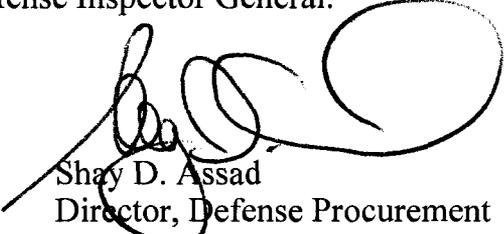


NOV 23 2009

Determination in Accordance with Section 801 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA 2008) 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.

- 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 expressed concerns regarding the Department of Energy (DoE) procedures when contracting on behalf of the DoD. DoE provided information in response to DoDIG concerns and is cooperating with the on-going audit. Although DoE has provided DoD a certification for FY 2010, in accordance with the requirements of section 801 (b)(1) of the NDAA 2008, it is my determination that the certification is not fully compliant with statutory requirements. Notwithstanding, the Department needs to continue to procure supplies and services through DoE. Therefore, pending a final written audit recommendation from the DoD Inspector General, it is my determination that it is necessary and in the interest of the DoD to continue to procure property and services through the DoE. I authorize all DoD components to utilize the assisted acquisition services of the DoE for the procurement of essential mission related requirements.
- This determination covers DoD requirements in fiscal year 2010 to be placed through March 31, 2010 up to a total amount of \$900 million. Each component utilizing the assisted acquisition services of DoE is directed to maintain sufficient tracking records toward the authorized ceiling and to provide monthly obligation reports 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.


Shay D. Assad
Director, Defense Procurement
and Acquisition Policy