

MODIFICATION 1 TO
MEMORANDUM OF AGREEMENT (MOA) BETWEEN
DEPARTMENT OF DEFENSE (DoD)
AND
DEPARTMENT OF TRANSPORTATION (DOT)

1. References:

(a) DoD/DOT MOA, 08 AUG 08

(b) DEPSECDEF Memo, 28 JAN 09

2. Ref (a) is current MOA between DoD and DOT on National Defense Reserve Fleet (NDRF), with particular emphasis on the Ready Reserve Force (RRF) component of the NDRF. Ref (B) delegates additional authority to USTRANSCOM regarding use of the RRF vessels, expanding upon authorities already contained in ref (a).

3. In accordance with ref (b) direction and delegation, make the following modifications to ref (a):

a. Article 7, paragraph b: STRIKE language "No vessel of the RRF shall be used to store or carry any non-defense related cargo unless so directed by SECTRANS with SECDEF concurrence."

b. ADD paragraph h: "USTRANSCOM is delegated the authority by the SECDEF to concur or non-concur in Maritime Administration requests to temporarily use vessels of the RRF for storage of non-defense related cargo."

DEPARTMENT OF DEFENSE

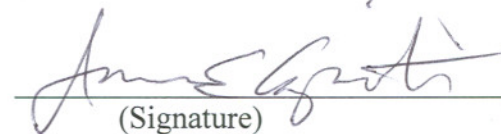
U.S. TRANSPORTATION COMMAND
DUNCAN J. McNABB
General, USAF
Commander

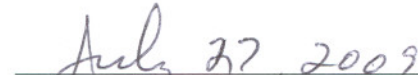

(Signature)


(Date)

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION
JAMES E. CAPONITI
Acting Deputy Maritime Administrator


(Signature)


(Date)



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

USA

JAN 28 2009

MEMORANDUM FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF

SUBJECT: Ready Reserve Force (RRF) Activation Authority

The Commander, U.S. Transportation Command, is delegated the authority of the Secretary of Defense to concur or nonconcur in Maritime Administration requests to temporarily use vessels of the RRF, pursuant to section 11(b)(3) of the Merchant Ship Sales Act of 1946, as amended (50 U.S.C. app. 1744(b)(3)), for storage of non-defense-related cargo. This delegation is effective immediately. The Memorandum of Agreement between the Department of Defense and Department of Transportation on the administration of the RRF shall be revised accordingly.

cc:
Secretary of Transportation



MEMORANDUM OF AGREEMENT
BETWEEN
DEPARTMENT OF DEFENSE AND DEPARTMENT OF TRANSPORTATION

1. GENERAL

The Commander, United States Transportation Command (USTRANSCOM), on behalf on the Department of Defense (DoD), and the Maritime Administrator (Administrator), Maritime Administration, on behalf of the Department of Transportation (DOT), agree that they have a mutual interest in the National Defense Reserve Fleet (NDRF), particularly the Ready Reserve Force (RRF) component of the fleet.

2. PURPOSE

To identify the relationship and responsibilities of the DoD and the DOT in the administration of the NDRF program, including: the acquisition, lay-up, berthing and maintenance of vessels and training of personnel in the RRF; the conditions under which vessels of the RRF will be activated for DoD operational control, operated, and subsequently deactivated; funding; and other aspects of the RRF program, including the NDRF sites. This Memorandum of Agreement (MOA) is consistent with the President's determination that commencing in Fiscal Year 1996, funding for the NDRF, including the RRF, will be provided through DoD appropriations, while management and control of the NDRF, including vessels in the RRF prior to and through their activation, rests with Maritime Administration. Administrative control (ADCON) of RRF vessels remains a Maritime Administration responsibility at all times, including their activation, crewing, training, logistics support, maintenance, and repair. Operational control (OPCON) of activated vessels tendered to DoD will be exercised by the Commander, Military Sealift Command (MSC).

3. COMPOSITION AND REQUIREMENTS OF THE RRF

a. USTRANSCOM is responsible for developing the DoD's strategic sealift requirements (except for Service-unique or theater-assigned requirements) annually and coordinating the overall DoD RRF requirements. These requirements will be based upon sealift requirements submitted to USTRANSCOM by the Combatant Commanders and Service Secretaries, and will include any special capability requirements. When sealift capability objectives are approved by the Secretary of Defense (SECDEF), USTRANSCOM will provide sealift requirements to the Administrator. The Maritime Administration will report on actions taken to meet those sealift requirements.

b. The following sources of vessels will be used to meet the requirements identified for the RRF: upgrades from the NDRF; turnovers of excess military auxiliaries; direct purchases from private owners; authorized construction and conversion programs; and sources otherwise authorized by law. Other RRF requirements such as specific vessel features, modifications, required outporting, readiness standards and timing for future changes in the RRF composition will be defined and coordinated by USTRANSCOM, as described in the above paragraph and in coordination with the Maritime Administration.

c. The Maritime Administration will effect installation of unique features and modifications to RRF vessels, upon concurrence of such work by USTRANSCOM and funding by the sponsoring defense agency or service.

d. RRF vessels are public vessels, and are documented as owned and operated by the United States of America, as represented by the Secretary of Transportation (SECTrans), acting by and through the Administrator.

e. Vessels may be assigned into the RRF by the Administrator after consultation with the Office of the Chief of Naval Operations (OPNAV) and USTRANSCOM.

4. ACQUISITION

a. USTRANSCOM, in coordination with OPNAV, will provide the Maritime Administration specific guidance on the types and numbers of vessels essential for RRF sealift requirements, including desired features and priority of each.

(1) The procurement will be conducted in accordance with Federal Acquisition Regulations (FAR) and the guidance in 4a, and will provide the basis for the Maritime Administration's development of the Source Selection Plan (Plan). The Administrator shall appoint the Source Selection Authority (SSA). The Maritime Administration shall obtain concurrence for the Plan from USTRANSCOM, acting on behalf of DoD, prior to receiving approval of the Plan from the SSA. The Plan provides the basic guidance to the Source Selection Evaluation Board (SSEB) in preparing solicitations and conducting acquisitions.

(2) The SSEB will be chaired by the Maritime Administration with additional representation from the Office of the Secretary of Transportation, USTRANSCOM, MSC, and OPNAV, as well as any other special members the SSA agrees to, as appropriate.

b. The Maritime Administration will execute the acquisition of vessels in accordance with DOT/Maritime Administration acquisition authorities and procedures.

c. The Maritime Administration will pursue all opportunities to obtain vessels for the RRF by means of program authority conferred by statute (e.g., 46 U.S.C. §57104). Exercise of such authority shall include close consultation with USTRANSCOM, acting on behalf of DoD, and coordination with OPNAV, taking into account the availability of funds needed to place vessels into the RRF.

5. PREPARATION AND MAINTENANCE

a. Vessels in the RRF will be prepared and maintained in accordance with standards set forth in the RRF Operations Management Manual, RRF Operations Management Guidelines, and RRF Logistics Management Manual.

b. All vessel maintenance and repairs will be accomplished by the Maritime Administration in accordance with applicable statutes, policies, and contractual requirements that govern the

RRF. Shipyard and vessel repair facility work will be performed in the United States and Guam (except for necessary voyage repairs while overseas), in accordance with statute and agency instructions.

c. Subject to the availability of funds, and with regard to the aforementioned standards, the RRF vessels will be outfitted and maintained on the basis of priorities agreed upon by the Points of Contact (POC) designated in Article 12 hereof. If at any time the standards cannot be met, the Maritime Administration will so advise the POCs designated in Article 12, and provide a time estimate for correction.

6. MANNING AND OPERATION OF RRF VESSELS

a. RRF vessels will be manned and operated under Ship Manager Contracts (SMC) or General Agency Agreements (GAA) (until SMC's are executed) awarded in accordance with statute or regulation between the Maritime Administration and individual companies. At all times, such contracts will be capable of immediately implementing a vessel activation order.

b. RRF vessels may become the subject of third party claims against the government for personal injury, property damage, or other liability. The Maritime Administration does not require operators of RRF vessels under Ship Manager Contracts or other agreements to obtain commercial Protection and Indemnity (P&I) marine insurance to cover such third party claims, except in those instances when the Maritime Administration and MSC agree that it is in the best interest of the government. The Maritime Administration will receive, investigate and resolve such claims. The Maritime Administration will notify USTRANSCOM promptly upon the receipt of major claims (seaman's claim over \$1,000,000 or property claim over \$500,000), claims which the Maritime Administration determines may have unusual or precedent setting issues, and claims of high interest within DoD. When requested by the Maritime Administration, OPNAV and MSC will consult with USTRANSCOM to identify funding for the payment of claims to the extent the government's liability has been established by the Maritime Administration.

c. MSC is USTRANSCOM's operational commander for DoD sealift, and will have operational control (OPCON) of activated RRF vessels, except for situations that require OPCON be exercised by operational commanders for theater-assigned RRF assets.

d. The Maritime Administration will include Force Protection (FP) equipment and training funding requirements in the budget and Program Objective Memorandum (POM) consistent with USTRANSCOM RRF Guidance. MSC will support training opportunities and FP equipment transfers. OPNAV will fund the requirements.

e. Oil Spill Management and Liability.

(1) The Maritime Administration will provide oil spill liability insurance coverage for RRF vessels under MSC OPCON, and will manage oil spill response for those vessels while under MSC OPCON. Maritime Administration will pay any deductibles for their insurance policy.

(2) MSC, or the Navy On-Scene Commander for oil spill response (NOSC), possesses the right to manage the spill response as Incident (or Unified) Commander, provided that they expressly relieve the Maritime Administration of management and liability responsibility during a spill incident. In such cases, the Maritime Administration will continue its insurance coverage as a potential financial and management resource.

7. ACTIVATION

a. Vessels in the RRF shall be activated pursuant to Presidential action or as otherwise authorized under law.

b. The SECDEF delegated authority to USTRANSCOM to activate vessels of the RRF, except for matters reserved for SECDEF and Presidential Orders, or purposes not contained herein. MSC has been delegated the authority by USTRANSCOM to determine what type vessel among those assigned to the RRF should be activated in defense emergencies. MSC will consult with the Maritime Administration in determining which specific RRF vessel(s) can best meet the requirement(s). No vessel of the RRF shall be used to store or carry any non-defense related cargo unless so directed by SECTRANS with SECDEF concurrence.

c. Vessels in the RRF, at the request of USTRANSCOM through MSC

(1) will be activated for the purpose of training and testing for readiness and suitability for mission performance in accordance with Article 8 hereof, and

(2) will be activated in connection with a transfer in accordance with Article 11 hereof, and

(3) may be activated (i) for support of the deployment of U.S. Armed Forces in a military contingency, or (ii) for military contingency operations, or (iii) for civil contingency operations upon orders from the President and Secretary of Defense.

(4) may be activated for other defense sealift purposes for which other sealift assets are not reasonably available.

d. Some vessels within the RRF are partially or fully service/theater unique assets. They include Combat Logistics Force (CLF), Ligherage Aboard Ship (LASH), Offshore Petroleum Discharge System (OPDS), Auxiliary Crane Ship (T-ACS) and Aviation Logistics Support (T-AVB) vessels. For this reason, USTRANSCOM will consult with OPNAV prior to their activation for distribution purposes under Article 7 c of this agreement. For service-unique or theater-assigned purposes under Article 7 c of this agreement, USTRANSCOM will activate these vessels at the request of the Navy.

e. Vessels activated under paragraphs (c) and (d) above, shall not be in competition with or substitute for or displace reasonably available privately owned U.S. flag vessels.

f. Vessels shall be returned to the Maritime Administration as soon as practicable after the purpose for their activation has been accomplished. If an unforeseen follow-on requirement arises, DoD will notify the Maritime Administration of requirements for continued use consistent with the requirements of this article.

g. In the case of NDRF/RRF, activation of vessels to support civil contingency operations (as outlined in 7.c(3)(iii)) Section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744) requires SECTRANS approval and SECDEF concurrence. The Maritime Administration will coordinate on behalf of SECTRANS the approval request, providing details from the requesting agency (e.g., FEMA) pertaining to the anticipated operations, use, and duration for each RRF vessel. USTRANSCOM will coordinate the SECDEF concurrence process and vet against known or planned transportation requirements.

(1) Process to activate RRF vessels in support of civil contingencies:

(a) (DOT/Maritime Administration) Identify available RRF capability to meet the requirements provided in a requesting agency's (e.g., FEMA) Mission Assignment (MA) (e.g., berthing, power generation, command and control, anticipated operations, location of deployment, and duration of use).

(b) (DOT/Maritime Administration) Nominate identified RRF assets to the USTRANSCOM Deployment Distribution Operations Center (DDOC).

(c) (USTRANSCOM DDOC) Coordinate with the applicable regional Combatant Commander's (COCOM) DDOC to vet Maritime Administration's proposed use of assets against other existing or planned transportation requirements.

(d) (USTRANSCOM DDOC) Deconflict plans/requirements for other MAs.

(e) (USTRANSCOM DDOC) Coordinate plans with the Joint Staff Joint Director for Military Support (JDOMS) and provide USTRANSCOM concurrence to DOT/Maritime Administration on behalf of SECDEF.

(f) (DOT/Maritime Administration) Sign the MA and activate the identified assets.

(2) The use of RRF vessels for missions will be considered in the following order of priority:

1. DoD requirements
2. Department of Homeland Security (DHS) requirements
3. Berthing security and safety requirements of the vessel, and
4. Local or regional requirements by assisting with situational response that can be met with little or no impact to the vessel, e.g., the SafeStor of emergency vehicles, providing fuel for local emergency services, berthing/messing/showers for first responders.

(3) SafeStor. RRF vessels may be used to pre-stage various local or regional emergency vehicles onboard as a "last measure" effort to securely store equipment and allow near immediate use once a safe environment is regained. This capability is known as "SafeStor." SafeStor as a preventative measure is a local emergency response that requires in-the-field planning to ensure equipment compatibility with vessel's safe loading procedures and heavy weather mooring arrangements. SafeStor does not require vessel activation or movement. The Maritime Administration will consult with USTRANSCOM on all SafeStor requests to ensure there is no planned DoD use of the RRF vessel. The Maritime Administration will secure liability waiver for damage or loss of emergency response equipment or personnel seeking shelter onboard the RRF vessels.

8. TEST AND INSPECTION

a. Prior to the start of each fiscal year, and subject to the availability of funds, the Maritime Administration and USTRANSCOM will develop a planned DoD activation schedule of one or more vessels (including operation for an extended period if there is an operational requirement, normally not to exceed 60 days). The planned activation, utilization, and period of use will be mutually arranged between USTRANSCOM and the Maritime Administration. The Maritime Administration will, to the extent practicable, incorporate these DoD activations into the Maritime Administration's annual maintenance test activation program to avoid duplicative activations.

b. At USTRANSCOM direction through MSC, periodic no-notice RRF vessel activation tests will be conducted. These no-notice tests will be conducted in accordance with no-notice activation request and will consist of full vessel activation, at-sea operations for a period normally not less than 72 hours or more than 60 days, and an operational test of all cargo handling equipment. These tests may be conducted in connection with other planned extended operational test periods or, at USTRANSCOM discretion, as independent activation tests under the Turbo Activation Exercise Directive.

c. For all activations under paragraphs a. and b. above, MSC shall provide the Maritime Administration with the test plan, including the projected period of activation and details pertaining to any cargo carriage requirements.

d. The Maritime Administration shall annually provide the POCs with a review of the maintenance and repair schedules, logistics statuses, readiness assignments, and test plans for each RRF vessel. Results of this review will be used to identify RRF vessel improvement projects and to adjust the readiness status of individual vessels for subsequent years. Review results will be applied to the RRF POM planning and budget process.

e. The Maritime Administration will provide access to report information on the readiness status of all RRF vessels and on individual vessels as changes occur.

f. MSC, in conjunction with the Maritime Administration, may observe RRF vessel readiness (to include maintenance, vessel activation/deactivation and associated activities) at outport and NDRF sites.

9. BUDGET ESTIMATES AND PROGRAM INFORMATION

a. The DoD Planning, Programming and Budgeting and Execution System (PPBES) will be used for formulation of the NDRF budget, including the RRF. The POCs will coordinate to meet PPBES Milestones.

(1) Consistent with Article III of the National Defense Sealift Fund (NDSF) Charter and PPBES, USTRANSCOM will develop and provide annual programmatic guidance to the Maritime Administration and OPNAV regarding RRF Program requirements and priorities for sealift operational mobility programs.

(2) OPNAV will provide fiscal guidance to the Maritime Administration for use in formulating program estimates and funding requirements for the forthcoming fiscal year in accordance with the PPBES.

(3) Given the guidance outlined above, the Maritime Administration will develop NDRF budget estimates, and submit to OPNAV with a copy to USTRANSCOM.

(4) OPNAV will provide the resources necessary and be the responsible office within the PPBES to carry out all budget formulation, budget submissions, and budget execution requirements. OPNAV will use the Maritime Administration budget estimates and USTRANSCOM program requirements and priorities in developing the NDRF POM funding profile and budget. OPNAV will coordinate with USTRANSCOM and consult with the Maritime Administration for review and adjustment when program and budget submissions differ from the programmatic guidance provided by USTRANSCOM, and when the Congressionally-approved budget differs from the program and budget submissions.

10. FUNDING

a. Funds for expenses for maintaining the NDRF, including the RRF, as defined under section 11 of the Merchant Ship Sales Act of 1946, as amended (50 U.S.C. App. 1744), including design, construction, purchase, alteration, conversion, maintenance and repair of vessels for national defense sealift purposes will be paid from the NDSF (10 U.S.C. 2218), or as otherwise provided by law.

b. Prior to the beginning of each fiscal year, the Maritime Administration will develop a fiscal year financial plan. The plan will incorporate annual estimates for all RRF budget line items found in the BA-5 POM such as maintenance and repair, outporting, logistics, NDRF facilities and security. The plan will be designed to implement DoD program guidance within the appropriated funding level.

c. The Maritime Administration will obtain funds from the NDSF via OPNAV Field Support Activity (FSA) pursuant to an annual one-time request order issued under the authority of the National Defense Sealift Fund, 10 U.S.C. § 2218, Section 11 of the Merchant Marine Act of 1946, 50 U.S.C. App. § 1744, and the Vessel Operations Revolving Fund, 46 U.S.C. § 50301.

The Maritime Administration will then deposit these funds in the Vessel Operations Revolving Fund (VORF) for timely payment of program costs. Transfer of all annual RRF acquisition funds from the NDSF appropriations is to occur at the beginning of the fiscal year to assure timely award of acquisition contracts.

d. Quarterly, the Maritime Administration will provide a report showing budget execution progress against the current financial plan. The format and contents of the quarterly financial management reports will be mutually agreed upon by OPNAV (FSA) and the Maritime Administration. At the end of each fiscal year, the Maritime Administration will generate a close-out financial report documenting all NDRF program costs, and distribute the report to cognizant DoD and DOT offices.

e. Funding authority and funds for military or civil contingencies, exercises, or other defense sealift purposes that utilize NDRF vessels, will be provided incrementally. Upon receipt of activation orders from MSC, the Maritime Administration will provide activation/deactivation cost estimates to MSC and to the OPNAV (FSA) and whether additional funding is required. RRF Full Operating Status (FOS) operations will be fully funded. In those specific cases involving a catastrophic vessel casualty where the normal funding channel is insufficient or absent any subsequent legislative relief, the OPNAV (FSA) and USTRANSCOM will use all vehicles at their disposal to obtain and provide additional funding to meet subject shortfalls.

f. Costs of non-programmed vessel activities for which funds are not appropriated will be funded by the sponsoring defense agency, Service, and non-DoD agency for activations under 7g.

g. The Maritime Administration may receive funds through settlements and transfer from RRF operations, into the VORF. VORF funds shall be applied by the Maritime Administration for NDRF/RRF vessel maintenance, repair, and operation as authorized. The Maritime Administration will provide quarterly reports to Navy and USTRANSCOM on VORF activities during regular program reviews.

11. TEMPORARY TRANSFER OF RRF VESSELS

a. Should DoD require RRF vessels beyond the scope of Articles 7 and 8, such need shall be considered under the authority conferred by 10 U.S.C. 2578, and in accordance with the following:

(1) Any vessel transferred under this Article shall remain part of the RRF with an assigned readiness status consistent with its intended use.

(2) Each request for a vessel will be submitted to the Maritime Administration and shall include the following information:

(a) The type of vessel

(b) Certification that no commercial cargo will be carried (unless such carriage is

oriented around mission and not in conflict with existing statutes),

(c) The proposed period of use and area of operation, and

(d) The commitment that all costs associated with the request will be funded from DoD appropriations other than those available for the NDRF.

b. The Administrator must agree that these requirements cannot be met by available privately-owned commercial U.S. flag vessels.

c. The particular vessel may be used by the DoD for the carriage of Defense cargo as a secondary mission if such carriage does not interfere with the primary mission for which the vessel was activated and conforms with paragraph a. (2) above.

d. During the period of transfer, the assigned contractor shall remain responsible for the vessel, including at-sea operations, under its contract with the Maritime Administration.

e. Upon conclusion of the period of transfer, the vessel will return to its regularly assigned readiness status.

12. POINTS OF CONTACT

a. The Director, Office of Ship Operations, is the Maritime Administration Point of Contact with cognizance over all the NDRF matters, including the RRF.

b. The Director, Strategy, Policy, Programs, and Logistics (TCJ5/4) is the USTRANSCOM Point of Contact with cognizance over RRF program matters for purpose of this MOA.

c. Sealift Program Manager (PM5) is the MSC Point of Contact with cognizance over RRF operational matters.

d. The Director, Strategic Mobility and Combat Logistics (N42), is the Navy Point of Contact with cognizance over RRF program matters for purposes of this MOA.

13. MODIFICATION

a. This Memorandum of Agreement may be modified in whole or in part at any time by mutual agreement of the Administrator and USTRANSCOM. Either party may propose modifications whenever deemed necessary or desirable. The parties agree to consider such proposed modifications promptly.

b. MSC and the Maritime Administration will develop best business process agreement(s) subordinate to this MOA for surge sealift activation, operations, readiness standards, funding, and other necessary procedures.

14. EFFECTIVE DATE

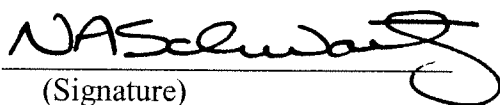
This Memorandum of Agreement is effective 08 August 2008, and supersedes the previous Memorandum of Agreement dated 26 August 1997.

DEPARTMENT OF DEFENSE

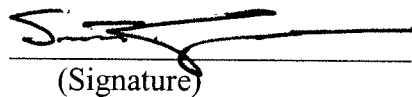
DEPARTMENT OF TRANSPORTATION

US TRANSPORTATION COMMAND
NORTON A. SCHWARTZ
General, USAF
Commander

MARITIME ADMINISTRATION
SEAN T. CONNAUGHTON
Maritime Administrator


(Signature)

5 Aug 08
(Date)


(Signature)

8 AUG 2008
(Date)