

NCFA Staff Paper
“Identification of the Distribution of Responsibility and Authority for the Allocation of Army National Guard Personnel and Force Structure”

WHAT THIS IS: Section 1703(a)(2)(c) of the FY15 NDAA requires the Commission to identify and evaluate the distribution of responsibility and authority for the allocation of Army National Guard (ARNG) personnel and force structure. The NCFA staff researched relevant law and policy in order to identify how responsibility and authority are distributed between the legislative and executive branches of the federal government, within the executive branch, and between federal and state governments.

BACKGROUND INFORMATION: Based on our research we found that the Secretary of the Army is responsible for the allocation and distribution of ARNG personnel and force structure and has delegated authority to make decisions regarding ARNG force structure to the Chief, National Guard Bureau.

The U.S. Constitution gives Congress the authority to organize, arm and discipline the ARNG. Congress has, through numerous statutory provisions, given the President, Secretary of Defense and the Secretary of the Army authority and responsibility for allocating ARNG force structure. The Secretary of the Army is ultimately responsible for the allocation of ARNG personnel and force structure to the states and territories. Army Regulations establish a complicated, although still identifiable, chain of authority from the Secretary of the Army to the Army Staff and the Chief, National Guard Bureau. Under the current National Guard Bureau process, the Director, Army National Guard makes ARNG force structure allocation decisions on behalf of the Chief, National Guard Bureau.

In accordance with National Guard procedures, State governments participate in the NGB allocation process by providing input and personnel for the boards responsible for allocating new force structure and for making decisions on force structure reductions. State Governors, are not directly involved in the allocation process; however, by statute a governor’s approval is required for any change in the branch, organization, or allotment of a unit located entirely within a state. National Guard Bureau regulation 10-1 goes further than the statute and requires a governor’s approval for all actions requesting organization, reorganization, redesignation, consolidation, conversion and withdrawal of federal recognition.

POSITION/PERSPECTIVE: Based on our research there are several minor issues that could be addressed. The regulations concerning the allocation of ARNG personnel and force structure are complicated and should be clarified by the Department of the Army. For example, older Army regulations delegate authority to the Director, Army National Guard, but the more recent applicable regulations correctly delegate authority to the Chief, National Guard Bureau. Ideally, there should be a written delegation of authority from the Chief, National Guard Bureau to the Director, Army National Guard; however, we have been unable to verify whether such a written delegation exists. Finally, the NGB may want to consider whether to require a state governor’s approval in circumstances beyond what is required by statute. While it would always be preferable to have a state government’s approval, it is not legally required in all the circumstances mentioned in NGR 10-1.