Office of the Secretary of Defense

TSOC Commander is the final approval or disapproval authority.

PART 159—PRIVATE SECURITY CONTRACTORS OPERATING IN CONTINGENCY OPERATIONS

§ 159.1 Purpose.

This part establishes policy, assigns responsibilities and provides procedures for the regulation of the selection, accountability, training, equipping, and conduct of personnel performing private security functions under a covered contract. It also assigns responsibilities and establishes procedures for incident reporting, use of and accountability for equipment, rules for the use of force, and a process for administrative action or the removal, as appropriate, of PSCs and PSC personnel.

§ 159.2 Applicability and scope.

This part:

(a) Applies to:

(1) The Office of the Secretary of Defense, 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 in the Department of Defense (hereafter referred to as the “DoD Components”).

(2) The Department of State and other U.S. Federal agencies insofar as it implements the requirements of section 862 of Public Law 110–181, as amended. Specifically, in areas of operations which require enhanced coordination of PSCs working for U.S.G. agencies, the DoD Components.

(b) Prescribes policies applicable to all:

(1) DoD PSCs and PSC personnel performing private security functions during contingency operations outside the United States.

(2) USG-funded PSCs and PSC personnel performing private security functions in an area of combat operations or, with the agreement of the Secretary of State, other significant military operations as designated by the Secretary of Defense.

§ 159.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purpose of this part.

Area of combat operations. An area of operations designated as such by the Secretary of Defense for the purpose of this part, when enhanced coordination of PSCs working for U.S.G. agencies is required.

Contingency operation. A military operation that is either designated by the Secretary of Defense as a contingency operation or becomes a contingency operation as a matter of law (10 U.S.C. 101(a)(13)). It is a military operation that:

(1) Is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions,
§ 159.4 Policy.

(a) Consistent with the requirements of paragraph (a)(2) of section 862 of Public Law 110–181, the selection, training, equipping, and conduct of PSC personnel including the establishment of appropriate processes shall be coordinated between the DoD and the Department of State. Coordination shall encompass the contemplated use of PSC personnel during the planning stages of contingency operations so as to allow guidance to be developed under paragraphs (b) and (c) of this section and promulgated under section 159.5 of this part in a timely manner.

1 With respect to an area of other significant military operations, the requirements of this part shall apply only upon agreement of the Secretary of Defense and the Secretary of State. Such an agreement of the Secretaries may be made only on an area-by-area basis. With respect to an area of combat operations, the requirements of this part shall always apply.

2 Contractors performing private security functions are not authorized to perform inherently governmental functions. In this regard, they are limited to a defensive response to hostile acts or demonstrated hostile intent.