DEPARTMENT OF THE ARMY
[COMMAND]

[OFFICE SYMBOL] DD Month YYYY

MEMORANDUM FOR CPT Justin Case, Executive Officer

SUBJECT: Legal Review of BG Public's Request to Travel via Fixed Wing Military Air (MILAIR) on 14 and 17 January 2019 **(Priority 3)**

1. BLUF. This memorandum is a legal review of a request from BG Public, to travel via MILAIR from Fort Belvoir, VA (KDAA), to Fort Bragg, NC (KPOB) on 14 January 2019, and from KPOB to KDAA on 17 January 2019. BG Public's use of MILAIR is essential for the conduct of Army business. Pursuant to references 2.d., para. 8.a.(4) and 2.f, there is no legal objection to, CG, USARC, provisionally approving this request, subject to the scheduling authority's validation that MILAIR is more cost-effective than commercial air (COMAIR). For processing, this request (DD Form 2768) should be signed by the CG, USARC and forwarded to the scheduling authority for approval.

2. References.

a. Joint Travel Regulations (JTR), 1 October 2020.

b. Department of Defense Directive (DoDD) 4500.56, Department of Defense Policy on the Use of Government Aircraft and Air Travel, 24 June 2014.

c. Department of Defense Instruction (DoDI) 4500.43, Operational Support Airflift (OSA), 18 May 2011.

d. Army Directive (AD) 2017-05 (Secretary of the Army Policy for Travel by Department of the Army Senior Officials), 18 January 2017.

e. Office of Management and Budget (OMB) Circular No. A-126.

f. Memorandum for LTG Daniels, AFSG, subject: Commanding General Delegation of Authority 2020-06, Travel Approval Authority, 11 August 2020.

3. Facts.

a. [General description of the mission].

b. To accomplish this mission, BG Public requests MILAIR from Fort Belvoir, VA (KDAA) to Fort Bragg, NC (KPOB) on 14 January, and from KPOB to to KDAA on 17

January. The MILAIR request includes a signed DD Form 2768, a justification memorandum, BG Public's calendar/itinerary, and COMAIR flight information. BG Public ruled out use of COMAIR after considering multiple factors, including COMAIR travel time and costs, and mission requirements. The stated justification for MILAIR is cost-effectiveness (Priority 3).

4. Analysis.

a. Per reference 2.f. the CG, USARC is the approval authority for this request. There is no legal objection to the CG provisionally approving BG Public's use of MILAIR on 14 and 17 January 2019, subject to the scheduling authority's validation of cost-effectiveness.

b. BG Public will travel to Fort Bragg to conduct official Army business. Per JTR, para. 030101, reference 1.a., temporary duty (TDY) missions include travel to perform operational or managerial activities, or to attend meetings to discuss general agency operations. Likewise, the SECARMY Travel Policy, reference 2.d., para. 1.d., recognizes that official travel via MILAIR or COMAIR includes travel to attend meetings and conduct other similar Army business. IAW these policies, BG Public's attendance qualify for air travel in a TDY status.

c. In terms of the mode of air travel, the SECARMY Travel policy's general rule is that Army officials must use COMAIR when it is available to effectively fulfill mission requirements and meet the traveler's departure and/or arrival requirements within a 24-hour period (reference 2.d., para. 5.a.). However, MILAIR may be authorized pursuant to one of the following exceptions: (1) the actual cost is less than COMAIR (Priority 3); (2) COMAIR is unacceptable because: (a) there is a clear and present danger to the traveler, (b) an emergency exists, or (c) other compelling operational considerations[1] outside the control of the senior traveler make COMAIR unacceptable (Priority 2); or (3) the aircraft was previously scheduled to perform a bona fide training mission.

d. When, as here, the justification for MILAIR is cost-effectiveness, the approving authority is not responsible for making this determination. Per the note in reference 2.d., para. 5.a.(1), "[o]nly the scheduling authority can properly determine cost-effectiveness of a MILAIR flight."

5. Recommendation. This request should be signed by the CG, USARC and submitted to the scheduling authority for final approval.

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[1] Compelling operational considerations are defined as those considerations which "have a significant Service impact if a Priority 2 request is not met as requested." USTRANSCOM Instr. 10-19, para. 5.4.2.1.

6. The POC for this opinion is the undersigned at (111) 111-1111 or iamthelaw.mil@mail.mil.

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MAJ, JA