

CHAPTER 6

Domestic Support Operations

The Department of Defense responds to domestic disasters and/or emergencies in accordance with a variety of plans with different federal agencies in the lead. The most prominent of these plans is the Federal Response Plan (FRP) which is coordinated by the Federal Emergency Management Agency (FEMA). The DOD is constrained as to the services it can perform in support of civil authorities by the provisions of the Robert T. Stafford Disaster Relief Act, 42 USC 5121 et seq. Under 42 USC 5170b, however, the President may authorize the Secretary of Defense to use DOD resources for performing on public and private lands any emergency work that is made necessary by an incident that may ultimately qualify for assistance, which is essential for the preservation of life and property. The period of the emergency work cannot exceed 10 days. Also, under DOD Directive 3025.1, commanders may

provide this assistance when time does not permit prior approval from higher headquarters. In addition, US Corps of Engineers has civil authorities, responsibilities, capabilities, and funding under 33 USC 701n which are unique within the Department of Defense. As a consequence, USACE is involved in disaster response more frequently than the rest of the DOD.

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RESPONSIBILITIES

Primacy for responding to disasters and emergencies rests with state and local authorities. When a disaster threatens or occurs, local authorities take immediate steps to warn and evacuate citizens, alleviate suffering, and protect life and property. If additional help is needed, the governor may direct execution of the state's emergency plan, use state police or national guardsmen, or commit other state resources as the situation demands.

PRESIDENTIAL DECLARATION

When the response and/or recovery requirements are beyond the capabilities of local and state forces and assistance programs, the governor may request that the President declare a "major disaster" or an "emergency." The Stafford Act provides the President authority to use federal resources to supplement state and local efforts.

FEMA

By Executive Order 12148, the President delegated to the director of FEMA the authority to establish policies for and coordinate all civil defense and civil emergency planning, management, mitigation, and assistance functions of federal executive agencies. After a Presidential declaration, the associate director of FEMA appoints a federal coordinating officer (FCO)

who is responsible for coordinating all federal disaster relief assistance programs to ensure the maximum effectiveness of federal assistance.

SECRETARY OF THE ARMY

Under the provisions of DOD Directives 3025.1 and 3025.12, the Secretary of the Army is the DOD executive agent for military support to civil authorities. His operating agent is the Director of Military Support (DOMS).

DOMS

The DOMS is the DOD primary contact for all federal departments and agencies during periods of domestic civil emergencies or disaster response. After coordination with the chairman of the Joint Chiefs of Staff, the DOMS designates a supported CINC as the operating agent. This could be CINCUSACOM for a disaster in the continental United States or Puerto Rico or the US Virgin Islands; or USCINCPACOM for Alaska, Hawaii, and the Pacific area.

CINC

The supported CINC designates a component command, a headquarters to execute the disaster relief operation. This headquarters will designate and deploy

a Defense Coordinating Officer (DCO) and, based on the severity of the situation, may deploy a Joint Task Force. Within the continental United States, the CONUSAs of FORSCOM can provide the JTF headquarters. The CONUSAs are Army regionally oriented commands with geographic boundaries. These headquarters interact on a daily basis with state and local authorities, the FEMA regions, and other federal agencies on a variety of issues that provide the foundation

for rapid and smooth transition to support operations during periods of disaster response.

DCO

The DCO is the DOD interface with FEMA, other federal providers, and the state coordinating officer representative located in the disaster field office (DFO). The DCO is responsible for validating and coordinating mission assignments from the FCO.

BASE SUPPORT INSTALLATIONS (BSI)

The CINC may designate an installation of any Service or Defense Agency to provide the DCO specified, integrated resource support to the DOD Military Support to Civil Authorities (MSCA) response effort. This installation is normally located outside of, but within relative proximity to, the disaster area.

Resources provided by BSIs may include, but are not limited to, technically qualified personnel to assist in disaster response, minimal essential equipment, and procurement support. A BSI may also serve as a marshaling or staging or mobilization area for MSCA support.

The DCO is vested by the CINC with the authority to task the BSI for support to the DCE. This authority is published in the DCO activation order and in the order designating abase support installation.

Unless otherwise directed by the Secretary of Defense, survival of the DOD personnel and resources, recovery of military capabilities, force reconstitution, and continuity of military operations have priority over MSCA. Resources available from the BSI may be limited due to the effects of the disaster or attack, and further restricted based on a realignment of military priorities. Support will be temporary in nature, using resources not required for preparation or conduct of military operations.

FEDERAL RESPONSE PLAN (FRP)

The FRP is the umbrella plan that guides the federal government support to state and local governments. The FRP outlines federal, including DOD, responsibilities and provides the framework for coordinating civil-military requirements between the DCO and the other Emergency Support Functions (ESF). Along with the DOD, 26 other federal departments and agencies provide support under the full implementation of this plan. The plan groups the types of assistance needed during a disaster or civil emergency into 12 functional areas called Emergency Support Functions. The responsibility for each ESF is assigned to a primary agency. Several support agencies may be assigned for each ESF. The DOD is assigned as the primary federal agency for Emergency Support Function 3- Public Works and Engineering and as a support agency for the other 11 functions. USACE has been designated the DOD lead agency responsible for planning and response for ESF 3. The federal government provides assistance under the overall direction of the federal coordinating

officer appointed on behalf of the President by the director of FEMA.

IMMEDIATE RESPONSE

Immediate response is that action authorized to be taken by a military commander or by responsible officials of other DOD agencies to provide support to civil authorities to prevent human suffering, save lives, or mitigate great property damage. Under the provisions of DOD Directive 3025.1, any commander or DOD official acting under "immediate response" authority shall advise the DOMS through command channels by the most expeditious means available and shall seek approval or additional authorization as needed.

In the event of imminent serious conditions resulting from any civil emergency or attack, all military commanders are authorized to respond to requests from the civil sector to save lives, prevent human suffering, or limit property damage. This immediate assistance by commanders will not take precedence

over their combat and combat support missions, nor over the survival of their units. Military commanders will notify the DOD executive agent through their senior commander by the most expeditious means and seek guidance for continuing assistance whenever DOD resources are committed under immediate response circumstances.

Commanders may use immediate response authority to assist in the rescue, evacuation and the emergency medical treatment of casualties, the maintenance or restoration of emergency medical capabilities, and the safeguarding of public health. Commanders may also assist the emergency restoration of essential public services and utilities. This may include fire fighting, communications, transportation, power and fuel. They may also consider providing immediate assistance to assist public officials in emergency clearance of debris, rubble, and explosive ordnance from public facilities and other areas to permit rescue or movement of people and restoration of essential services. However, commanders should recognize that this is not a blanket provision to provide assistance. Such requests are time-sensitive and should be received from local government officials within 24 hours following completion of a damage assessment. Commanders will always consider the impact that providing immediate response would have on their military mission requirements and not jeopardize them.

Although immediate assistance will be given with the understanding that its costs will be reimbursed, it should not be delayed or denied when the requester is unable or unwilling to make a commitment to reimburse.

LEGAL CONSIDERATIONS AND CONSTRAINTS

In conducting Military Support to Civil Authorities (MSCA), DOD components must comply with applicable legal requirements. These requirements are outlined in federal statutes, executive orders, regulations promulgated by other federal agencies, a DOD

directive, and a memorandum of agreement with other federal agencies and relief organizations. Before committing DOD resources, the servicing judge advocate must determine what legal authority forms the basis for MSCA. In most situations, MSCA is preceded by a request from competent civil authority (usually FEMA) for support which the civil authorities cannot provide. In rare instances where prior communication with higher headquarters is not possible, local commanders are authorized to provide MSCA to save lives, prevent human suffering, or mitigate large property damage when imminently serious conditions result from either a civil emergency or attack. Military operations will always have precedence over MSCA, unless otherwise directed by the Secretary of Defense.

FUNDING

The Economy Act 31 USC 1535 permits federal agencies to provide goods and services to other federal agencies on a reimbursable basis. The Stafford Disaster Relief Act requires reimbursement to the DOD for the incremental costs of providing support. Approval authority and reporting requirements vary depending upon the duration and type of support requested.

The cost of Army assistance in a major disaster or emergency must be documented. The request for reimbursement is submitted through the CONUS commander to the FEMA regional director initiating the assistance request. Military expenses qualifying for reimbursement include expenses and pay of civilian personnel and travel and per diem for all Army personnel. It also covers replacement costs for consumable supplies, transportation costs, repair and replacement cost of supplies and equipment, repair parts, cost of petroleum products, and aircraft flight hours. If commanders perform disaster assistance missions not tasked by FEMA, the Army may not be reimbursed for the cost.

SUMMARY

The Army may be called upon to assist in various domestic support operations. Commanders should scrutinize each request for aid, whether it be for equipment or training, to ensure that it conforms with

statutory requirements. The bottom line for commanders is that they should discuss plans, policies, programs, exercises, funding, and operations with their legal advisors.