

Issue Date:02/28/2005

PARTICIPATION OF THE DEPARTMENT OF HOMELAND SECURITY WITH FILM AND TELEVISION PRODUCTIONS

I. Purpose

It is Department of Homeland Security policy to use the broad authority granted in the Homeland Security Act of 2002, to further the Department's missions, particularly with respect to disseminating the Department's homeland security message. This directive sets Departmental policy for interaction between the Department and non-government, entertainment-oriented motion picture, television, advertising, video and multimedia productions/enterprises.

II. Scope

This directive applies to all DHS Organizational Elements to the extent it is consistent with operational requirements and statutory responsibilities, and to DHS contractors and concessionaires to the extent specified in their contracts.

III. Authorities

This directive is governed by numerous Public Laws, regulations and national policy, such as:

- A. The Homeland Security Act of 2002, codified in Title 6, U.S. Code, as amended.
- B. 18 U.S.C. § 701, protecting against misuse of official badges, identification cards and other official government insignia.
- C. 28 U.S.C. § 1733(b), establishing the official status of government documents.
- D. 31 U.S.C. § 9701, permitting user fees for use of government goods and resources.
- E. Title 5, Code of Federal Regulations, Section 2635.801 – 2635.809, governing outside employment by government employees.

- F. DHS Management Directive 0030, Use of U.S. Department of Homeland Security Seal.
- G. DHS Management Directive 0040, Flag of the U.S. Department of Homeland Security.
- H. DHS MD 0480.1, DHS Standards of Conduct.
- I. DHS Management Directive 2230, Public Affairs Management Structure.
- J. DHS Management Directive 0010.1, Management Directives System and DHS Announcements.

IV. Definitions

- A. **DHS Multimedia Agreement**: The memorandum of agreement setting forth the specific terms and conditions of the relationship between the producer, studio, network or production company and DHS.
- B. **DHS Organizational Elements**: As used in this Directive, the term DHS Organizational Element shall have the meaning given to it in DHS MD 0010.1, "Management Directives System and DHS Announcements" and generally includes all DHS bureaus, components, services and other operating entities.

V. Responsibilities

- A. The **Assistant Secretary for Public Affairs** or designee shall be responsible for the implementation of this directive.
- B. **The General Counsel** shall provide legal review of all memoranda of agreement and memoranda of understanding, including but not limited to all DHS Multimedia Agreements, to ensure compliance with applicable laws, rules, and regulations.
- C. **All DHS personnel** are responsible for ensuring that requests from entertainment-oriented motion picture, television, advertising, video, and multimedia productions/enterprises are forwarded promptly to the Director, Multimedia Liaison Office, within the Office of the Assistant Secretary for Public Affairs.

VI. Policy & Procedures

- A. **Policy**.

1. Consistent with applicable statutes, policies, and regulations, DHS will provide unique goods and resources to assist entertainment-oriented motion picture, documentary, television, and similar entertainment-oriented video and multimedia productions where such assistance is in the best interest of DHS and the U.S. Government. Such assistance will not interfere with DHS's core missions and will be provided pursuant to the following guidelines and provisions.

a. The requested assistance can be provided without interfering with other Department activities.

b. The requested assistance is in the best interest of DHS and/or the U.S. Government, and is consistent with applicable statutes, policies, and regulations.

2. Requests from news-oriented productions must be coordinated with the Office of Public Affairs, consistent with established management directives.

3. It is DHS policy when working with television and film productions that DHS does not officially approve the use of any footage or images unless DHS is part of the story line or project and reviews the script, treatment, story or outline.

4. It is DHS policy that the Director, Multimedia Liaison Office, serves as the Department's central point of contact for any entertainment-oriented motion picture, television, advertising, video, and multimedia productions/enterprises.

a. It is the Department's policy that a DHS Multimedia Agreement will be signed by the studio, network or production company prior to receiving the Department's participation.

b. The Director, Multimedia Liaison Office will coordinate with Organizational Elements to determine if an agreement for goods and resources (reimbursable agreement) is necessary.

B. Procedures.

1. Initiating Requests. Those seeking DHS's assistance with entertainment related media productions must do so through a written proposal provided to the Director, Multimedia Liaison Office.

a. The written proposal must establish that the project will comply with the general principles and specific provisions of this Management Directive.

b. The proposal must establish that the submitter has an acceptable distribution agreement with a recognized distributor, such as a studio or network. DHS is generally unable to commit resources on “spec” projects, (i.e., a project which is merely a creative idea with no commitment from a recognized studio, production company or other distributor). This requirement is intended to prevent individuals from attempting to use a relationship with DHS or its employees to sell a project.

c. The written proposal must contain at minimum the following:

(1) A completed DHS Questionnaire for Film and Television Support. (See Attachment #1)

(2) A script, treatment, story, proposal, or outline of the project in sufficient detail to allow the Department to evaluate the project’s objectives and how DHS is necessary for the project. The Department’s agreement to provide assistance to the project is not necessarily agreement to provide all support requested.

(3) A statement acknowledging that the submitter has read and understands the requirements of this Management Directive.

d. Authenticity often requires technical expertise only available from DHS. For that reason, the Department can assist producers, writers, and directors in their efforts to develop a script that might ultimately qualify for DHS assistance. The Director, Multimedia Liaison Office is the contact point for those seeking early technical help for scripts. Requestors acknowledge that for productions to be deemed “in the best interest of DHS or the U.S. Government,” the productions should be authentic in their portrayal of actual persons, places, DHS operations, and significant historical events.

e. If fictional, the portrayal must depict a feasible, or otherwise appropriate, interpretation of DHS programs, operations, and policies. The Director, Multimedia Liaison Office, in consultation with senior management in the Office of Public Affairs, will decide whether the script, treatment, outline, or story describes a production that is likely to qualify for Departmental assistance. The Director, Multimedia Liaison Office will coordinate within the Department and Organizational Elements for resources, such as access to technical experts or tours of DHS facilities, and to determine the extent of appropriate script support and whether

reimbursement is required.

(1) In the case of an early script consultation or final script review, DHS may suggest changes that might resolve issues preventing DHS assistance. However, the decision to accept or reject any suggestions remains within the purview of the authors/producers, and the final creative content of any script or production remains the responsibility of the project's originator. Any general assistance shall in no way be construed as official DHS approval or support of the project.

(2) DHS will only agree to provide production assistance on the basis of a final script version that clearly identifies the Departmental support requested.

2. DHS Consideration

a. To ensure professional, consistent, and even-handed treatment of requests for DHS assistance, the Director, Multimedia Liaison Office, will serve as the official point of contact for entertainment-oriented motion picture, theatrical, television, video, and multimedia productions seeking DHS assistance. The Director, Multimedia Liaison Office may:

(1) Provide technical assistance to writers, producers, or directors seeking to develop scripts for submission to DHS, on either a reimbursable or non-reimbursable basis;

(2) Receive and review written proposals submitted to the Department;

(3) With appropriate review by DHS Office of General Counsel, draft, negotiate, amend, and maintain Department of Homeland Security Multimedia Agreements that provide for assistance to approved projects; coordinate with DHS Organizational Elements for any support specified in the Department of Homeland Security Multimedia Agreement;

(4) Provide "on set" assistance, including technical scouting trips, pre-production, production, post-production, project screenings, rehearsals, and filming of scenes pertinent to DHS, plus other technical support agreed to under a Department of Homeland Security Multimedia Agreement. When specialized regulation/technical expertise is required, identify available DHS experts whose mission

duties allow them to support the producer under the Department of Homeland Security Multimedia Agreement.

(5) Ensure that the production adheres to the approved script; approve, in writing, additional revisions to the approved script; and, where necessary after the films' principal photography starts, provide verbal approval for changes. All verbal approvals are to be reduced to writing by the producer/writer as soon as possible.

(6) Review and approve appropriate wording for end title credits, trailers, publicity photos, and promotional materials to the extent this material relates to the U.S. Government, DHS, or the assistance DHS provided.

(7) All DHS Organizational Elements will, where appropriate, negotiate DHS sub-agreements for goods and resources at DHS requested sites.

b. In evaluating whether assistance to an entertainment-oriented production is in the best interest of DHS and/or the U.S. Government, the following should be considered:

(1) The production is authentic in its portrayal of actual persons, places, DHS operations, and significant historical events. If fictional, the portrayal depicts a feasible, or otherwise appropriate, interpretation of DHS programs, operations, and policies.

(2) The production is of informational value and enhances public understanding of DHS, or of homeland security, or U.S. Government activities.

(3) Other factors which may be unique to a particular production:

(a) An agreement by DHS to provide assistance under this directive does not waive the individual privacy rights of DHS civil service personnel, other Government employees, military personnel, or contractor employee(s) performing work for the Department.

(b) DHS will not warrant or represent that it is granting any exclusive rights to a specific production company, studio, network, or its affiliates, to create a

production or project based upon DHS activities.

(c) DHS personnel in an off-duty, non-official status may be hired by approved production companies to perform as actors, extras, etc., provided there is no conflict with the DHS Standards of Conduct (MD 0480.1). DHS personnel must comply with 5 C.F.R. Sections 2635.801 - 2635.809 for any outside employment, including employment by a production company, in their personal (off-duty, non-official) capacity, using approved leave. The production company is responsible for resolving any dispute with unions governing the hiring and payment of DHS personnel. Nothing in this Management Directive relieves employees from seeking review and approval of any outside employment consistent with DHS ethics and outside employment rules.

(d) Before beginning any activity on a DHS facility that involves DHS personnel, property, or services, the production company must provide legal proof of adequate liability insurance which names the U.S. Government as an "Additional Insured." The agreement for goods and resources shall also provide for indemnification and hold harmless agreements under which the production company agrees to insure that DHS will not be liable for any damages to property or injury to persons as a result of assistance offered under this policy.

(e) Approval of assistance and permission under this Directive does not relieve the production company from its responsibility for compliance with the other applicable laws, regulations and DHS directives, including those governing the use of the DHS seal, flag, insignias or other identifiers.

(f) Assistance or permission approved under this Management Directive shall not be construed as official DHS approval, endorsement, or support of the project. Statements concerning the project shall be coordinated with the Assistant Secretary for Public Affairs and the Director, Multimedia Liaison Office, Office of Public Affairs.

(g) Any photographs, film, video, images, or sound taken or recorded on or at DHS facilities for advertising and/or commercial purposes, including for a motion picture or television production, may be obtained only with the written permission of the responsible DHS official. Commercial services, product, or merchandise advertisements may not be filmed or photographed on DHS property.

3. Once a production has been approved for DHS assistance, the Department and the producer/studio will sign a Department of Homeland Security Multimedia Agreement setting out the terms and conditions of the requested assistance, including schedules, liabilities, points of contact, script development, other pertinent information, and any required reimbursements. No assistance shall be provided until both parties sign a required DHS Multimedia Agreement.

4. Prior to commencement of principal photography, the production must submit any requests for use of the DHS name or the name and/or initials of any Organizational Element, its insignia, emblems, or any related marks and logos on any set, costumes, promotional materials, layouts, or similar uses. The Director, Multimedia Liaison Office, must approve all uses in writing.

5. Episodic television series will include a number of unique scripts, all of which may not be available at the initiation of production. However, proposals for episodic series must include objectives, the format of the series, the story treatment of the overall series content, and any scripts that were used to sell the series. If DHS assistance is approved, the Department of Homeland Security Multimedia Agreement will contain a specific plan to expedite the review of scripts and requests for assistance for each production in the series.

6. The company acknowledges that all DHS properties are active Government facilities conducting their assigned responsibilities and, from time to time, unforeseen security conditions or high priority operations may interrupt, postpone, or prohibit access to a facility or certain areas of a facility. When filming on a DHS location the following will apply:

a. All activities taking place on DHS facilities shall comply with applicable requirements including, without limitation: safety, environmental, aircraft, building, vessel, and security standards. The company agrees to abide by all Federal and State laws and all DHS security regulations. Access to any DHS facility is contingent upon compliance with the following DHS Security Program conditions. These include, but are not limited to:

- (1) The possession of proper individual identification documents (e.g., driver's license, passport with appropriate visas).
- (2) The inspection of all equipment and vehicles.
- (3) Film crew escort by security officers throughout the production activity.
- (4) Film crew cooperation and compliance with the directions of security and/or escort officials concerning security and safety issues.
- (5) All costs associated with security program support to production activity will be borne by the company.

b. Consistent with applicable law, the production company must reimburse DHS for all costs incurred. An agreement for goods and resources (reimbursable agreement) must be executed, and advance payment must be received before any assistance is rendered. All agreements for goods and resources should be approved by appropriate contracting authorities prior to their submission to the Director, Multimedia Liaison Office.

c. DHS operations cannot be unreasonably impaired. Diversion of equipment, personnel, and materials must be kept to a minimum. Activities of DHS personnel assisting the production should be consistent with their official duties.

d. The names of all individuals given to DHS facilities to receive credentials must either be on the production crew or performing a specific job on behalf of the specific production company. No visitors, including family members or other guests, shall be permitted on DHS controlled facilities unless specifically authorized by the Director, Multimedia Liaison Office or his/her designee. The production company will ensure that Department safety and facility dress codes are met by all parties for whom the specific production company requests credentials.

e. While on DHS property, all film production cast and crew, including producers and directors must contact the Director, Multimedia Liaison Office or his/her designee for any and all requests, approvals, queries, questions, comments, or other forms of official communication or permission.

f. DHS reserves the right to collect official Government documentation of the production including cast and crew on DHS controlled property. This could include Government video, accompanying audio, and still photography. This film will not be used in any commercial manner.

g. Ordinarily, DHS will not compete with private sector sources in the provision of goods and resources. DHS facilities and resources may be made available under this policy only when comparable assets are not available from the private sector.

VII. Questions or Concerns Regarding the Process.

Any questions or concerns regarding this directive should be addressed to the Assistant Secretary for Public Affairs or the Director, Multimedia Liaison Office, Office of Public Affairs.

Attachment 1: DHS Questionnaire for Film and Television Requests.