

**MEMORANDUM OF UNDERSTANDING**

**between**

**THE DEPARTMENT OF THE INTERIOR**

**and**

**THE DEPARTMENT OF DEFENSE**

**Article I. Purpose**

This Memorandum of Understanding (MOU) prescribes procedures and guidelines by which the Department of Defense (DOD) will provide aircraft services in support of the Department of the Interior (DOI) missions to interdict or eradicate illegal drug flow, use, or production on Federal lands\*.

**Article II. Authority**

This support Agreement is entered into pursuant to authority contained in DOD Directive 5149.1, in DOI Manuals 347 DM 9, 350 DM - 354 DM as appropriate, and in the appropriate Office of Aircraft Services (OAS) OFMs.

**Article III. Definitions**

The term "Department of the Interior" encompasses all subordinate bureaus, services, and offices to include the Bureau of Land Management, National Park Service, Bureau of Indian Affairs, Fish and Wildlife Service, Bureau of Reclamation, Bureau of Mines, Office of Surface Mining, United States Geological Survey, Minerals Management Service, and the Office of the Secretary.

The term Department of Defense includes military personnel in Federal service, Department of Defense civilian personnel and property belonging to the DOD.

\*for the purpose of this document, the term "Federal lands" also included lands administered by the Bureau of Indian Affairs.

#### **Article IV. PROGRAM**

The DOI is a Federal agency with "counter-drug responsibility" (as the term is used in Public Law 101-189, November 29, 1989). DOI has statutory authority for drug law enforcement activities on Federal lands under the Secretary's jurisdiction. The DOD has authority to support these actions under Chapter 18 of Title 10, United States Code, and other provisions of applicable laws.

The DOI manages 506 million acres, approximately 69% of the Federal lands in the United States. Within the context of this responsibility, law enforcement operations are conducted to eliminate illegal drug activity on these Federal lands. The DOI cooperates from time to time with other governmental agencies, as well as state and local governments, to effect economies, maximize efficiency, and promote the goal of drug-free Federal lands. Such actions are authorized by statute and executive order.

DOI counter-drug activity is categorized into interdiction and eradication operations:

(a) Interdiction operations include detection, surveillance, seizure, monitoring, and the transport (with law enforcement agents present) of illegal drugs. They also include any operation designed to halt/disrupt the illegal drug flow into and within the United States.

(b) Eradication operations include the physical destruction of illegal plants (particularly marijuana), maintaining surveillance of marijuana fields, seizure and transport of confiscated illegal drugs (with law enforcement agents present), and law enforcement personnel and aerial reconnaissance.

Because there are vast, roadless areas on Federal lands, aerial surveillance and aircraft access are often the primary tools in interdicting and eradicating drugs. Because of the need for secrecy and rigorous security in drug law enforcement missions, it is essential that DOI rely on government-owned/operated aircraft to perform necessary aerial activities.

The DOD agrees that it will provide aviation support for DOI missions intended to detect and interdict illegal drug activities. Aviation support activities may include:

(1) Transporting DOI law enforcement personnel, other law enforcement personnel assisting DOI, and equipment necessary to the mission as approved jointly by the Secretary of Defense (SECDEF) and the Attorney General (AG).

(2) Transporting contraband in the custody of DOI law enforcement agents as approved jointly by the SECDEF and the AG.

(3) Training flights to assist DOI and other law enforcement personnel in preparing for drug enforcement missions as approved jointly by the SECDEF and the AG.

(4) Aerial reconnaissance of areas of known or suspected drug activities.

#### Article V. Procedures

1. The SECDEF is the approval authority for DOD operational support to Federal Civilian Law Enforcement Agencies (DLEAs). The chief law enforcement officer of the DOI bureau conducting a drug enforcement mission requiring aircraft services will contact the Deputy Assistant Secretary of Defense (DASD) for all policy questions relating to activities to be conducted under this MOU. For operational details, the chief law enforcement officer of such bureau will contact the senior military officer designated by the Commander-in-Chief, U.S. Forces Command (CINCFOR).

2. Written notice of intended missions will be given to the DOD as far in advance as possible. In providing this notice, DOI bureau law enforcement will attempt to project anticipated support requirements to permit their inclusion in contingency operational plans.

3. Normally, joint field-level DOI/DOD pre-mission planning will be accomplished at least 72 hours prior to a mission. The DOI bureau will provide a manifest of all DOI personnel who will be on the aircraft. The manifest will contain each person's full name and Social Security number. The DOI bureau will assure that all persons are essential to the mission.

4. When transporting DOI personnel, the military will assure that at least one military pilot assigned to the aircraft has a minimum of 500 hours pilot time experience. If available military pilots are unable to meet this requirement, the military will refuse the mission request.

5. Weapons will not be fired from the aircraft except in self-defense in accordance with the policies of DOD and DOI.

6. Publicity releases and news releases involving activities under this MOU will not be initiated by either party unless mutually agreed upon.

7. In case of an aircraft accident, the military will conduct the accident investigation and the Office of Aircraft Services, DOI, will provide an investigator to assist and provide liaison to the military investigating team, as required.

8. Military commanders will retain final authority over flight operations of military aircraft.

9. Military personnel, including flight crews, will not be directed to violate the provisions of the Posse Comitatus Act or Section 375 of Title 10, United States Code.

10. The DOD will coordinate directly with the OAS, DOI, when communicating information pertaining to agreement policy revisions, program recommendations, or management concerns regarding implementation of the Agreement.

#### Article VI. Reimbursement

A pre-operation determination will be made regarding the requirement for reimbursement for each mission. The reimbursement determination will be made known to the bureau requesting the support to permit programming and disbursement of funds. If reimbursement is required, rates for aircraft will not exceed rates prescribed in the DOD aircraft reimbursement rate schedule.

Payment for reimbursement aviation support will be in accordance with the following procedures:

1. Form OAS-23, Aircraft Use Report, will be accomplished according to instructions provided. Questions regarding preparation of Form OAS-23 may be answered by Mr. Cliff Dalsell, telephone (208) 389-2759.

2. DOI will supply Form OAS-23 in sufficient quantity to the parties concerned.

#### Article VII. Amendment, Agreement Period, and Termination

This MOU shall become effective upon the signature of all involved parties and shall remain in effect until terminated. Any party may terminate this Agreement upon presentation of a written notice to the other party. The provisions of this MOU may be amended at any time upon mutual agreement of both parties.

**APPROVED:**

Department of the Interior  
Office of Aircraft Services

By Barton R. House  
Barton R. House

Title Director of Program Services  
Date July 25, 1990

Department of Defense

Arnold Schlossberg, Jr.  
Arnold Schlossberg, Jr.

Title DASD(Drug Exp. Plans & Support)  
Date July 25, 1990