1–02[14].

Civil Disturbances. See Joint Publication 1–02.

Defense Domestic Crisis Manager. The lead DoD official responsible for DoD's domestic crisis management response, ensuring the information needs and other requirements of the Secretary of Defense are met, and developing, coordinating, and overseeing the implementation of DoD policy for crisis management to ensure DoD capability to develop and execute options to prevent, mitigate, or respond to a potential or actual domestic crisis. The Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs (ASD(HD&ASA)) serves as the Defense Domestic Crisis Manager.

Defense Support of Civil Authorities (DSCA). Support provided by U.S. Federal military forces, DoD civilians, DoD contract personnel, DoD Component assets, and National Guard forces

[4] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/302512p.pdf*.

[5] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/510046p.pdf*.

[6] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/100017p.pdf*.

[7] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/524001p.pdf*.

[8] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/524001r.pdf*.

[9] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/541018p.pdf*.

[10] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/541019p.pdf*.

[11] Document is classified and copies maybe requested by contacting USD(I), *USDI.pubs@osd.mil*

[12] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/302501m.pdf*.

[13] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/110020p.pdf*.

[14] Available by downloading at *http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf*.

(when the Secretary of Defense, in coordination with the Governors of the affected States, elects and requests to use those forces in title 32, U.S.C., status) in response to requests for assistance from civil authorities for domestic emergencies, law enforcement support, and other domestic activities, or from qualifying entities for special events. Also known as civil support.

Direct Liaison. An authority for Federal military forces to consult with, coordinate with, and respond to State authorities (including National Guard units and personnel operating in Title 32 status or in State Active Duty status) or Federal civilian authorities in the tactical-level execution of assigned tasks, pursuant to an order by the Secretary of Defense or the President to provide support to those authorities.

Emergency Authority. A Federal military commander's authority, in extraordinary emergency circumstances where prior authorization by the President is impossible and duly constituted local authorities are unable to control the situation, to engage temporarily in activities that are necessary to quell large-scale, unexpected civil disturbances because (1) such activities are necessary to prevent significant loss of life or wanton destruction of property and are necessary to restore governmental function and public order or (2) duly constituted Federal, State, or local authorities are unable or decline to provide adequate protection for Federal property or Federal governmental functions.

Federal Military Forces. Army, Navy, Marine Corps and Air Force personnel (including Reserve Component personnel) on Federal active duty and National Guard personnel when under Federal command and control.

Immediate Response Authority. A Federal military commander's, DoD Component Head's, and/or responsible DoD civilian official's authority temporarily to employ resources under their control, subject to any supplemental direction provided by higher headquarters, and provide those resources to save lives, prevent human suffering, or mitigate great property damage in response to a request for assistance from a civil authority, under imminently serious conditions when time does not permit approval from a higher authority within the United States. Immediate response authority does not permit actions that would subject civilians to the use of military power that is regulatory, prescriptive, proscriptive, or compulsory. State immediate response is addressed in §185.4(h) of this part.

Qualifying Entity. A non-Governmental organization to which the Department of Defense may provide assistance for special events by virtue of statute, regulation, policy, or other approval by the Secretary of Defense or his or her authorized designee.

Responsible DoD Civilian. For purposes of DSCA, the Head of a DoD Component or other DoD civilian official who has authority over DoD assets that may be used for a DSCA response.

Special Event. An international or domestic event, contest, activity, or meeting, which by its very nature, or by specific statutory or regulatory authority, may warrant security, safety, and/or other logistical support or assistance from the Department of Defense.

Total Force. See DoD Directive 1200.17[15].

§185.4 Policy.

It is DoD policy that:

(a) This part shall be implemented consistent with national security objectives and military readiness.

(b) Unless expressly stated otherwise, the provisions of this part should not be construed to rescind any existing authorities of the Heads of DoD Components, commanders, and/or responsible DoD civilians to provide DSCA in accordance with existing laws, DoD issuances, and Secretary of Defense-approved orders.

(c) DSCA is initiated by a request for DoD assistance from civil authorities or qualifying entities or is authorized by the President or Secretary of Defense.

(d) All requests for DSCA shall be written, and shall include a commitment to reimburse the Department of

[15] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/120017p.pdf*.

Defense in accordance with the Stafford Act, Economy Act, or other authorities except requests for support for immediate response, and mutual or automatic aid, in accordance with § 185.4(g) and (m) of this part. 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 according to § 185.4(g) of this part, 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.

(e) All requests from civil authorities and qualifying entities for assistance shall be evaluated for:

(1) Legality (compliance with laws).

(2) Lethality (potential use of lethal force by or against DoD Forces).

(3) Risk (safety of DoD Forces).

(4) Cost (including the source of funding and the effect on the DoD budget).

(5) Appropriateness (whether providing the requested support is in the interest of the Department).

(6) Readiness (impact on the Department of Defense's ability to perform its primary mission).

(f) DSCA plans shall be compatible with the National Response Framework; the National Incident Management System; all contingency plans for operations in the locations listed in § 185.1(c) of this part; and any other national plans (approved by the President or Secretary of Defense) or DoD issuances governing DSCA operations. DSCA planning will consider command and control options that will emphasize unity of effort, and authorize direct liaison if authorized by the Secretary of Defense.

(g) Federal military commanders, Heads of DoD Components, and/or responsible DoD civilian officials (hereafter referred to collectively as ''DoD officials'') have immediate response authority as described in this part. In response to a request for assistance from a civil authority, under imminently serious conditions and if time does not permit approval from higher authority, DoD officials may provide an immediate response by temporarily employing the resources under their control, subject to any supplemental direction provided by higher headquarters, to save lives, prevent human suffering, or mitigate great property damage within the United States. Immediate response authority does not permit actions that would subject civilians to the use of military power that is regulatory, prescriptive, proscriptive, or compulsory.

(1) The DoD official directing a response under immediate response authority shall immediately notify the National Joint Operations and Intelligence Center (NJOIC), through the chain of command, of the details of the response. The NJOIC will inform appropriate DoD Components to including the geographic Combatant Command.

(2) An immediate response shall end when the necessity giving rise to the response is no longer present (e.g., when there are sufficient resources available from State, local, and other Federal agencies to respond adequately and that agency or department has initiated response activities) or when the initiating DoD official or a higher authority directs an end to the response. The DoD official directing a response under immediate response authority shall reassess whether there remains a necessity for the Department of Defense to respond under this authority as soon as practicable but, if immediate response activities have not yet ended, not later than 72 hours after the request of assistance was received.

(3) Support provided under immediate response authority should be provided on a cost-reimbursable basis, where appropriate or legally required, but will not be delayed or denied based on the inability or unwillingness of the requester to make a commitment to reimburse the Department of Defense.

(h) The authority of State officials is recognized to direct a State immediate response using National Guard personnel under State command and control (including personnel in a title 32, U.S.C. (hereafter referred to as ''Title

32'') status) in accordance with State law, but National Guard personnel will not be placed in or extended in Title 32 status to conduct State immediate response activities.

(i) Federal military commanders are provided emergency authority under this part. Federal military forces shall not be used to quell civil disturbances unless specifically authorized by the President in accordance with applicable law (e.g., chapter 15 of title 10, U.S.C.) or permitted under emergency authority, as described below (See DoD Directive 3025.12[16] and DoD Directive 5525.5[17].) In these circumstances, those Federal military commanders have the authority, in extraordinary emergency circumstances where prior authorization by the President is impossible and duly constituted local authorities are unable to control the situation, to engage temporarily in activities that are necessary to quell large-scale, unexpected civil disturbances because:

(1) Such activities are necessary to prevent significant loss of life or wanton destruction of property and are necessary to restore governmental function and public order, or,

(2) When duly constituted Federal, State, or local authorities are unable or decline to provide adequate protection for Federal property or Federal governmental functions. Federal action, including the use of Federal military forces, is authorized when necessary to protect the Federal property or functions.

(j) Except for immediate response and emergency authority as described in § 185.4(g) and § 185.4(i) of this part, only the Secretary of Defense may approve requests from civil authorities or qualifying entities for Federal military support for:

(1) Defense assistance in responding to civil disturbances (requires Presidential authorization) in accordance with DoD Directive 3025.12.

(2) Defense response to CBRNE events (*see* DoD Instruction 2000.18)[18].

(3) Defense assistance to civilian law enforcement organizations, except as authorized in DoD Directive 5525.5.

(4) Assistance in responding with assets with potential for lethality. This support includes loans of arms; vessels or aircraft; or ammunition. It also includes assistance under section 382 of title 10, U.S.C., and section 831 of title 18, U.S.C.; all support to counterterrorism operations; and all support to civilian law enforcement authorities in situations where a confrontation between civilian law enforcement and civilian individuals or groups is reasonably anticipated.

(k) Federal military forces employed for DSCA activities shall remain under Federal military command and control at all times.

(l) Special event support to a qualifying entity shall be treated as DSCA.

(m) All requests for DSCA mutual and automatic aid via the DoD Fire & Emergency Services programs shall be in accordance with DoD Instruction 6055.06.

(n) DSCA is a total force mission (*see* DoD Directive 1200.17).

(o) No DoD unmanned aircraft systems (UAS) will be used for DSCA operations, including support to Federal, State, local, and tribal government organizations, unless expressly approved by the Secretary of Defense. Use of armed UAS for DSCA operations is not authorized. (See DoD Directive 5240.01, Executive Orders 12333 and 13388, and DoD 5240.1–R.)

(p) Direct liaison between DoD Components and the States should occur only when time does not permit compliance with § 185.5(m)(1) of this part. In each such instance, the Chief, National Guard Bureau, will be informed of the direct liaison.

§ 185.5 Responsibilities.

(a) The Under Secretary of Defense for Policy (USD(P)) shall:

[16] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/302512p.pdf*.

[17] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/552505p.pdf*.

[18] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/200018p.pdf*.

(1) Coordinate DSCA policy with other Federal departments and agencies, State agencies, and the DoD Components, as appropriate.

(2) Establish DoD policy governing DSCA.

(b) The Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs (ASD(HD&ASA)), under the authority, direction, and control of the USD(P) shall:

(1) Serve as the principal civilian advisor to the Secretary of Defense and the USD(P) for DSCA.

(2) Serve as the Defense Domestic Crisis Manager.

(3) As delegated by the Secretary of Defense in accordance with DoD Directive 5111.13[19], serve as approval authority for requests for assistance from civil authorities or qualifying entities sent to the Secretary of Defense, except for those items retained in § 185.4(j) and (o) of this part, or delegated to other officials. This authority may not be delegated further than the Principal Deputy Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs. When carrying out this authority, the ASD(HD&ASA) shall:

(i) Coordinate requests with the Chairman of the Joint Chiefs of Staff, the Commanders of the Combatant Commands with DSCA responsibilities in the matter, and Military Department Secretaries and other DoD officials as appropriate.

(ii) Immediately notify the Secretary of Defense of the use of this authority.

(4) Develop, coordinate, and oversee the implementation of DoD policy for DSCA plans and activities, including:

(i) Requests for assistance during domestic crises, emergencies, or civil disturbances.

(ii) Domestic consequence management.

(iii) Coordination or consultation, as appropriate, with the Department of Homeland Security and other Federal agencies on the development and validation of DSCA requirements.

(iv) DoD support for national special security events.

(v) DoD support for national and international sporting events, in accordance with section 2564 of title 10, U.S.C.

(vi) Direct the fullest appropriate dissemination of information relating to all aspects of DSCA, using all approved media and in accordance with DoD Directive 8320.02[20].

(5) Exercise staff cognizance over DoD Directive 5525.5.

(c) The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and Interdependent Capabilities, under the authority, direction, and control of the USD(P), shall support planning by the Defense Domestic Crisis Manager during DSCA operations, as required.

(d) The Under Secretary of Defense (Comptroller)/Chief Financial Officer shall:

(1) Establish policies and procedures to ensure timely reimbursement to the Department of Defense for reimbursable DSCA activities.

(2) Assist in management of statutory resources for DSCA in support of appropriate international and domestic sporting events.

(e) The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) shall identify, monitor, and oversee the development of integrated DSCA training capabilities and the integration of these training capabilities into exercises and training to build, sustain, and assess DSCA readiness in accordance with DoD Directive 1322.18[21].

(f) The Assistant Secretary of Defense for Health Affairs (ASD(HA)), under the authority, direction, and control of the USD(P&R), as the principal advisor to the Secretary of Defense for all DoD health policy shall:

(1) Provide guidance and support for all domestic crisis situations or emergencies that require health or medical-related DSCA to ASD(HD&ASA).

(2) Exercise authority in accordance with section 300hh–11 of title 42, U.S.C., and according to DoD Directive

[19] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/511113p.pdf*.

[20] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/832002p.pdf*.

[21] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/132218p.pdf*.

6010.22[22], for participation in the National Disaster Medical System.

(g) The Assistant Secretary of Defense for Reserve Affairs, under the authority, direction, and control of USD(P&R), shall provide recommendations, guidance, and support on the use of the Reserve Components to perform DSCA missions to ASD(HD&ASA).

(h) The Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) shall establish policies and procedures, in coordination with ASD(HD&ASA), to implement DSCA requirements for DoD Fire and Emergency Services programs and mutual or automatic aid that may be part of that program.

(i) The Heads of the DoD Components shall:

(1) Direct that any DSCA-related DoD issuances, concept plans, interagency agreements, and memorandums of understanding or agreement with external agencies are in full compliance with this part.

(2) Direct Component compliance with financial management guidance related to support provided for DSCA operations, including guidance related to tracking costs and seeking reimbursement.

(3) When approved by the Secretary of Defense, plan, program, and budget for DSCA capabilities in accordance with law, policy, and assigned missions.

(j) The Secretaries of the Military Departments in addition to the responsibilities in §185.5(i) of this part, shall:

(1) Establish the necessary policies and procedures to ensure the appropriate personnel are trained to execute DSCA plans as directed by the Secretary of Defense.

(2) Direct that requests for reimbursement of actual DSCA expenditures (performance of work or services, payments to contractors, or delivery from inventory) begin within 30 calendar days after the month in which performance occurred. Final billing invoices shall be submitted to supported departments and agencies within 90 calendar days of the termination of the supported event.

(k) The Chairman of the Joint Chiefs of Staff in addition to the responsibilities in §185.5(i) of this part, shall:

(1) Advise the Secretary of Defense on the effects of requests for DSCA on national security and military readiness.

(2) Identify available resources for support in response to DSCA requests and release related orders when approved by the Secretary of Defense.

(3) Incorporate DSCA into joint training and exercise programs in consultation with the USD(P&R), the Chief, National Guard Bureau (NGB), and appropriate officials from the Department of Homeland Security and other appropriate Federal departments and agencies.

(4) Advocate for needed DSCA capabilities.

(l) The Commanders of Combatant Commands with DSCA responsibilities, in addition to the responsibilities in §185.5(i) of this part and in accordance with the Unified Command Plan shall:

(1) In coordination with the Chairman of the Joint Chiefs of Staff, plan and execute DSCA operations in their areas of responsibility in accordance with this part, the Unified Command Plan and the Global Force Management Implementation Guidance.

(2) In coordination with the Chairman of the Joint Chiefs of Staff, incorporate DSCA into joint training and exercise programs in consultation with the Department of Homeland Security, other appropriate Federal departments and agencies, and the NGB.

(3) Advocate for needed DSCA capabilities and requirements through the Joint Requirements Oversight Council, subject to §185.5(i) of this part, and the planning, programming, budgeting, and execution process.

(4) Work closely with subordinate commands to ensure that they are appropriately reimbursed for DSCA in accordance with §185.5(j) of this part.

(5) Exercise Training Readiness Oversight (TRO) over assigned Reserve Component forces when not on active

[22] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/601022p.pdf*.

duty or when on active duty for training in accordance with DoD Instruction 1215.06[23].

(m) The Chief, NGB, under the authority, direction, and control of the Secretary of Defense, normally through the Secretary of the Army and the Secretary of the Air Force, shall:

(1) Serve as the channel of communications for all matters pertaining to the National Guard between DoD Components and the States in accordance with DoD Directive 5105.77[24].

(2) Annually assess the readiness of the National Guard of the States to conduct DSCA activities and report on this assessment to the Secretaries of the Army and the Air Force; the USD(P&R), ASD(HD&ASA), and ASD(RA); and, through the Chairman of the Joint Chiefs of Staff, to the Secretary of Defense and appropriate Combatant Commanders.

(3) Report National Guard support of civil authorities or qualifying entities when using Federal resources, equipment, and/or funding to the NJOIC.

(4) Serve as an advisor to the Combatant Commanders on National Guard matters pertaining to the combatant command missions, and support planning and coordination for DSCA activities as requested by the Chairman of the Joint Chiefs of Staff or the Combatant Commanders.

(5) Ensure that National Guard appropriations are appropriately reimbursed for DSCA activities.

(6) Advocate for needed DSCA capabilities.

(7) Develop and promulgate, in accordance with DoD Directive 5105.77 and in coordination with the Secretaries of the Army and Air Force and the ASD(HD&ASA), guidance regarding this part as it relates to National Guard matters.

SUBCHAPTERS J–K [RESERVED]

[23] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/121506p.pdf*.

[24] Available by downloading at *http://www.dtic.mil/whs/directives/corres/pdf/510577p.pdf*.