

SDDC Regulation 15-1

**Boards, Commissions, and
Committees:**

Procedure for Disqualifying and Placing Transportation Service Providers (TSP) in Non-Use

**Headquarters, Military Surface
Deployment and Distribution Command
1 Soldier Way
Scott AFB IL 62225-5006
8 August 2019**

UNCLASSIFIED

SUMMARY of CHANGE

SDDC Regulation 15-1

Procedure for Disqualifying and Placing Transportation Service Providers (TSP) in Non-Use

This administrative revision, dated 8 August 2019 –

- Adds appendix C (Ammunition & Explosive Shipments)
- Removes references to Personal Property throughout
- Updates procedures to ascertain if disqualification is needed
- Removes references to Non-Temporary Storage throughout

DEPARTMENT OF THE ARMY
HEADQUARTERS, MILITARY SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND
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SDDC REGULATION
NO. 15-1

8 August 2019

Boards, Commissions, and Committees

PROCEDURE FOR DISQUALIFYING AND PLACING TRANSPORTATION SERVICE
PROVIDERS (TSP) IN NON-USE

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1. Purpose. This regulation prescribes Military Surface Deployment and Distribution Command (SDDC) procedures governing disqualification and non-use of Transportation Service Providers (TSP). These procedures will be followed when SDDC takes action to disqualify or place a TSP in non-use or recommends that such action be taken.

2. Authority. The provisions of this regulation are based on the authority contained in 5 USC 301 and 10 USC 2311 as they relate to DoD transportation provided by qualified TSPs, and DoD Directive 5158.04, United States Transportation Command; DoD Directive 4500.09E, Transportation and Traffic Management; Defense Transportation Regulation Part II, Cargo Movement and Military Surface Deployment and Distribution Command Military Freight Traffic

*This pamphlet supersedes SDDC Regulation 15-1, 10 January 2012

Unified Rules Publication-1 (MFTURP-1). The military and public contracts exceptions of section 553(a)(2) of title 5 United States Code apply to this regulation.

3. Policy. Pursuant to DoD Directive 4500.9, it is the policy of DoD to obtain transportation services from responsive and responsible commercial TSPs providing satisfactory service to meet the needs of the DoD. The procedures contained herein are designed to ensure that the Government's best interests are served. This regulation is separate from any other authority of installation commanders and transportation officers (TO) to take administrative action against TSPs.

4. General. The following paragraphs explain SDDC procedures for placing in non-use or disqualifying TSPs from participating in the transportation of DoD shipments of Freight of All Kind (FAK) and ammunition & explosives (A&E) under negotiated agreements, tariffs, tenders of service, service agreements, or commercial Bills of Lading (CBLs) orders, and similar arrangements. Refer to appendices for specific differences in procedures for FAK and A&E shipments. This regulation does not apply to contracts entered into pursuant to the Federal Acquisition Regulation (FAR), unless any such contract calls for its application. However, a Transportation Review Board (TRB) may consider a TSP's services based on FAR contracts in determining appropriate corrective action, if any. Disqualification or non-use will not apply for longer than necessary to protect the interests of the Government. SDDC may, at its election, continue to honor CBLs, rate tenders, service orders or similar transportation arrangements that are in existence at the time the TSP was disqualified or placed in non-use.

5. Procedures.

a. On receipt of information or a recommendation from a TO, port commander, SDDC representative, military headquarters service representative, Federal agency, or other source (i.e. claims office, TSPs, etc.), SDDC G-3 (Carrier Performance Office) will review the recommendation and related facts to determine if a TRB should be convened to ascertain if disqualification is needed to protect the Government's interests. If it is determined that a TRB should be convened, the appropriate office will, with concurrence of the SDDC Staff Judge Advocate (SJA), promptly notify the TSP of such determination. A TSP will not be disqualified without an opportunity for a TRB hearing, unless noted, done in accordance with other procedures set forth in this regulation.

b. SDDC will forward to the TSP a written notice (notification letter) of a TRB hearing, along with a copy of this regulation, by certified mail, express air carrier, electronic mail, or similar means with receipt verification. The notice will state:

(1) That the TRB is considering disqualification action and the specific violation(s) that form the basis of a possible non-use/disqualification.

(2) The date, time, and place the TRB will convene.

(3) That the TSP will have 14 calendar days from the date of the written notice (Notification Letter) to do the following:

(a) Respond in writing to the proposed disqualification.

(b) Request an extension, if necessary, for presenting information. Extensions may be granted to the TSP at the discretion of the Domestic Movement Support Division (AMSSD-OPM-M).

(c) Notify SDDC officials concerned of any intent to present information to the TRB in person or by telephone conference. If the TSP will be participating in the TRB either telephonically or in person, the TSP must provide names and position of attendees NLT 7 days prior to the TRB.

(d) Submit four copies of all the information it wishes the board to consider.

(4) If circumstances warrant, the notice may also require the TSP to provide information identifying all affiliates.

c. For good cause, SDDC may prescribe a lesser period of time for the TSP to take the actions prescribed above. The TSP may waive the minimum response time and submit a written request that the TRB be convened at the earliest practicable date (such as when immediate suspension actions are taken IAW DoD Regulation 4500.9-R, Defense Transportation Regulation, Part II, Chapter 207).

d. Any cause or condition supporting disqualification action which comes to the attention of the board after scheduling a TRB may be joined with the pending TRB if the TSP is provided written notification of the additional allegations, and is provided a minimum of 7 calendar days to respond to the additional allegations prior to the commencement of the TRB. Such notice is not required for the TRB to consider any additional causes or conditions that come to the attention of the board members through information supplied by the TSP pursuant to the TRB process.

e. TSPs may present evidence either in writing or through witnesses, which support any defense or mitigation of the allegations presented. TRB members or advisory members may question a TSP's witnesses about their testimony or about other information presented by the TSP.

6. Review Board Composition and Functions.

a. SDDC Freight of All Kind (FAK) TRBs will be composed of three voting member who shall ordinarily be senior military and civilians at the level of O-4 (military) or GS-13 (civilian) or greater to ensure its members possess the needed expertise and experience to take actions authorized under this regulation. The highest graded individual on the panel shall act as the Chairperson and may be one of the three voting members. The chairperson shall be at least at the level of O-5 (military) or GS-13 (civilian). Board members will receive a copy of SDDCR 15-1 and are required to review it preceding every board on which he/she is a member. Board members must attend a pre-board review of allegations and board procedures. A representative from SJA will be invited to attend pre-board meetings, as well as the TRB. The SJA

representative will advise the chairperson and the board members as necessary. The SJA representative will not be a voting member.

b. SDDC A&E TRBs will be composed of five voting members (four permanent). The permanent voting members include: the SDDC Deputy to the Commander (DTC); a representative from United States Transportation Command (USTRANSCOM TCJ4-P, Policy and Doctrine Division); a representative from the SDDC Safety Office; and, a representative from the SDDC G-3 directorate, who shall ordinarily be senior positions at the grade of at least O-5/GS-14 to ensure its members possess the needed expertise and experience to take appropriate actions. The DTC will act as the chairperson. When the DTC is not available, the chairperson shall be the SDDC Chief of Staff or equivalent. Panel members will receive guidance and documentation to review preceding every panel on which he/she is a member. Panel members must attend a pre-panel review of allegations and panel procedures. A representative from the SJA will be invited to attend pre-panel meetings, as well as the TRB. The SJA representative will advise the chairman and the board members as necessary. The SJA representative will advise the chairperson and the panel members as necessary.

c. SDDC TRBs are conducted at SDDC, Scott AFB, IL 62225-5006.

d. Advisory Members (non-voting) of TRBs include legal counsel (per paragraph 6a and 6b), and will also include action officers and functional experts, as appropriate.

e. The TRB will meet at the time and place designated by the TRB Chairperson. SDDC will provide a TRB recorder who will be responsible for recording the minutes of TRB hearings, and keeping necessary records. Records may be summarized and shall be maintained (hard copy or electronically) by the activity convening the TRB for a minimum of 3 years following the TRB. Cases determined by the SJA to establish a significant legal precedent will be retained permanently. At the conclusion of the hearing, the recorder will prepare a memorandum for record indicating the finding(s) and decisions(s) of the board. The memorandum will include a record of the number of votes for each decision made by the TRB.

(1) Verbatim Records. A verbatim record of the TRB hearing may be taken at SDDC's discretion and expense. Normally, it is not the TRB's business practice to record or transcribe board proceedings. If a verbatim record is taken, it will be maintained in the appropriate case file and a copy provided to the TSP upon request and at the cost of the TSP. TSPs may make a verbatim record of the hearing at the TSP's expense. The TSP shall notify SDDC of its intent to take a verbatim record of the hearing not less than 72 hours prior to the convening of the TRB.

(2) Access. TRBs may consider a TSP's proprietary business information, overall business strategy and business relationship with SDDC, agents, and subcontractors. Therefore, TRB hearings shall be closed to all but the following persons:

(a) Representative(s) of SDDC or the military service/agency affected, including advisory members;

(b) Representative(s) of the TSP;

(c) Witnesses; and,

(d) Any other persons present with the consent of the TSP and SDDC. Any person not meeting the criteria of subparagraphs 6a through c, above, must request permission to attend from the TRB Chairperson at least 7 calendar days prior to the convening of the TRB. The chairperson has the final approval for any request. TRB deliberations shall be closed to all those other than the TRB members and advisory members.

f. TRB Determination.

(1) If the TSP fails to respond to the notice letter within 14 calendar days after its issuance, or any approved extension, the TRB will make a decision based on the information available to the board when it convenes. However, if the TSP's response to the notice letter provides information sufficient to eliminate the basis for the TRB, the board chairperson, at his/her discretion, may cancel the TRB at any time prior to the date of the TRB hearing.

(2) If the TSP presents data within the prescribed time period, the determination of whether to disqualify the TSP will be made at the conclusion of the TRB proceedings, unless the evidence presented requires further investigation, in which case the TSP will be informed of when to expect a determination.

(3) The TRB, in its discretion, will consider relevant information, which may include, but is not limited to, the following:

(a) Investigative reports provided by such entities as the police, safety officials, safety and security contractors, Defense Investigative Service, or the Criminal Investigation Command.

(b) TSP's written and oral presentation(s).

(c) TSP's past performance.

(d) Special services provided by the TSP, which may be unavailable elsewhere.

(e) TSP's responsiveness to SDDC's concerns, and corrective action taken by the TSP to preclude similar incidents of poor performance from recurring, including appropriate disciplinary action against responsible individuals.

(f) Whether the TSP has had adequate time to eliminate the circumstances within the TSP's organization that led to the convening of a TRB.

(g) The financial condition of the TSP and the economic impact of disqualification.

(h) Performance history of TSP and affiliates.

(i) Communication between the TSP and SDDC. SDDC is under no obligation to provide TSPs with a record of the TSPs prior communications before the board, although records may be obtained through the Freedom of Information Act. It is presumed the TSP will already know what they have provided to SDDC.

(4) After consideration of all relevant factors, the TRB decision may result in one of the following, but is not limited to:

(a) The TRB must first decide whether the allegation(s) cited are supported by a preponderance of the evidence. The TRB shall vote on each allegation listed in the notification letter. A “preponderance of the evidence” refers to the legal standard of proof, meaning “more probable than not.”

(b) If the TRB finds that none of the allegations cited in the notification are supported by a preponderance of the evidence, the proceeding will terminate with no further action taken.

(c) If the TRB finds that any allegation in the notification letter is supported by a preponderance of the evidence, the TRB will decide whether to:

1. Allow the TSP to continue participating in the transportation of DoD shipments with or without conditions being imposed to ensure the TSP's compliance with TSP qualification and performance requirements.

2. Disqualify the TSP for a designated period of time. The TRB may impose a total disqualification or take any action less severe than total disqualification. For example, a TRB may disqualify a TSP from specified geographic areas, traffic lanes, types of shipments, or disqualify the TSP and its affiliated TSPs and prospective new affiliated entrants, when an employee's personal actions warrant, which include but are not limited to, offensive conduct or unethical actions.

3. If the TRB imposes any type of disqualification it must decide whether to suspend for a stated period of time any part of a disqualification with or without probationary conditions as described in the following paragraph.

(5) When the TRB imposes disqualification, it may suspend for a stated period of time the execution of all or any part of the disqualification period. This suspended action gives the TSP a probationary period during which the TSP can demonstrate that cited deficiencies have been corrected and it is able to satisfactorily transport FAK or A&E shipments. Additional instances of failure to perform or unsatisfactory service during this probationary period and instances of failure to perform or unsatisfactory performance occurring before the TRB but thereafter discovered during the probationary period, may provide a basis for vacating the suspended action. Except when circumstances require otherwise, the TSP will be given 7 days to respond to a proposal to vacate. Notice of proposal to vacate will be sent by certified mail, express air carrier, or similar means with receipt verification. Upon vacation, the entire period of a suspended disqualification will become effective. In addition, incidents causing the vacated action may also give rise to a new basis for another TRB proceeding and additional disqualification action.

7. TSP Notification of Disqualification Determination. SDDC will notify the TSP of the TRB decision by certified mail, express air carrier, or similar means with receipt verification. The notice will specify the reasons for the TRB decision and will specifically describe the period and extent of disqualification, if any. The TSP will be notified of the TRB decision in a timely manner, normally within 15 calendar days of the TRB hearing.

8. Period of Disqualification.

a. A period of disqualification will begin on the date specified by the TRB and will end at 2400 hours on the last day of the period, unless the TSP is sooner reinstated.

b. A TSP disqualified for 6 months or more is required to re-qualify in accordance with the latest registration requirements, through the appropriate SDDC TSP Qualification Program, prior to regaining its eligibility to participate in DoD transportation programs. Approval is contingent upon meeting the latest requirements. A TSP may not file rates with SDDC while disqualified.

9. Appeal of Determination.

a. TSPs may appeal a TRB decision within 15 calendar days from the date of receipt of the TRB decision letter. The decision(s) of the TRB will be in effect while the appeal is pending, except when the appellate authority grants the TSPs written request to stay a decision.

b. An appeal action will be forwarded to the Deputy Commanding General, HQ Military Surface Deployment and Distribution Command, 1 Soldier Way, Scott AFB, IL 62225-5006. An appeal of an A&E TRB will be forwarded to the Commanding General, HQ Military Surface Deployment and Distribution Command, 1 Soldier Way, Scott AFB, IL 62225-5006. Appeals will be independently reviewed and processed by personnel not substantially involved in the initial TRB decision.

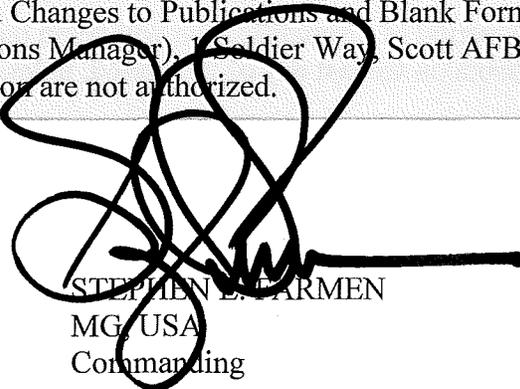
c. An appeal will fully document the reasons for requesting relief, which may include the submission of new material or bona fide change of management. The disqualification period may be terminated, suspended, or reduced upon presentation of evidence that the causes and conditions resulting in the initial disqualification have been eliminated or corrected, or upon the execution of an agreement with the TSP outlining the terms and conditions upon which the original TRB decision is being modified.

d. A determination to grant or deny an appeal will be considered administratively final. The TSP will be promptly notified in writing of the determination.

10. Notice to DoD, Other Government Agencies and the Public. The TRB chairperson will notify DoD shippers and Government agencies of any determination to disqualify or place a TSP in immediate non-use status, or to reinstate a TSP. Findings of the TRB and any action taken against a TSP may be published on SDDC's public website.

11. Referral to Other Agencies. When cause for debarment or suspension action specified in FAR Subpart 9.4 is present, the SJA, HQ SDDC, will coordinate with the Procurement Fraud Division, Office of The Judge Advocate General, Department of the Army, or any other appropriate executive agency for consideration of Government-wide debarment or suspension action against the TSP and its officers and affiliates.

The proponents of this regulation are the Military Surface Deployment and Distribution Command, Deputy Chief of Staff, G-3. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to HQSDDC, Attn: AMSSD-IMO-BR (Publications Manager), 1 Soldier Way, Scott AFB, Illinois 62225-5006. Supplements to this regulation are not authorized.



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Appendix A
References

Section I
Required Publications

Title 49, Code of Federal Records (CFR)
Transportation

FAR
Federal Acquisition Regulation (Subpart 9.4)

DTR Part II
Cargo Movement

DODD 4500.09E
United States Transportation Command

DODD 5158.04
Transportation and Traffic Movement

DODM 5100.76
Physical Security of Sensitive Conventional Arms, Ammunitions, and Explosives (AA&E)

MFTURP-1
Military Freight Traffic Unified Rules Publication-1

Section II
Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

5 USC 301
Departmental Regulations

10 USC 2311
Assignment and Delegation of Procurement Functions and Responsibilities

18 USC 18
Crimes and Criminal Procedures

AR 25-400-2
The Army Records Information Management System (ARIMS)

**Section III
Prescribed Forms**

This section contains no entries.

**Section IV
Referenced Forms**

This section contains no entries.

Appendix B Freight Shipments

1. Purpose. This attachment establishes procedures to govern Letters of Concern (LOC), Letters of Warning (LOW), Non-Use, Disqualifications, and TRB procedures specifically for TSPs participating in Freight Movement. Additional cargo TSP performance guidance is located in DTR Part II, Cargo Movement, Chapter 207 and the Military Freight Traffic Unified Rules Publication-1 (MFTURP-1).

2. Causes and Conditions for LOC, LOW, Non-Use, or Disqualification. LOC, LOW, Non-Use, or Disqualification may be based on the following causes and conditions to include, but not limited to, the following:

- a. Failure to meet scheduled packing/pickup dates for freight shipments.
- b. Failure to meet scheduled arrival/delivery times for freight movements.
- c. Selective refusal to accept voluntary freight shipments, negotiated traffic, or refusal of SPOTBID shipments.
- d. Failure to meet time-in-transit standards and/or required delivery dates.
- e. Mishandling of freight shipments (e.g., damaged or missing transportation seals, improper loading, packing, blocking, or bracing; and improper conduct at an installation).
- f. Failure to adequately protect DoD shipment(s) from loss and/or damage.
- g. Improper routing (as applicable to mode).
- h. Failure to furnish proper or adequate equipment or improper substitution of equipment.
- i. Employees who in the performance of DoD-related duties:
 - (1) Use intemperate, vulgar, or abusive language;
 - (2) Exhibit evident of illegal drug use or possession or alcohol use; or,
 - (3) Engage in other offensive conduct.
- j. Failure to pay just debts or complaints from subcontractors that the TSP failed to pay for service contracted or otherwise demonstrates lack of financial responsibility so as to subject government shipments to actual and/or potential delay, frustration, seizure, or detention.
- k. Failure to settle loss and damage claims promptly.

l. Failure to comply with applicable federal, state and local laws and regulations governing the movement of freight.

m. Accidents involving DoD hazardous materials shipments, to specifically include A&E carriers handling and/or transporting A&E loads.

n. Use of equipment, facilities, or personnel that fail to meet applicable safety and/or security standards.

o. Failure to maintain qualification requirements for doing business with the DoD (e.g., failure to maintain required cargo insurance/bond coverage/Department of Transportation (DOT) authority).

p. Brokers will be held responsible for subcontractor performance, to include but not limited to: on time pick and delivery; conduct; and, CSA scores.

q. Failure to respond to SDDC request for financial data, operational data or other information subject to request under the Tender of Service or similar agreement.

r. Suspension, debarment, or proposed debarment by any federal agency under the authority of the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS).

s. Indictment or conviction of a criminal offense indicating a lack of business integrity or honesty that affects the responsibility of the TSP.

t. Failure to timely provide requested documentation or information, such as Surety Bonds, Cargo Insurance, Certificates of Independent Pricing, or financial reports, where the failure brings into question the suitability of the TSP to provide transportation services to the DoD.

u. Failure of a TSP's employees, subcontractors or agents to meet requirements for driving privileges on a DoD installation or other failure to gain time entry to a DoD installation (e.g., apprehension, detention, or arrest under a warrant or other authority).

v. A demonstrated lack of business integrity concerning DoD freight by one or more employee, agent, or representative.

w. Failure to maintain acceptable Behavior Analysis and Safety Improvement Categories (BASIC) threshold scores with the DOT Compliance, Safety, and Accountability (CSA) Program.

x. Serious injury or fatalities, which indicate a lack of TSP responsibility to perform in a safe manner.

y. Falsifying Syncada payments.

z. Any other cause or condition of a serious or compelling nature that affects the present responsibility of a TSP providing transportation services to the DoD.

aa. The use of abusive, intemperate, disparaging, vulgar language or written correspondence from a TSP (including all employees), their agent or representative, directed towards the government, SDDC, SDDC components or DoD components that deal with the movement of freight, and the personnel working in those organizations.

3. Actions that May be Utilized Without Conducting a TRB.

a. LOC. An LOC may be issued by HQ SDDC for TSP performance issue(s) that may be determined by SDDC as not meeting minimum performance standards. An LOC gives the TSP an opportunity to make corrective action prior to HQ SDDC issuing an LOW or non-use action. An LOC may be issued based on the following incidents to include, but not limited to: minor infractions; possible concerns raised by the DoD community; or downward trends in the TSP's performance (i.e., rising CSA scores).

b. LOW. An LOW is issued by a TO or by HQ SDDC to a TSP for unacceptable performance. An LOW serves as notice to a TSP that if violations or performance problems continue, non-use action may follow. The LOW may request TSP provide additional information on the incident for review. An LOW prepared by the TO must be forwarded to HQ SDDC for retention with the TSP's file. Three LOWs for the same violation from one single GBLOC in a 180-day period may result in a non-use action. The LOW must include, as a minimum:

- (1) The TSP name and SCAC.
- (2) The BL number.
- (3) The rule or regulation indicating the violation that resulted in the LOW.

c. Upon receipt of an acceptable response from the TSP in response to LOW outlining corrective actions, the TSP may be placed in a probationary status of up to 90 days to ensure no further infractions are incurred.

d. If no response or an insufficient response is received in response to the LOW from the TSP, then the below procedures may be initiated.

(1) Non-use or disqualification action may be taken for specific incidents of unsatisfactory service or failure to perform, or a record or trend of unsatisfactory service or failure to perform in accordance with the terms of negotiated agreements, tariffs, tenders of service, commercial or GBLS, service agreements, governing SDDC rules publications, or other similar arrangements.

(2) Disqualification action may be taken against individuals and affiliates of a TSP for conduct or action which is inappropriate, unethical, or violates any provision of SDDC regulations and policies.

(3) Duration of non-use actions is at the discretion of the shipper and/or HQ SDDC based on severity of violation, number of infractions, and TSP response.

e. HQ SDDC may place a TSP in nationwide non-use for up to 90 days without conducting a TRB. Examples of such failures or violations qualifying for such action include, but are not limited to, the following:

(1) Loss of DOT authority.

(2) Exceeding DOT CSA mandated threshold safety scores.

(3) Accepting and moving shipments or providing services for which the TSP does not have DoD approval.

(4) Failure to pay just debts or complaints from subcontractors that the TSP failed to pay for services contracted.

(5) Pattern of refusing SPOTBID shipments.

(6) Falsifying Syncada inputs.

(7) The use of abusive, intemperate, disparaging, vulgar language or written correspondence from a TSP, their agent or representative, directed towards the government, SDDC, SDDC components or DoD components that deal with the movement of freight, and the personnel working in those organizations.

f. A TSP must respond within 14 calendar days of receipt of the non-use notification by providing the following information:

(1) The explanation of the discovered infraction(s).

(2) Notice of actions taken to correct the infraction(s).

(3) A copy of procedures being put into place to prevent future reoccurrence.

h. HQ SDDC shall review the TSP response and will have final authority for reinstating a TSP back into FCRP based on TSP's response and actions:

(1) SDDC shall review TSP explanation of how the infraction happened.

(2) SDDC will determine if TSP has corrected the infraction(s).

(3) SDDC will determine if TSP has put into place procedures that prevent future occurrences.

(4) TSP must provide sufficient substantiated verification to SDDC that corrective measures have been implemented.

h. If a TSP does not provide or make corrective actions during the non-use period, then SDDC has the authority to extend the non-use or disqualify a TSP until such time as SDDC approved corrective measures have been implemented by the TSP.

i. Upon notification to SDDC that corrective measures have been put into place and SDDC has approved such measures, the TSP is required to re-qualify within the FCRP in accordance with the latest registration requirements.

Appendix C

Ammunition & Explosives Shipments

1. Purpose. This attachment establishes procedures to govern and elaborate upon the responsibilities of SDDC regarding A&E shipments and the management of the program regarding A&E TSPs. It establishes procedures for A&E TSP LOCs, LOWs, non-use, disqualifications, and TRB procedures specifically for TSPs participating in freight movement. Additional cargo TSP performance guidance is located in DTR Part II, Cargo Movement, Chapter 207, and the Military Freight Traffic Unified Rules Publication-1 (MFTURP-1).

2. Responsibilities:

a. Defense Transportation Tracking System (DTTS) Office. DTTS shall provide uninterrupted 24-hour surveillance and emergency response support of DoD arms, ammunition, and explosives (AA&E) and other sensitive material (OSM) transported with the Defense Transportation System by motor and barge carriers in the continental United States (CONUS), Canada and Alaska; collect performance and incident data to identify trends and patterns that could suggest system weaknesses for use in commercial carrier safety intervention programs.

b. SDDC G-3 Carrier Performance Office. The Carrier Performance Office shall ensure DoD shippers get the best available service from CONUS AE TSPs. Carrier performance establishes specific elements of service that are key indicators of TSP performance. It also establishes minimum levels of satisfactory performance and prescribes procedures for denial of DoD cargo shipment to any TSP that fails to provide satisfactory service.

(1) Tracks service elements and standards. Service elements and standards include, but are not limited to: specific operational factors for timely, safe, and cost-effective movement of DoD cargo. LOCs, LOWs or notification of non-use, for up to 90 days, will be issued by shipping activities or SDDC for failure to meet these standards.

(2) Examines service failures. Service failure “F” codes (DoD Regulation 4500.9R, Defense Transportation Regulation, Part II, Chapter 207, Figure 207-1) and “G” codes (DoD Regulation 4500.9R, Defense Transportation Regulation, Part II, Chapter 207, paragraph 5) are used to document incidents where TSPs fail to meet performance elements and standards, and may result in further carrier performance action by shipping activities or SDDC.

(3) Conducts quarterly TSP performance reviews of service failures nationwide. The enterprise performance standard is set at 90%. The percentage is calculated by dividing service failures by the total number of shipments per TSP. As an example, a TSP with 20 awarded shipments for the quarter and 2 service failures would be at the 90th percentile. Following is the progression of continuous quarterly SDDC actions that could result in TSP suspension and/or disqualification via a TRB.

Performance Scale & Compliance Rates	Period of Performance			
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
90 – 100%	Good Standing	Good Standing	Good Standing	Good Standing
80 – 89%	LOC	LOC	LOW	Up to 10 Day Non-use
70 – 79%	LOC	LOW	Up to 15 Day Non-use	Up to 30 Day Non-use
Below 70%	LOW	Up to 30 Day Non-use	Up to 60 Day Non-use	90 Day/Disqualification

Figure 1 - TSP Performance Scale

(4) Reviews the Federal Motor Carrier Safety Administration (FMCSA), Behavior Analysis and Safety Improvement Categories (BASIC) combined with DTS and safety analysis to evaluate TSP compliance standards. The BASICS, as defined by the DOT, represent behavior that can lead to crashes. The BASICS are Unsafe Driving, Crash Indicator, Hours-Of-Service-Compliance, Vehicle Maintenance, Controlled Substances and Alcohol, Hazardous Materials Compliance and Driver Fitness.

c. HQ SDDC Safety Office. The HQ SDDC Safety Office shall plan, organize, direct, and implement the motor carrier safety program for DoD AE TSPs. The command safety office is the transportation functional manager for SDDC's hazardous material (HAZMAT) and AE (including movement of foreign military sales) associated transportation safety policy, and contract activities.

(1) Manages the AE motor carrier safety evaluation program (MSEP) IAW USTRANSCOM Instruction (USTCI) 91-02 that assess AE TSPs and their ability to safely move DoD hazardous Transportation Protective Services (TPS) cargo.

(2) Establishes minimum levels of satisfactory safety performance for AE TSPs.

d. SDDC G-34 Protection Division. Security shall ensure only Defense Security Service (DSS)-vetted contract companies/contractors work under SDDC classified contracts. Serves as the command functional manager for overseeing and managing the transportation security program, to include developing procedures for sensitive, classified, HAZMAT and chemical, biological, radiological, nuclear, and high-yield explosives (CBRNE) materials moving via all modes of transportation.

(1) Manages the industrial and transportation security programs that evaluate contractor compliance with facility clearance/in-transit security requirements.

(2) Acts as SDDC liaison to the DSS, Department of Homeland Security, local, state and municipal authorities on all security-related issues regarding DoD AE.

(3) Is the SDDC staff proponent for all transportation security interpretation and enforcement of DoD Regulation 4500.0-R, Defense Transportation Regulation, Part II, Chapters 204 and 205.

e. Domestic Movement Support Division. Will host the Ammunition and Explosives Working Group.

f. AE Working Group. On at least a quarterly basis, a working group comprised of members from SDDC's Domestic Movement Support Division, DTTS, SDDC G-34 Protection Division, HQ SDDC Safety Office, and USTRANSCOM TCJ4-P will review AE carrier safety indicators, security issues, and carrier performance standards. The AE Working Group will provide information to the Transportation Ammunition & Explosives Review Panel (TARP) at least twice per year, or upon request of the TARP.

g. The TARP is composed of senior SDDC representatives who will consider the information available to SDDC to monitor the performance and safety of A&E TSPs. The TARP will meet at least two times per year to review the TPS AE program. The TARP is an administrative body comprised of advisory members using an informal, non-adversarial fact-finding approach to consider and evaluate the performance of A&E TSPs. The TARP may determine whether action must be taken to protect DoD's interests by convening a TRB, as appropriate.

(1) At a minimum, the periodic TARP will review a summary of enterprise-wide carrier performance actions against AE carriers, DTTS-related accidents for each AE carrier, significant mechanical breakdown or incident data collected from DTTS operations, safety concerns and investigations, any security issues, and relevant DOT metrics associated with their CSA database and roadside inspection associated with AE carriers under a DTTS-monitored load.

(2) Based on information presented, the TARP can call for further data or information on any of the AE motor carriers to determine if greater SDDC action is warranted. The TARP chairperson can direct the TARP to consider suspension or disqualification actions.

3. Areas of evaluation for A&E TSPs may include (but are not limited to):

- (a) An accident involving an AE carrier under AE loads.
- (b) Repeatable Out-of-Service mechanical violations/breakdowns that result in surplus time in the public domain or that could lead to an accident under AE load.
- (c) Quarterly carrier performance statistics where performance failures per shipments lead to any length suspension.
- (d) Negative FMCSA roadside inspection trends on an AE carrier under AE load.
- (e) AE motor carrier safety evaluation findings that demonstrate non-compliance with Federal Motor Carrier Safety Regulations.
- (f) Exceeding DOT's compliance, safety, and accountability (CSA) thresholds with an unimproved status for greater than 12 months, or exceeding multiple CSA thresholds at one time.
- (g) Multiple shipper suspensions of an AE carrier of the local level.

(h) A trend of security-related violations that endanger the security of AE.

Appendix D
Glossary

Section I.
Abbreviations

AA&E
arms, ammunition, and explosives

A&E (or AE)
ammunition and explosives

BASIC
Behavior Analysis and Safety Improvement Categories

BLOC
bill of lading office code

CBL
commercial bill of lading

CBRNE
chemical, biological, radiological, nuclear, and high-yield explosives

CDL
commercial driver's license

CFAC
Common Financial and Administrative Control

CMV
commercial motor vehicle

CONUS
continental United States

CSA
compliance, safety, and accountability

DFARS
Defense Federal Acquisition Regulation

DoD
Department of Defense

DOT

Department of Transportation

DSS

Defense Security Service

DTR

Defense Transportation Regulation

DTTS

Defense Transportation Tracking System

FAK

freight of all kind

FAR

Federal Acquisition Regulation

FCRP

Freight Carrier Registration Program

FMCSA

Federal Motor Carrier Safety Administration

FMCSR

Federal Motor Carrier Safety Regulation

GBLOC

government bill of lading office code

HAZMAT

hazardous material

LOC

letter of concern

LOW

letter of warning

OSM

other sensitive material

SCAC

Standard Carrier Alpha Code

SDDC

Military Surface Deployment and Distribution Command

SJA

Staff Judge Advocate

SPOTBID

Spot Bid

TARP

Transportation Ammunition & Explosives Review Panel

TO

transportation officer

TPS

transportation protective service

TRB

Transportation Review Board

TSP

transportation service provider

USTRANSCOM

United States Transportation Command

Section II.

Terms

Affiliate - Business concerns, organizations, or individuals are considered affiliates if, directly or indirectly, (1) either one controls or has the power to control the other, or (2) a third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized following the disqualification, non-use, suspension, debarment, or proposed debarment of a TSP which has the same or similar management, ownership, or principal employees as that TSP.

Appeal - A request or process for review of a previous decision or action.

Behavior Analysis and Safety Improvement Category (BASIC) - One of seven categories the Federal Motor Carrier Safety Administration (FMCSA) uses to determine how a motor carrier ranks relative to other carriers with a similar number of safety events (i.e., inspection, violations, or crashes). The Driver Fitness BASIC addresses the requirements within the Federal Motor Carrier Safety Regulations (FMCSRs), specifically 49 CFT Parts 383 and 391, and refers to the operation of commercial motor vehicles (CMVs) by drivers who are unfit to operate a CMV due

to a lack of training, experience, or medical qualifications. Some example roadside safety violations of the regulations that may cause a motor carrier to rank poorly in this BASIC include failure to have a valid and appropriate commercial driver's license (CDL) and being medically unqualified to operate a CMV.

Broker - CFR 49 382.2 defines "broker" as a person who, for compensation, arranges or offers to arrange the transportation of property by an authorized motor carrier. A motor carrier, or person who is an employee or bona fide agent of a carrier, is not a broker within the meaning of this section when it arranges or offers to arrange the transportation of shipments which it is authorized to transport and which it has accepted and legally bound itself to transport. Brokers never take possession of the freight; brokers are transportation intermediaries who procure the services of motor carriers to transport freight.

Debarment (FAR § 9.403) - The action taken by a debarment official excluding a contractor from Government contracting and Government-approved subcontracting for a specified period. Actions taken under SDDC Regulation 15-1 do not constitute debarment.

Defense Security Service (DSS) - The DSS is a federal security agency of the Department of Defense (DoD). Within areas of DoD responsibility, DSS is tasked with facilitating personnel security investigations, supervising industrial security, and performing security education and awareness training.

Disqualification - The act by HQ SDDC of excluding a TSP or TSP employee from participating in DoD transportation programs. Only SDDC has disqualification authority. Disqualification may be taken by SDDC as a result of no or insufficient response on a non-use action and/or a result of TRB findings and determination. Disqualification action may be taken independently by SDDC, or a TO may request SDDC disqualify a TSP if a TSP or its representative commits a violation that is so egregious that the TO believes it warrants a disqualification action. The TO will provide all pertinent documentation to support its request for placing a TSP in disqualification. A TSP may be disqualified based on operation or administrative deficiencies so severe as to threaten safety or security of DoD cargo shipments or where a TSP fails to meet the requirements necessary to be an approved participant in SDDC transportation programs. Disqualification may be issued when a rule or regulation is violated on a shipment, or shipments, which warrants a performance action greater than non-use, or when a TSP repeatedly violates any provision, rule, or regulation. A TSP may not file rates with SDDC while in a disqualified status. If a TSP is placed in a disqualified status, all SCACs affiliated with that TSP may also be disqualified. A TSP disqualified for 6 months or more is required to re-qualify within the Freight Carrier Registration Program (FCRP) in accordance with the latest registration requirements, in order to be approved. Disqualification will not exceed a period of 24 months. The TRB's decision shall in no way limit SDDC's right to recommend the TSP for debarment.

Letter of Concern (LOC) - An LOC may be issued by HQ SDDC for TSP performance issue(s) that may be determined by SDDC as not meeting minimum performance standards. An LOC gives the TSP an opportunity to make corrective action prior to HQ SDDC issuing an LOW or non-use action.

Letter of Warning (LOW) - An LOW is issued by a TO or HQ SDDC to a TSP for unacceptable performance. An LOW serves as notice to a TSP that if violations or performance problems continue, non-use action may follow. An LOW prepared by the TO must be forwarded to SDDC for retention with the TSP's file. Three LOWs for the same violation from one single BLOC in a 180-day period may result in non-use action. See Appendix D, paragraph 3b.

Motor Carrier - 49 U.S.C. 13102 defines "motor carrier" as a person providing motor vehicle transportation for compensation. Motor carriers take possession of the freight.

Non-Use - Non-use may be taken by either the TO or HQ SDDC when sufficient information indicates that operation or administrative deficiencies are so severe as to threaten safety or security of DoD cargo shipments. A TO may place a TSP in non-use from their activity and provide a copy to HQ SDDC for retention in the TSP's file. SDDC may place a TSP in non-use for all of the U.S. (i.e., nationwide non-use). A TSP may be placed in non-use by HQ SDDC without conducting a TRB. Non-use action may be taken by HQ SDDC when a TSP fails to meet the requirements necessary to be an approved participant in SDDC transportation programs. Non-use may be issued when a rule or regulation is violated on a shipment, or shipments, which warrants a performance action greater than an LOW, or when a TSP repeatedly violates any provision, rule, or regulation. TOs will provide all pertinent documentation to support HQ SDDC placing a TSP in non-use. A TSP will be placed in non-use for a period of up to 90 calendar days, effective date and period of non-use will be determined by HQ SDDC and based on severity of action(s). A TSP may not file rates with SDDC while in a non-use status. No traffic may be offered to a TSP in non-use. To be removed from a period of non-use, the TSP must provide acceptable proof of corrective action. Non-use may remain in effect until HQ SDDC is satisfied that the TSP has taken necessary action to preclude the recurrence of those problems which gave rise to the suspension. If the TSP does not provide or make corrective actions during a period of non-use, then SDDC has the authority to extend the non-use action or place the TSP in disqualification without holding a TRB, until such time as corrective measures are satisfactorily implemented by the TSP. A TSP who is reinstated after a period of non-use may receive a 90-day probationary period. Consultation with the SDDC SJA may be required prior to initiating the actions.

Secure Holding Area - In non-emergency situations, protection provided by an installation to a TSP's vehicle transporting sensitive cargo that arrives after hours or at the discretion of an installation commander. The installation commander must make the same kinds of determinations as for "secure holding location/safe haven" or "refuge."

Transportation Ammunition & Explosives Review Panel (TARP) - The TARP is a group of senior SDDC personnel who consider information available to SDDC regarding A&E TSP performance and safety. The TARP may determine whether action must be taken to protect DoD's interests by convening a TRB for A&E TSPs, as appropriate.

Transportation Protective Service (TPS) - A commercial TSP service performed according to DoD standards that provides in-transit physical security for shipments of secret, confidential, or sensitive material.

Transportation Service Provider (TSP) - All references in this regulation to TSP shall be given broad application and shall include any company, individual, or other legal entity offering or providing transportation, and other related services to DoD, including motor carriers, brokers, forwarders, logistics companies, and where warranted, the agents of TSPs. This definition specifically includes ammunition and explosives transportation service providers (NTS) providers.

Transportation Review Board (TRB) - The TRB is an administrative body comprised of voting members, advisory members, and fact finding presenters using an informal, non-adversarial fact-finding administrative procedure to consider the information from the government and the TSP to determine what action, if any, needs to be taken to protect DoD interests. The TRB affords TSPs an opportunity to present evidence and rebut allegations of inadequate or improper performance, or other matters.