

(i) Flyovers for events on military installations.

(ii) Flyovers at events off military installations for civic-sponsored observances of Armed Forces Day, Memorial Day, Independence Day and Veterans Day (except in the National Capital area).

(iii) Flyovers provided for military funerals for rated/designated aviation personnel of the Armed Forces.

(iv) Static display of aircraft held on military installations or elsewhere.

(v) Other aerial activities, as follows:

(A) Those held on military installations.

(B) Air-rescue demonstrations, team, or single parachute demonstrations (other than the U.S. Army Golden Knights), Navy Seal Team demonstrations, rappelling demonstrations, and air-to-air refueling demonstrations.

§ 238.11 Armed Forces bands, troops, and units in support of public programs.

(a) *Purpose and scope.* This enclosure is intended for use when determining the appropriateness or extent of Armed Forces participation in official Federal Government, military, or civic functions and all other community relation programs conducted in public. It governs all uniformed Armed Forces commands, organizations, units, and personnel appearing in public, including bands, musical groups, individuals, color guards, drill teams, marching units, exhibits or displays, and the loan or use of Armed Forces facilities and material in support of community relations programs.

(b) *Policy.* Armed Forces support of public programs has been developed by the Department of Defense to ensure compliance with public law, to ensure equitable distribution of resources to as many appropriate events as possible, and to avoid excessive disruption of training and operational missions of the Military Services. DoD support of public programs is authorized and encouraged when such support is in the best interest of the Department of Defense and the Armed Services. The Defense Establishment and the Armed Forces belong to the American people and thus the Department should not do

for one segment of the society what it cannot do for all.

(c) *Procedures—(1) General.* Requests for Armed Forces support of public programs shall be addressed to the nearest military installation, giving full details on the approved DoD request format (enclosure 2), so that a decision, based on program criteria, sponsor criteria, site criteria and support criteria can be made.

(2) *National/International programs.* Requests for Armed Forces support for programs which, by their nature or because of news media coverage, could be of national or international interest will be forwarded through established command channels to the ASD(PA) for approval. Approval will be based upon program, sponsor, site, and support criteria listed above, or any recommendation or request for exception to policy by the appropriate commander.

(3) *Events in the National Capital area.* All requests for Armed Forces support of public programs within the National Capital area will be sent to the ASD(PA) for approval. Requests for Military Service bands, musical units, drill teams, color guards, etc., stationed in the Washington, D.C. area, may be made by submitting the attached approved DoD request format through appropriate command channels.

(4) *Local events.* Local military commanders may authorize support of purely local programs without further authorization from the Department of Defense. The program must be consistent with at least one condition of each of the established criteria groups in § 238.6(a) and be consistent with resource capability, operational commitments and applicable regulations.

(d) *Evaluation.* (1) When evaluating requests for Armed Forces support of public programs, the interests of the Department of Defense, the public at large, operational requirements of the Military Services, and availability of appropriate resources are prime considerations. (See § 238.6 (a) and (b).) Commitment of resources to specific programs must be balanced with the governing factors and guidelines of the basic Instruction and with requests for similar participation received from

other sources. DoD support, directly or indirectly, must not:

(i) Endorse or benefit selectively or favor any private individual, group, corporation (whether for profit or non-profit), sect, quasi-religious or ideological movement, political organization, or commercial venture; or

(ii) Be associated with the solicitation of votes in a political election. (See § 238.6 (a) and (b).)

Such sites as commercial theaters, department stores, churches, or fraternal halls are, generally, inappropriate sites for Armed Forces support. Testimonials to individuals or sectarian religious services are inappropriate programs for Armed Forces support.

(2) Support by the Armed Forces of any program may be authorized only if admission, seating, and all other accommodations and facilities are available to all without regard to race, creed, color, national origin, or sex.

(i) Support of programs sponsored by certain organizations may be authorized when the program is oriented towards the community interests as opposed to the sectarian, fraternal, or national origin aspects or objectives of the organization.

(ii) Participation in nonpublic school events is authorized when the program is clearly patriotic or educational in nature or is in support of recruiting programs.

(iii) No admission charge may be levied on the public solely to see an Armed Forces demonstration, unit, or exhibit. When admission is charged, the Armed Forces activity must not be the sole or primary attraction. (Excludes Navy and Marine Corps Band Tours.)

(3) The term "fund-raising" identifies the avowed or announced purpose of a program which, by any means, seeks to acquire money or material in excess of actual costs for charitable, civic, or other purpose. Support by the Armed Forces in an official capacity in fund-raising programs is restricted to fund-raising activities in support of recognized united, federated, joint, or other authorized campaigns (see § 238.6(a)(1)(v)). A required condition of such support will be that the sponsor of an event certifies that all profits ac-

rued will be donated to a united, federated, or joint campaign. In view of the national interest, the Armed Forces may support sports or other public programs held for the sole purpose of raising funds for the U.S. teams competing in the Pan-American and Olympic Games. DoD policies concerning Armed Forces support of fund-raising programs are detailed in part 237 of this title. Additional information may be found in DoD Directive 5035.1.

(4) When Armed Forces support of a public program is in the mutual interest of the Department of Defense and the sponsor, participation will be authorized at no additional cost to the Government. Additional costs to the Government—travel and transportation of military personnel, meals and quarters or the standard per diem allowance—must be borne by the sponsor.

(5) The duration of support by military units in any single program is limited in the interests of proper utilization and equitable distribution of Armed Forces manpower and resources. While an exhibit may be scheduled for the duration of a program, participation of a unit such as a military band is limited to 3 days.

(6) Armed Forces support of professional sports programs and all postseason bowl games will be authorized at no additional cost to the Government, will emphasize joint Service activity where practicable, and must support recruiting programs. Support of commercially oriented events, such as beauty pageants, Christmas parades, and motion picture premieres is not authorized.

(7) Armed Forces musical units may be authorized to provide certain specified musical presentations for public programs. The performance must not place military musicians in competition with the customary or regular employment of local nonmilitary musicians. Background, dinner, dance, or other social music is not authorized for public programs held away from a military installation. Programs which may be authorized usually include a short (15-20 minute) patriotic presentation. Musical selections consist of a medley of military or patriotic songs, appropriate honors, and music to accompany

the presentation of the colors by a color guard.

(e) *Exhibits.* (1) Exhibits are both indoor and outdoor types. The Military Services maintain Armed Forces exhibits which are used in their individual public affairs programs. These exhibits are maintained by the Military Departments and are provided to sponsors of events at no additional cost to the Government.

(2) Most exhibits are displayed during programmed tours which are scheduled 6 to 8 months in advance. Requests for these exhibits should be initiated well in advance of the event.

(3) Requests for Armed Forces exhibits in support of public programs should be forwarded to one of the following addressees, using an approved DoD request format:

U.S. Army

Chief of Public Affairs, Department of the Army, Washington, D.C. 20310.

U.S. Navy

Chief of Information, Department of the Navy, Washington, D.C. 20350.

U.S. Air Force

Commander, USAF Orientation Group, Wright-Patterson AFB, Ohio 45433.

(4) The exhibits used in support of personnel procurement and recruiting are governed by policy established by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(f) *Armed Forces personnel, facilities, and materiel—(1) General.* (i) Armed Forces (including Guard/Reserve and ROTC) resources, such as bands, troops, drill teams, color guards, installations facilities, and materiel may be effectively used to support community relations programs.

(ii) The use of military personnel as ushers, guards, parking lot attendants, runners, messengers, baggage handlers, crowd control, or other inappropriate capacities in support of public programs conducted off military installations is not authorized.

(2) *Flags.* (i) The loan of official flags of DoD Components will not be authorized without the approval of the Secretaries of the Military Departments or

Heads of the other Components concerned.

(ii) In public programs for which DoD support has been authorized and at which the display of colors is appropriate, a Joint Armed Forces Color Guard will be employed, when available, using the following composition: Two Army bearers with National and Army colors; one each Marine Corps, Navy, Air Force, and Coast Guard² bearer with individual Service colors; and one Army and one Marine Corps rifleman as escorts.

(iii) When a Joint Armed Forces Color Guard, as specified above, cannot be formed, the senior member of the senior Service in the Color Guard will carry the national colors. DoD Components will be guided by the table of precedence prescribed in DoD Directive 1005.8,³ "Order of Precedence of Members of Armed Forces of the United States When in Formations," October 31, 1977.

(iv) United States military personnel may carry flags of foreign nations in official civil ceremonies when an official of the nation concerned is present in an official capacity and the official is one for whom honors normally would be rendered. In all other public programs or ceremonies, United States military personnel in uniform and in an official capacity are not authorized to carry flags of foreign nations, veterans groups, or other nonmilitary organizations.

(3) *Loan of materiel and facilities—(i) Materiel.* Equipment which formerly was available only from the military is now readily available from commercial sources. In considering requests for loan of military materiel, commanders must determine that similar materiel or facilities are not reasonably available from commercial sources before providing the support requested. This is particularly applicable to such items as communications, office, food-handling, and lighting equipment. Also included are construction, earth-moving, or other transportation and field equipment support. Other criteria to be considered are:

²Pursuant to agreement with the Secretary of Transportation.

³See footnote 1 to §238.4(d).

(A) The equipment must be locally available in the command, and its use for public affairs purposes must not be permitted to interfere with the military mission of the command.

(B) The public affairs program for which loan support is requested must be one in which the command is actively participating and one within the scope of its community responsibilities.

(ii) *Facilities.* Requests which do not fall within the discussion in this section shall be referred, with the DoD Component's recommendations, to the ASD(PA) for consideration. Further guidance is provided in § 238.19.

(g) *State governors' inaugural ceremonies and parades*—(1) *General.* Support by DoD Components is appropriate in public parades and in inaugural ceremonies subject to the availability of resources. To the greatest extent practicable, Armed Forces support should be joint in nature. In those cases where a Military Service desires to support an inaugural program but has no troops or resources stationed within that State, the circumstances should be reported to the ASD(PA). Bands, troop units, and equipment from outside the local area may be provided only if no additional cost to the Federal Government will be incurred.

(2) *Support considerations.* (i) Support should be limited in size and scope, bearing in mind the potential demands that may be generated from State to State. Marching units with a combined strength of no more than one platoon from each Military Service and no more than one military band are recommended guidelines. The display of equipment and vehicles in parades is encouraged.

(ii) It is recognized that the State National Guard may be ordered to State duty by appropriate State authority, although Federal funds are not made available. Such service and expenses involved are paid for by other than Federal funds. The governor of a State has the authority to utilize, at no expense to the Federal Government, national guard troop units as required in support of the inaugural parade and ceremonies.

(iii) The duties to be performed by national guardsmen in uniform shall

conform to the policies of the Secretary of Defense as set forth in part 237 of this title and this part. Use of military personnel as escorts, ushers, doormen, or drivers for nonmilitary guests or local dignitaries is not authorized.

§ 238.12 Speaking engagements.

(a) *Purpose.* This part which includes a reiteration of pertinent policy statements from part 237 of this title, contains definitions, policy, procedural, and funding guidance concerning public speaking engagements by DoD personnel.

(b) *Definitions*—(1) *Speaking engagement.* A prearranged official Federal, State, or Municipal government; organizational; or public event at which a military or civilian member of a DoD Component speaks about a DoD subject within his or her official cognizance. Impromptu remarks by an individual delivered incidentally and simply as a part of his/her attendance at an event does not constitute a speaking engagement within the meaning of this Instruction.

(2) *DoD Speaker.* Any civilian or military member of the Department of Defense at any level and of any rank who speaks in public about a DoD subject within his/her official cognizance.

(c) *Policy.* The Department of Defense encourages qualified civilian and military officials at all levels to accept speaking invitations as an effective means of informing the public about Defense matters. DoD Instruction 5230.13,¹ "Principles of Public Information," October 23, 1973.

(d) *Procedures*—(1) *General considerations.* The following points should be considered by members of the Department of Defense prior to acceptance of a speaking invitation:

(i) Participation must not interfere with assigned duties.

(ii) Speakers must address their remarks to subjects within their official cognizance.

(iii) Views expressed must not conflict with national policy.

(iv) Speakers may not be provided for partisan political gatherings (see DoD Directive 1344.10,¹ "Political Activities

¹See footnote 1 to § 238.4(d).