

**Determination in Accordance with Section 801 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA 2008), as amended, by the Under Secretary of Defense for Acquisition, Technology, and Logistics [USD(AT&L)] as Delegated to the Director, Defense Procurement and Acquisition Policy, to Continue to Procure Property and Services Through the Department of Energy (DoE) in support of Department of Defense (DoD) Components for Fiscal Year 2012.**

- Public Law 110-181, section 801, “Internal Controls for Procurements on Behalf of the Department of Defense by Certain Non-Defense Agencies,” at subsection (b)(1) allows an acquisition official of the Department of Defense to place an order, make a purchase, or otherwise procure property or services for the Department of Defense in excess of the simplified acquisition threshold (typically \$100,000) through a non-defense agency only if the head of the non-defense agency has certified that the agency will comply with defense procurement requirements for the fiscal year.
- The Department of Defense Inspector General (DoDIG) recently conducted an audit at multiple Department of Energy (DoE) laboratories and other locations. DoDIG findings do not warrant limiting DoD’s use of DoE support. The Department of Energy has not certified in accordance with section 801 requirements. Based on the requests of the components, the Department needs to continue to procure supplies and services through DoE. Therefore, it is my determination that it is necessary and in the interest of the Department to continue to procure property and services through DoE. I authorize all DoD components to utilize the services of DoE for the procurement of essential mission related requirements only.
- This determination is valid for DoD requirements for fiscal year 2012 to be placed through September 30, 2012, executed on behalf of DoD by DoE, up to a total amount of \$2.5B annually. Each component utilizing the assisted acquisition services of DoE is directed to maintain sufficient tracking records of amounts provided to DoE, and to provide them on a monthly basis to the Deputy Director, Defense Procurement and Acquisition Policy, Contract Policy and International Contracting. In addition, each component is required to ensure that all affected Department of Defense contract files are documented and available for review or audit by the Department of Defense Inspector General.

  
Richard Ginman  
Director, Defense Procurement  
and Acquisition Policy