



DoD INSTRUCTION 5410.20

PUBLIC AFFAIRS RELATIONS WITH FOR-PROFIT BUSINESSES AND BUSINESS INDUSTRY ORGANIZATIONS

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| Approved by: | Peter C. Cook, Acting Assistant to the Secretary of Defense for Public Affairs |

Purpose: In accordance with the authority in DoD Directive (DoDD) 5122.05, this issuance:

- Establishes policy and assigns responsibilities for interacting with business and business industry organizations pursuant to DoDD 5500.07, DoD 5500.07-R, and DoDD 5410.18.
- Provides guidance relative to policies and programs for:
 - Participating in public affairs-oriented activities involving businesses and business industry organizations.
 - Handling outside requests for a DoD statement of non-objection to use DoD visual information (VI), as well as VI from other sources depicting military material, equipment, personnel, and official military-specific uniforms and insignia for commercial purposes.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

1.2. POLICY. It is DoD policy that:

a. DoD will convey timely and accurate information about DoD via various modes of communication to the business community through business industry organizations that represent large numbers of like-oriented businesses. Such organizations are often capable of providing the DoD with information relative to pertinent issues common to their members. Accordingly, DoD Components are encouraged to establish and maintain a two-way communication flow between DoD and businesses and business industry organizations.

b. DoD will provide relevant publicly releasable information, both upon request and proactively as appropriate, to the business community at large. This allows the business community to be aware of DoD policies, programs, proposals, plans, budgets, and activities.

c. DoD will maintain its brand and reputation pursuant to DoDD 5535.09, consistent with DoDD 5122.05, DoDD 5500.07, DoD 5500.07-R, and DoDD 5410.18. Particular efforts will be taken to avoid implying that DoD endorses any particular business industry organizations, for-profit businesses, or non-federal entities that seek to use DoD VI; DoD and Military Department seals, names, symbols, or insignia; or similar marks owned or controlled by DoD Components; for commercial purposes.

SECTION 2: RESPONSIBILITIES

2.1. ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC AFFAIRS (ATSD(PA)). The ATSD(PA):

- a. Retains primary responsibility for the implementation of DoD communications policy in this instruction and in accordance with DoDD 5122.05.
- b. Conducts appropriate public affairs outreach programs to businesses and business industry organizations consistent with ATSD(PA) authorities and responsibilities in DoDD 5122.05 and in accordance with DoDD 5500.07, DoD 5500.07-R, DoDD 5410.18, and this instruction.
- c. Notifies businesses and business industry organizations, who submit requests to the Office of the Assistant to the Secretary of Defense for Public Affairs (OATSD(PA)) seeking a DoD statement of non-objection to use DoD VI for commercial purposes, that there are limitations, as prescribed in the Government Website Public Use Notice of Limitations (“Notice of Limitations”) presented in Figure 1.
- d. Maintains a current Frequently Asked Question at <https://kb.defense.gov/> that redirects visitors to the Notice of Limitations language prescribed in Paragraph 3.2.f.

2.2. DIRECTOR, DEFENSE MEDIA ACTIVITY (DMA). Under the authority, direction, and control of the ATSD(PA), the Director, DMA:

- a. Implements procedures and internal controls that convey consistent information about the guidelines for commercial use of DoD VI throughout all media and internet-based capabilities under DMA control (e.g., DoD websites, official social media sites, motion and still imagery products, print, radio, television).
- b. Oversees the education and training of the VI and public affairs communities, in accordance with DoDD 5105.74 and this instruction, with regard to handling requests to use DoD VI for commercial purposes.
- c. Develops policy for Joint Combat Camera and DoD VI that complies with this instruction.
- d. Provides the Defense Information School commandant or provost updated information on DoD VI to incorporate into appropriate courses.
- e. Posts the Notice of Limitations prescribed in Paragraph 3.2.f, in a prominent location on all DMA-managed VI gallery websites and official social media sites, as workable.
- f. Provides a prominently displayed link to the Notice of Limitations language prescribed in Paragraph 3.2.f., found at [http://www. dimoc.mil/resources/limitations.html](http://www.dimoc.mil/resources/limitations.html) and at the bottom of <http://defense.gov>, for DoD Components to comply with this issuance.

2.3. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments:

- a. Provide policy, direction, and resources to ensure their Departments comply with this instruction.
- b. Conduct appropriate public affairs outreach programs to businesses and business industry organizations within their respective areas of responsibility and assigned authorities in accordance with DoDD 5500.07, DoD 5500.07-R, DoDD 5410.18, and this instruction.
- c. Ensure the Notice of Limitations prescribed in Paragraph 3.2.f. is displayed in a prominent location on all their Military Department VI gallery websites and official social media websites, as workable.
- d. Establish policies, procedures and points of contact to review requests from businesses and business industry organizations seeking a Military Department statement of non-objection to use VI acquired from DoD sources for commercial purposes. At a minimum, requestors should be directed to the Notice of Limitations link prescribed in Paragraph 2.2.f. The Secretaries of the Military Departments should coordinate with the Community and Public Outreach Division of OATSD(PA) for guidance, as needed.

SECTION 3: PROCEDURES

3.1. PARTICIPATION IN PROGRAMS AND PROJECTS.

a. DoD Components participating in programs with businesses and business industry organizations will promptly notify the ATSD(PA) of local or regional activities that have the potential of generating significant public interest. In accordance with DoDD 5410.18, the ATSD(PA) must approve participation in all community outreach programs or events that by their nature or because of expected news coverage could be of significant public interest.

b. DoD Components are encouraged to cooperate with businesses and business industry organizations in their public affairs programs and projects that are consistent with DoD interests, and DoDD 5500.07, DoD 5500.07-R, and DoDD 5410.18. Such cooperation will not extend to co-sponsorship of such programs, projects, events, or other activities unless in compliance with DoDD 5500.07, DoD 5500.07-R, and DoDD 5410.18. To be considered a co-sponsor, DoD must have authority for developing the substantive content for the event or provide substantial funding or logistical support. Co-sponsorship does not include recruitment marketing or advertising contracts.

c. Normally, DoD participation in events sponsored by businesses or business industry organizations may include:

(1) Luncheons, dinners, meetings, symposiums, and similar gatherings hosted by a business or organization representing a wide diversity of business interests.

(2) Public ceremonies of mutual interest (e.g., ship launchings, first flights).

(3) Programs in support of government policy (e.g., industry-sponsored seminars to explain government policies, exhibits that promote U.S. scientific and technological achievements, and industry-sponsored events in accordance with section 631 of Title 15, United States Code (U.S.C.) and DoDD 4205.01 that promote opportunities for small businesses to participate in DoD contracts and subcontracts).

(4) Civic and community-oriented projects with the primary objective(s) of supporting or acknowledging military members and their families (e.g., business sponsorship of a Scouting activity for military dependents, industry-subsidized awards to an individual or group of military personnel or dependents for civic or community achievement, informational panel discussions with a military theme that is determined to be in the best interest of the Department). Such events should be reviewed by legal counsel for compliance with DoDD 5500.07 and DoD 5500.07-R.

(5) Special events in which the interests of DoD dictate participation, as long as participation does not violate the provisions of DoDD 5500.07 and DoD 5500.07-R.

d. DoD sponsorship of programs and projects for businesses or business industry organizations will normally be limited to those occasions when the principal objective is furtherance of the public affairs objectives outlined in Enclosure 2 of DoDD 5122.05.

e. Participation in activities involving the exchange or dissemination of classified military information is governed by the provisions of DoDD 5230.11 and DoD Manual 5200.01, Volumes 1 and 3.

f. The DoD maintains a separate program to provide businesses with scientific and technical information services. This program is administered by the Defense Logistics Agency (DLA) in accordance with policies and procedures outlined in DoDI 3200.12 and DLA Regulation No. 4185.10.

g. The exchange or dissemination of controlled unclassified information (including scientific and technical information) to foreign persons and foreign entities is further governed by U.S. export laws and regulations, including subchapter M, parts 120 through 130 of Title 22, Code of Federal Regulations (CFR), also known as the “International Traffic in Arms Regulations”; subchapter C, parts 730 through 774 of Title 15, CFR, also known as the “Export Administration Regulations”; DoDI 2040.02; DoD Manual 5200.01, Volume 4; and DoDI 5210.83.

3.2. REQUESTS FOR A DOD OR MILITARY DEPARTMENT STATEMENT OF NON-OBJECTION TO USE DOD VI FOR COMMERCIAL PURPOSES.

a. Review Authority. Requests for a statement of non-objection to use DoD VI acquired from DoD sources (including social media websites) with joint Service depictions of DoD material, personnel, official military-specific uniforms and insignia in commercial advertising, marketing, fundraising or promotion materials will be referred to the Notice of Limitations prescribed in Paragraph 3.2.f. and procedures contained in DoDD 5535.09. VI depicting a single Military Department may be referred for review to the Military Department concerned according to procedures established by that Department head. At a minimum, those procedures must reflect the guidelines in this section and DoDD 5535.09. Consult OATSD(PA) via osd.pentagon.pa.mbx.cpo-review@mail.mil for further guidance, as needed.

b. Authorization. Typically DoD will not object to commercial use of DoD VI acquired from DoD –owned, -operated, or –controlled sources (including social media websites) provided:

(1) The VI use complies with all guidelines outlined in the Notice of Limitations prescribed in Paragraph 3.2.f. and DoDD 5535.09.

(2) The accompanying text in the final product layout does not imply DoD endorsement of or express a DoD opinion about a product, service, company or organization, or objective.

(3) Any internet-based capabilities provider (e.g., social media sites) that hosts official information from or about a DoD Component places the following message in a prominent location on each page displaying such DoD official information: “The appearance of commercial advertising and hyperlinks inserted by the host of this service does not constitute endorsement by the U.S. Department of Defense/ [insert name of DoD Component].”

c. Non-DoD Sources of DoD VI

(1) Requests for a DoD statement of non-objection for commercial use of DoD VI acquired from non-DoD sources will be referred to the link prescribed in Paragraph 2.2.f and handled in accordance with the guidelines prescribed in Paragraphs 3.2.b.(1), (2), and (3). Questions may be referred to osd.pentagon.pa.mbx.cpo-review@mail.mil.

(2) Ownership of copyrights or other intellectual property (IP) covering VI acquired by government contractors during the performance of a contract shall remain the property of the contractor (or other third party owner) unless the contract or other legal instrument transfers ownership to the U.S. Government.

(3) In cases where DoD VI is protected by copyright or other IP owned by a party other than DoD, DoD's statements of objection or non-objection shall indicate that the statements apply solely with respect to DoD's rights in the underlying protected content depicted in the VI, and do not constitute a grant of rights on behalf of, or limit or otherwise affect the legal rights of, the third party owner of the VI.

d. DoD VI on Non-Federal Entity (NFE) Internet-based Capabilities.

(1) Service members must comply with DoD 5500.07-R, DoDI 8550.01, and DoDI 1334.01 prior to permitting NFEs to use their image in uniform. Both active duty Military Service members and former members are prohibited from wearing their uniform in connection with commercial interests when an inference of official sponsorship for the activity or interest could be drawn.

(2) Service members are not authorized to approve the use of VI that portrays or includes other individuals for commercial purposes. Only those with the appropriate authority may approve use of VI that contains military equipment with official markings.

(3) DoD employees may use or allow the use of their titles, positions, or organization names in conjunction with their own names only to identify themselves in the performance of their official duties.

e. Exceptions

(1) For the purpose of this instruction, commercial use of DoD VI does not include:

(a) Personal use with no intent for further public distribution for commercial purposes.

(b) Use of DoD VI for a non-government production (e.g., feature motion pictures, documentaries, and episodic television, etc.) for which the Assistant to the Secretary of Defense for Public Affairs has authorized DoD production assistance, in accordance with DoDI 5410.16.

(c) Use of unaltered DoD VI by museums, universities and similar institutions for educational purposes.

(2) Commercial items that use DoD VI are exempt from the requirement to display the full non-DoD endorsement disclaimer as shown in the Notice of Limitations in Figure 1 (i.e. “The appearance of U.S. Department of Defense (DoD) visual information does not imply or constitute DoD endorsement.”) when it is impractical; however, other limitations as prescribed at Paragraph 3.2.f. still apply. Digital applications and services that may be displayed on a mobile device should comply with the guidelines prescribed in Paragraph 3.2.b.(3).

f. Government Website Public Use Notice of Limitations. All DoD Component website VI galleries (including social media websites), regardless of domain, will prominently display the Notice of Limitations contained in Figure 1, on each page of the gallery. When display of the full Notice on each page is not practicable, the link to the full notice, as prescribed in Paragraph 2.2.f. will be placed in a prominent location on each page of the gallery.

Figure 1. Government Website Public Use Notice of Limitations

Department of Defense (DoD) motion and still media files, hereafter referred to as Visual Information (VI), are provided on this website as a public service by the DoD consistent with the DoD’s Principles of Information, <http://archive.defense.gov/admin/prininfo.aspx>. Policy on use of VI containing military persons, places, and things, regardless of its origin, for commercial advertisement, marketing, promotion, solicitation, or fundraising purposes is found at <http://www.dimoc.mil/resources/dodInstructions.html>.

No Representations or Warranties. DoD makes no representations or warranties of any kind regarding the suitability of DoD VI for non-DoD purposes. **Use of DoD VI is at the user’s sole risk.**

Publicity and Privacy Rights. VI postings by the DoD do not waive any publicity or privacy rights of any individuals portrayed.

Intellectual Property Restrictions. Military Department and other DoD component names, insignia, seals, symbols and similar marks may be protected as trademarks or service marks and may not be used in commerce without prior written permission. DoD Component Trademark Licensing Office contacts may be found at <http://www.defense.gov/Media/trademarks/>.

In general, DoD VI that are works of authorship prepared by U.S. Government employees as part of their official duties are not eligible for copyright protection in the United States.

However, some of the DoD VI available on this publicly accessible website may be subject to copyright or other intellectual property rights owned by non-DoD parties, regardless of whether the VI is marked with a copyright notice or other indication of non-DoD ownership or interests. Any use of this DoD VI other than as expressly authorized in this notice may subject the user to legal liability, including liability to such non-DoD owners of intellectual property or other protectable legal interests.

Figure 1. Government Website Public Use Notice of Limitations, Continued

Non-Endorsement Requirements and Disclaimer. DoD VI may not be used in a manner that could imply endorsement of an individual, for-profit business, non-profit organization, or any other non-Federal entity (including DoD contractors), product, or service. This applies to both domestic and international users. Endorsement of a non-Federal entity, event, product, service, or enterprise may be neither stated nor implied. **ALL** users of DoD VI are requested to display the following non-DoD endorsement disclaimer:

“The appearance of U.S. Department of Defense (DoD) visual information does not imply or constitute DoD endorsement.”

Commercial Use Defined: Use of VI by any individual or entity for advertisements, marketing, promotion, solicitation, or fundraising purposes regardless of whether the user is a for-profit business, business industry organization, or non-profit organization, including an educational institution. Commercial use includes a particular individual posting VI on an internet-based capability that could then be distributed further, regardless of original intent. Commercial use does not include activities described as “Productions Authorized for DoD Assistance” below.

Commercial Use Authorized. To the maximum extent practicable, all commercial uses are required to display the non-DoD endorsement disclaimer above. Commercial users are also requested to obscure all distinctive U.S. military markings (e.g., tail or hull number, unit insignia, Service name) and other indicia that could connote DoD endorsement from DoD aircraft, missiles, ships, and other hardware or uniforms that may be used in any marketing or advertising campaign, to include any collateral products.

Non-Commercial Use Authorized. Except in cases of “Productions Authorized for DoD Assistance” described below, DoD VI may be distributed, copied, and used, for non-commercial, personal use, as well as historical, educational, or newsworthy purposes or activities. Display of the non-DoD endorsement disclaimer is requested.

Productions Authorized for DoD Assistance. DoD VI obtained for use in a third-party production (e.g., motion pictures, documentaries, television and video productions) for which the Assistant to the Secretary of Defense for Public Affairs has authorized production assistance is governed under separate authority and project-specific terms pursuant to DoD Instruction 5410.16, and shall not be considered either Commercial Use or Non-Commercial Use, as described and authorized above.

g. Military Department Seals. The official seals of the DoD and Military Departments are protected by law from unauthorized use and are restricted for official departmental purposes. Permission shall not be granted for non-official purposes. Businesses, business industry organizations and individuals who falsely make, forge, counterfeit, mutilate, or alter the Military Department seals may be subject to punitive action pursuant to section 506 of Title 18, United States Code.

h. DoD and Military Emblems, Logos, and Insignia Other Than DoD or Military Department Seals. Permission to use or reproduce military emblems or insignia (other than the

seals of the DoD and Military Departments) for unofficial purposes, whether for commercial advertising, promotion, commercial purposes or otherwise, may be given only by the Military Department or other DoD Component that is responsible for such insignia in accordance with DoDD 5535.09. Approval may be sought from the offices listed at:
<http://www.defense.gov/Media/trademarks>.

GLOSSARY

G.1. ACRONYMS.

| | |
|-----------|--|
| ATSD(PA) | Assistant to the Secretary of Defense for Public Affairs |
| DLA | Defense Logistics Agency |
| DMA | Defense Media Activity |
| DoDD | DoD Directive |
| DoDI | DoD Instruction |
| NFE | non-federal entity |
| OATSD(PA) | Office of the Assistant to the Secretary of Defense for Public Affairs |
| VI | visual information |

G.2. DEFINITIONS. Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

advertisement or advertising. Defined in DoDI 8550.01.

business. A specific organization engaged in the for-profit trade of goods, services, or both.

business industry organization. Known commonly as trade associations, industry trade groups, business associations or for-profit sector associations.

Business industry organizations are typically founded and funded by for-profit businesses that operate in a specific industry. While business industry organizations participate in public relations activities such as advertising, education, political donations, lobbying, and publishing on behalf of their members, often their main focus is collaboration or standardization across a specific industry sector or business at large.

Business industry organizations may offer other services, such as organizing conferences, networking or charitable events, or offering classes or educational materials.

commercial use/commercial purpose. Use of VI by any individual or entity for advertisements, marketing, promotion, solicitation, or fundraising purposes regardless of whether the user is a for-profit business, business industry organization, or non-profit organization, including educational institutions. Commercial use includes a particular individual posting VI on an internet-based capability that could then be distributed further, regardless of original intent. Commercial use does not include use for personal, historical, educational, or newsworthy purposes or activities, and does not include third-party productions (e.g., motion pictures, documentaries, television and video productions) for which the Assistant to the Secretary of Defense for Public Affairs has authorized production assistance (see DoDI 5410.16).

co-sponsor. A DoD Component command or organization is a co sponsor of an event when that DoD Component command or organization is one of the organizations that develops the substantive aspects of the event or provides substantial funding or logistical support for the event. Co-sponsorship does not include recruitment marketing or advertising contracts.

DoD VI. DoD VI is any VI that is created, acquired, owned, operated, or controlled by DoD or the Military Department or placed on DoD internet-based capabilities. Generally, this VI contains military subjects (e.g., places or things such as equipment, insignia), including Service members in uniform, who must comply with DoD 5500.07-R, DoDI 8550.01, and DoDI 1334.01.

DoD website. Defined in DoDI 8550.01.

industry. A distinct group of productive or profit-making enterprises (e.g., banking industry) or collective group of likeminded persons whose work is devoted to the study of a particular subject (e.g., mental health research industry).

internet-based capabilities. Defined in DoDI 8550.01.

non-federal entity (NFE). Generally a self-sustaining person or organization, established, operated, and controlled by any individual(s) acting outside the scope of any official capacity as officers, employees, or agents of the Federal Government. NFEs may include elements of state, interstate, Indian tribal, and local government, as well as private organizations.

official military-specific insignia. Any rank, patch or medal authorized by a DoD Component to be worn on a military uniform or included on military vessels as an identifier. This does not include the U.S. flag but it does apply to a subdued version of the flag (e.g., infrared flag, tactical flag insignia) that is designed specifically for military tactical use.

personal use. Use of DoD VI in a communication or activity that is private, that may not be accessed or further distributed without prior consent, and that is not conducted as an assigned DoD employee function. For example, posting DoD VI on an internet-based capability is not considered personal use because it may be downloaded by a third party and used without consent. Personal internet-based capability accounts must be in compliance with the standards of conduct outlined in Enclosure 3, Paragraph 5.b. of DoDI 8550.01.

VI. Defined in DoDI 5040.02.

website. Defined in DoDI 8550.01.

REFERENCES

- Code of Federal Regulations, Title 15, Subchapter C, Parts 730 through 774, also known as the “Export Administration Regulations (EAR),” current edition
- Code of Federal Regulations, Title 22, Subchapter M, Parts 120 through 130, also known as the “International Traffic in Arms Regulations (ITAR),” current edition
- Defense Logistics Agency Regulation No. 4185.10, “Certification and Registration for Access to DoD Scientific and Technical Information,” May 5, 1977
- DoD 5500.07-R, “Joint Ethics Regulation (JER),” August 30, 1993, as amended
- DoD Directive 4205.01, “DoD Small Business Programs,” June 8, 2016
- DoD Directive 5105.74, “Defense Media Activity (DMA),” December 18, 2007
- DoD Directive 5122.05, “Assistant Secretary of Defense for Public Affairs (ASD(PA)),” September 5, 2008
- DoD Directive 5230.11, “Disclosure of Classified Military Information to Foreign Governments and International Organizations,” June 16, 1992
- DoD Directive 5410.18, “Public Affairs Community Relations Policy,” November 20, 2001
- DoD Directive 5500.07, “Standards of Conduct,” November 29, 2007
- DoD Directive 5535.09, “DoD Branding and Trademark Licensing Program,” December 19, 2007
- DoD Instruction 1334. 1, “Wearing of the Uniform,” October 26, 2005
- DoD Instruction 2040.02, “International Transfers of Technology, Articles, and Services,” March 27, 2014
- DoD Instruction 3200.12, “DoD Scientific and Technical Information (STI) Program (STIP),” August 22, 2013
- DoD Instruction 5025.01, “DoD Issuances Program,” August 1, 2016
- DoD Instruction 5040.02, “Visual Information (VI),” October 27, 2011
- DoD Instruction 5210.83, “DoD Unclassified Controlled Nuclear Information,” July 12, 2012
- DoD Instruction 5410.16, “DoD Assistance to Non-Government, Entertainment-Oriented Motion Picture, Television, and Video Productions,” July 31, 2015
- DoD Instruction 8550.01, “DoD Internet Services and Internet-Based Capabilities,” September 11, 2012
- DoD Manual 5200.01, Volume 1, “DoD Information Security Program: Overview, Classification, and Declassification,” February 24, 2012
- DoD Manual 5200.01, Volume 3, “DoD Information Security Program: Protection of Classified Information,” February 24, 2012, as amended
- DoD Manual 5200.01, Volume 4, “DoD Information Security Program: Controlled Unclassified Information (CUI),” February 24, 2012
- United States Code, Title 15, Section 631
- United States Code, Title 18, Section 506