

MEMORANDUM OF AGREEMENT

ESTABLISHING A

REIMBURSABLE DETAIL

BETWEEN THE

U.S. Department of Commerce
Office of General Counsel, Commercial Law Development Program
LOANING AGENCY

AND THE

U.S. Department of Defense
U.S. Southern Command Headquarters
REQUESTING AGENCY

I. PARTIES:

This Memorandum of Agreement (MOA) constitutes an agreement between the U.S. Department of Commerce (DOC), Office of General Counsel (OGC), Commercial Law Development Program (CLDP)(together, the "Loaning Agency") and the U.S. Department of Defense (DOD), U.S. Southern Command (USSOUTHCOM) Headquarters (HQ)(together, the "Requesting Agency") concerning the Loaning Agency's detail of an employee (the "Detailee") to the Requesting Agency.

II. AUTHORITY:

This agreement is authorized by:

a. The Economy Act, 31 U.S.C. § 1535, provides that an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if: (A) amounts are available; (B) the ordering agency decides the order is in the best interest of the United States Government; (C) the agency to fill the order is able to provide or get by contract the ordered goods or services; and (D) the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise (payments must be made on the basis of the actual cost of goods or services provided). The required "Determination and Findings Pursuant to 48 CFR 17.502-2" is attached at Enclosure 1.

b. Department of Defense (DOD) Instructions 4000.19 and 31 U.S.C. 1535 support the detail of the Detailee to the Requesting Agency.

II. BACKGROUND:

- a. In 2008, the Secretary of Defense authorized the reorganization of USSOUTHCOM to become a more interagency-oriented organization. USSOUTHCOM efforts to achieve this goal are one of the Top 25 Department of Defense Transformational priorities.
- b. DOC was identified by USSOUTHCOM as an essential element in the overall synchronization, coordination and integration of interagency partners within USSOUTHCOM's Area of Responsibility (AOR).
- c. The Detailee assigned to USSOUTHCOM will provide specialized expertise, technical knowledge, experience and provide information sharing links to make an essential contribution toward the accomplishment of USSOUTHCOM's mission.

III. PURPOSE:

Pursuant to this MOA, the Detailee will be assigned to the Requesting Agency on a reimbursable basis. While assigned, the Detailee will serve as the principal DOC advisor to USSOUTHCOM Staff and Components regarding engagement by USSOUTHCOM with multinational organizations, businesses, and the private sector. The Detailee will also perform other duties as assigned within the duties of the position description at Enclosure 2, by a duly authorized representative of USSOUTHCOM J9 Partnering Directorate in furtherance of USSOUTHCOM missions within its AOR. In addition, the Detailee will seek to identify and advise on areas of possible collaboration and/or coordination by and among USSOUTHCOM, DOC, host nations, and international and national private sector participants within the AOR, in support of the policies and goals of the United States Government (e.g., the President's National Export Initiative).

IV. ALLOCATION OF RESPONSIBILITIES:

- a. DOC Detailee. CLDP will identify one qualified Detailee with appropriate experience to serve at HQ USSOUTHCOM on a revolving and continuing basis, not to exceed two years, with the option to extend the detail for up to one additional year as determined by the parties. The Detailee shall be a Senior Advisor in the grade of GS-15.
- b. Duties. The duties associated with the specific detail assignment covered by this MOA are outlined in the position description at Enclosure 2.
- c. Salary and Benefits. CLDP will pay the salary and benefits, including any special compensation for which s/he will be eligible (e.g., danger pay, post differential, performance awards), as well as all allowances and other costs authorized under applicable DOC statutes and regulations. USSOUTHCOM shall reimburse CLDP each year for the full salary and other compensation paid to the Detailee. The salary costs will not exceed the statutory maximum for a GS-15, Step 10 per year, unless approved in advance by the Director SCJ9 Partnering Directorate. This cost will be paid to CLDP at the beginning of each fiscal year via an interagency agreement but is subject to the availability of funds. The amount of reimbursement

will be based on the actual number of months the Detailee is assigned to USSOUTHCOM. A cost estimate of the services is provided in Enclosure 3.

Future years will be funded through amendments to this agreement which will identify the detailee, the amount of funds transferred, USSOUTHCOM's accounting information, and the duration of the detail.

d. USSOUTHCOM, in accordance with the Joint Travel Regulation (JTR), shall also reimburse CLDP for relocation expenses related to the assignment of the Detailee to USSOUTHCOM, but will not exceed \$30,000 unless approved in advance by the SCJ9 Director.

e. Safety and Security. The Detailee shall become familiar and comply with USSOUTHCOM safety, security, and force protection guidelines.

f. Recruitment and Selection. Recruitment and selection of the Detailee shall be the responsibility of CLDP. The Detailee will be required to obtain and maintain at a minimum a SECRET clearance, it is desired that they have a TOP SECRET clearance. USSOUTHCOM reserves the right to terminate the detail in the event the Detailee's required clearance is not maintained.

g. Personnel and Administrative Responsibility.

i. Supervision and Performance Evaluation. Daily oversight at HQ USSOUTHCOM will be under the SCJ9 Partnering Directorate. Official performance evaluations and performance plans remain the responsibility of CLDP and shall reflect the responsibilities and requirements associated with the detail to USSOUTHCOM. USSOUTHCOM SCJ9 will have the responsibility, through a designated manager/supervisor, to provide appropriate feedback to CLDP concerning performance evaluations on a routine basis, no less than at the mid-year and end of the year time periods. USSOUTHCOM agrees to notify CLDP immediately of any performance-related issues with the Detailee.

ii. Time and Attendance. Time and attendance actions and processes remain the responsibility of CLDP.

iii. Leave. USSOUTHCOM will submit a recommendation to CLDP to approve/disapprove all Detailee leave requests through the CLDP administrative point of contact.

iv. Conduct. USSOUTHCOM reserves the right to return the Detailee to CLDP if the Detailee is alleged to have engaged in misconduct. If USSOUTHCOM terminates an individual's detail due to alleged misconduct, CLDP agrees to provide a replacement detailee within a reasonable period of time.

v. Performance Awards and Pay Increases. CLDP will remain the approving authority for performance awards, including quality step increases and promotions. A USSOUTHCOM manager/supervisor will provide justification and recommendations regarding any performance awards.

vi. Removal for Poor Performance. USSOUTHCOM reserves the right to terminate the detail of any individual due to documented poor performance. If USSOUTHCOM terminates an individual's detail due to poor performance, CLDP agrees to provide a replacement detailee within a reasonable period of time.

h. Work Requirements. The Detailee will be physically located within HQ USSOUTHCOM. The position description for the position is included at Enclosure 2.

i. Office Space, Supplies and Equipment. USSOUTHCOM shall provide office space, office supplies, and any automation or telecommunications equipment (including USSOUTHCOM SIPR/NIPR/JWICS accounts) required to perform duties.

j. Official Travel, Training, Security Clearance Renewal and Other Costs Associated with Official Duty. USSOUTHCOM shall pay for any official travel and/or training expenses required or requested by USSOUTHCOM. All other travel expenses specifically directed by CLDP will be the responsibility of CLDP. If during the course of the detail, the detailee requires a renewal of his or her security clearance, USSOUTHCOM shall reimburse CLDP for all costs paid by CLDP for that renewal.

k. The Employee may participate in the Alternative Work Schedule program as implemented by the DOC and reviewed by USSOUTHCOM SCJ9.

l. Management and Administrative Services. OGC/CLDP incurs continuing costs for maintaining the Detailee as an employee of the Loaning Agency and fulfilling its obligations pursuant to this MOA including time and attendance, employee evaluations, payroll, security clearance renewal, human relations general services, detail of the Detailee to the Requesting Agency and management of this MOA. Therefore, for the period of the detail, the Requesting Agency will pay the Loaning Agency for the management and administrative services provided by or on behalf of the Loaning Agency as disclosed in Enclosure 3.

V. DURATION OF ASSIGNMENT OR DETAIL:

Unless otherwise agreed to by the parties, details of employees under this MOA shall be for a period of two years with the option to extend the detail for an additional year, subject to written agreement of both Parties.

VI. POINTS OF CONTACT:

- a. Commercial Law Development Program: [REDACTED]
- b. USSOUTHCOM SCJ9: [REDACTED] (funding issues)

VII. ACCOUNTING DATA:

U.S DEPARTMENT OF DEFENSE, USSOUTHCOM fiscal data for year one is:

ALC: [REDACTED]

DUNS Number: [REDACTED]

Appropriation Code: [REDACTED]

Organization Code: [REDACTED]

Function Code: [REDACTED]

Object Class: [REDACTED]

BETC: [REDACTED]

U.S DEPARMENT OF COMMERCE, OFFICE OF THE GENERAL COUNSEL,
COMMERCIAL LAW DEVELOPMENT PROGRAM fiscal data is:

ALC: [REDACTED]
CLDP DUNS Number: [REDACTED]
USDOC Appropriation Code: [REDACTED]
BETC: [REDACTED]
Accounting Code: [REDACTED]

VIII. AMENDMENTS:

This MOA may be amended at any time by written agreement of the parties.

The parties will enter into amendments to this agreement to identify the Detailee and to obligate and transfer funds for the Detailee's services. The amendments will reference this agreement, identify the Detailee, and contain the amount of funds transferred, USSOUTHCOM's Treasury Account Symbol, and the period of performance.

IX. IMPLEMENTATION AND TERMINATION:

- a. This MOA shall become effective immediately upon signature of the representatives of USSOUTHCOM and the Department of Commerce designated below. It shall remain in effect for three years, unless terminated in writing by either Party.
- b. Termination is effective sixty days after a party gives written notice of its intention to terminate, unless the parties agree in writing to a different period.
- c. Performance of this MOA by both parties is made in good faith with the full expectation of both parties being able to fully comply with its terms.

X. SEVERABILITY:

Nothing in this MOA or any appendix shall be construed to conflict with current law, regulation, or directive of the Departments of Commerce or Defense. If a term in this MOA is inconsistent with such authorities, that term shall be invalid to the extent of the inconsistency. The remainder of that term and all other terms of this MOA or any appendix shall remain in effect.

XI. RIGHTS AND BENEFITS:

Nothing in this MOA is intended to diminish or otherwise affect the authority of any agency to carry out its statutory, regulatory or other official functions, nor is it intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies or offices, state agencies or officers carrying out programs authorized under Federal law, or any other person.

XII. OTHER PROVISIONS:

The obligations in this MOA are subject to the availability of funds. This MOA does not authorize or obligate the parties to expend, exchange, or reimburse funds, services, or supplies or transfer anything of value, except under an interagency agreement that complies with all applicable laws including the Economy Act. No provision of this MOA will be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, Title 31, U.S. Code Section 1341 or other applicable laws.

If the Requesting Agency terminates the agreement, the Lending Agency is authorized to collect costs incurred prior to the agreement's termination plus any termination costs.

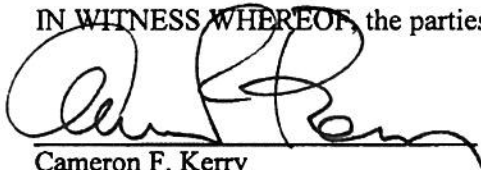
XIII. RESOLUTION OF DISAGREEMENTS:

a. Dispute Resolution by the Parties. Should disagreements arise on the interpretation of the provisions of this agreement or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement or interpretation is not reached within 30 days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

b. Unresolved Disputes. If a dispute related to funding remains unresolved for more than 30 calendar days after the parties have engaged in an escalation of the dispute, then disputes will be resolved in accordance with instructions provided in the Treasury Financial Manual (TFM) Volume I, Part 2, Chapter 4700, Appendix 10, available at <http://www.fms.treas.gov/tfm/index.html>.

XIV. EXECUTION:

IN WITNESS WHEREOF, the parties hereto agree as of the last date noted below.



Cameron F. Kerry
General Counsel
U.S. Department of Commerce

8/6/12
Date



JOSEPH P. DISALVO
Major General, USA
Chief of Staff
USSOUTHCOM

08/12/12
Date

Encl 2, Position Description to DOC/SOUTHCOM MOA

Senior International Trade Specialist (DOC)

The Senior International Trade Specialist detailee will serve as the principal Department of Commerce (DOC) advisor to US Southern Command (USSOUTHCOM), on engagement with multinational organizations, business and the private sector.

Responsibilities: Develop, coordinate and execute a strategic plan for partnering with U.S. and multinational private sector organizations and businesses in furtherance of USSOUTHCOM's missions in Latin America and the Caribbean. Conduct outreach to secure collaborative work with external organizations within U.S. and multinational businesses with interests in Latin America and the Caribbean.

Primary Duties:

- Detailee will engage with U.S. and regional multi-national private sector organizations, businesses and the private sector to socialize and coordinate USG initiatives in the region.
- Identify collaborative opportunities between USSOUTHCOM, private sector, host nation government, DOC, DOD and other U.S. Government organizations.
- Coordinate private sector assistance in assessing Command operations.
- Engage with Private Sector entities to analyze stability challenges in the region and gain private sector support.
- In the provision of those duties, the DOC detailee will also advise USSOUTHCOM and Private Sector Organizations on areas of mutual support for the President's National Export Initiative (NEI).

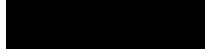
Key Tasks Performed:

- Regular interaction, coordination, and communication with private sector, senior military staff and civilian national and international. Maintain strategic dialogue organizations to improve awareness of their plans, operations and transactions in the region.
- Facilitate Private Sector Engagement and Distinguish Visitor visits.
- Facilitate Interagency (IA) visits to the command and program integration.

Goal / Matrix:

- Assist in the broadening and expansion of business relationships with the private sector in support of USSOUTHCOM long term strategic plans and provide sustainment of USSOUTHCOM programs.
- Detailee will develop and maintain communications, information sharing links and partnering relationships with these governmental/private sector portfolios:
 - Department of Commerce
 - US Chamber of Commerce and its affiliates
 - Enterprise Florida Inc.
 - Others organizations/agencies as appropriate
- Gain private sector support in coordination with interagency and U.S. Embassy country team for the long term sustainment of USSOUTHCOM programs.
- Other duties as assigned.

Salary and Benefits; Management and Administrative Costs

Employee :	
Annual (i.e., 26 pay periods) salary:	(US) \$155,500
Annual (i.e., 26 pay periods) benefits:	(US) \$39,000
Annual management & administrative costs:	(US) \$19,500
* Working Capital Fund, including Budget, Human Resources, Accounting, Payroll, Information Technology, Legal and CLDP support, including contract management and administrative expenses.	
Total:	(US) \$214,000

For FY 2012 services and for relocation expenses, USSOUTHCOM will pay CLDP up to \$65,667 (\$35,667 for two months of service and \$30,000 for relocation expenses).



REPLY TO
ATTENTION OF

DEPARTMENT OF DEFENSE
UNITED STATES SOUTHERN COMMAND
3511 NW 91ST AVENUE
MIAMI, FLORIDA 33172-1217

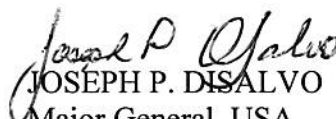
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MEMORANDUM FOR RECORD

SUBJECT: MEMORANDUM OF AGREEMENT (MOA) BETWEEN US SOUTHERN
COMMAND (USSOUTHCOM) AND THE DEPARTMENT OF COMMERCE (DOC).

1. I have reviewed the subject MOA and have determined that the MOA complies with the requirements of 31 U.S.C. 1535 and Department of Defense Instruction 4000.19.
2. Funding is available to pay for any costs payable under the MOA by USSOUTHCOM, it is in the best interest of the United States Government to enter into this MOA, USSOUTHCOM has been advised by the Department of Commerce (DOC) that it is able to perform the activities described in the MOA, the activities cannot be performed as conveniently or cheaply by a commercial enterprise, and the activities do not conflict with any other agency's authority.


JOSEPH P. DISALVO
Major General, USA
Chief of Staff