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SENATE COMMITTEE
ON ARMED SERVICES**

TESTIMONY OF

MR SHAY ASSAD

DIRECTOR, DEFENSE PROCUREMENT AND ACQUISITION POLICY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

(ACQUISITION, TECHNOLOGY & LOGISTICS)

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SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

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Department of Defense Contracting for Services and Interagency Contracting

**Mr. Shay Assad
Director, Defense Procurement and Acquisition Policy**

Chairman Akaka, Senator Ensign, and Members of the Committee:

I am Shay Assad and I serve as the Director, Defense Procurement and Acquisition Policy in the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics. Before assuming this position in April 2006, I was the Assistant Deputy Commandant, Installations and Logistics (Contracts) for the Marine Corps and, as such, served as the senior civilian contracting official within the Marine Corps.

Prior to Government service, I spent 25 years in industry serving in a number of operational and contract management capacities, primarily with Raytheon Company. My experience includes serving as a Senior Vice President of Contracts, a President and Chief Operating Officer of one of Raytheon's major subsidiaries and lastly, as an Executive Vice President of the company and the Chairman and Chief Executive Officer of one of its major subsidiaries. I am a graduate of the United States Naval Academy and I started my career as an officer in the United States Navy serving two tours on U.S. Navy destroyers and lastly as a Navy Procurement Officer at the Naval Sea Systems Command.

Thank you for the opportunity to appear before you today to participate in today's discussion on contracting for services and interagency contracting practices. I would like

to take a moment to thank the committee for its support of our troops and all you have done to help with their mission. I would also like to thank the men and women who serve our great country. When I say men and women, I mean our military service men and women, our government civilian employees and those in industry who support our mission. None of us could get the job done without the other.

The Department of Defense (DoD) acquisition team strives to provide our warfighters the support they need, consistent with responsible management and stewardship to our taxpayers. We strive to effect timely acquisition planning, contract execution and responsible contract management oversight in order to provide our warfighters the contractor support they need to accomplish the mission. We are doing everything it takes to make sure our soldiers, marines, airmen and sailors are provided with the safest, most dependable, and highest performing equipment available within fiscal constraints, together with the logistics and material support necessary to ensure performance whenever, and wherever they are needed. We will continue to work everyday to improve the service that we provide our men and women in the Armed Forces.

In your invitation to appear before this Subcommittee you stated that you were interested in hearing my views on several matters related to DoD Contracting. Among them were: 1) the findings and recommendations of the Acquisition Advisory Panel; 2) the results of the joint reviews conducted by the Department of Defense Inspector General (DoD IG) and the Inspectors General of the other federal agencies; 3) the

implementation of legislative provisions regarding the management of services contracts; 4) the adequacy of the Department of Defense acquisition workforce to carry out its responsibilities; and 5) DoD contracting for services and interagency contracting.

For the record, I will provide a brief summary of my views.

Acquisition Advisory Panel Findings and Recommendations

With regard to the findings and recommendations of the Acquisition Advisory Panel, I have read the draft Acquisition Advisory Panel Report. It is comprehensive and includes a number of recommendations and findings on matters ranging from the workforce, small business participation, ethics, contracting for services, interagency contracting and commercial practices, to name a few. The report certainly provides a framework for improvement in a number of areas and we will be busy addressing them. While I agree with most of the Panel's recommendations, I would like to note that with regard to the recommendations concerning the assessment of the Acquisition workforce, the Department has already done a significant amount of work in this area. We already have an AT&L Human Capital Strategic Plan and we are moving forward with our workforce assessment initiatives.

Inspector General Reviews

With regard to the joint interagency contracting reviews of the Inspectors General, as was noted in our written response to the DoD IG's reports, we have concurred with their findings and we are taking several steps to respond to those findings. I recently met

with both the DoD IG and the Department of the Interior (DoI) IG in order to review each of the recent findings that were the result of their initial second year audit of DoI contracting activities.

The Department takes seriously its fiduciary responsibilities and we are working closely to effect both programmatic and financial corrective actions that will ensure mission accomplishment and protect the integrity of our fiscal requirements. Our efforts to effect sound financial management of our complex business area are an object of continuous improvement. We believe that actions being taken are resolving the issues identified in the audit reports. As we make progress to resolve the issues surrounding Interagency Agreements, we are working concurrently with our providers of goods and services as well as the DoD Inspector General to seek optimum solutions.

At the very heart of the issue is an understanding that Departmental funds have a common and consistent statutory basis, regardless of the agency that we charge with executing those funds. It is both our philosophy and practice that “the (fiscal) rules follow the funds.” Much improvement has been made over time and some of the significant financial actions taken include the following:

- Established and reinforced standard fiscal policy and correction of common misinterpretations that exist both within and outside the Department. Our new policy provides a standard business model for conducting business with other federal agencies, regardless of their statutory authority. In essence, the policy

establishes the requirements for initiating an agreement, the timing of the obligation, and the period of performance.

- Ensure that the use of an Interagency agreement is consistent with its statutory authority.
- Tightened internal controls to more effectively manage agreements with other federal agencies. For example, DoD Components are now required to conduct tri-annual reviews to validate open obligations on Interagency Agreements.
- Reviewed all Interagency Agreements and the financial records from the providers to determine the status, reconcile transactions, return outstanding balances, and take corrective actions to ensure compliance with fiscal policy requirements. As a result, approximately \$550M has been deobligated.

In addition to these measures, we are clarifying our advance payment policy. The Department will also evaluate internal fund certification policy and related training requirements to improve accountability, understanding of fiscal requirements, and further strengthen internal controls.

We will continue to work diligently with our Interagency partners to further improve business practices and to more effectively conduct business in a manner that is compliant with fiscal law requirements. The Department's new financial policy has taken the proper approach to business being conducted with our Interagency providers.

We believe the progress being made is responsive to the findings of our DoD IG and will help ensure that, in an overall sense, DoD funds are spent wisely and in accordance with all federal law and fiscal policy.

I would also like to comment on the GAO and the DoD IG oversight functions. In my view, both of these organizations play key and important roles. My experience with both organizations is that they are extremely competent, independent and necessary. They either reaffirm that we are doing our jobs or they highlight areas that require improvement. In either case, in general, I find their views to be constructive and meaningful.

Implementation of Management of Services Contracts Legislative Provisions

Concerning the implementation of legislative provisions regarding the management of services contracts, over the past years there have been numerous legislative provisions that have addressed the Department's management of services contracts. We have responded with incremental policy and regulation revisions. While we are in process of developing policy associated with the FY 2007 National Defense Authorization Act (NDAA), most recently, the Under Secretary of Acquisition, Technology and Logistics (USD (AT&L)) issued policy on October 2, 2006 implementing the legislative provisions of section 812 of the FY 2006 NDAA by requiring all DoD Components to establish and implement a management structure for the acquisition of services, based on dollar values and review thresholds. The DoD Components have largely completed their implementations. However, in addition, the Department is now taking a strategic approach to the acquisition of services, and is developing a comprehensive DoD-wide architecture for the acquisition of services. Basic tenets of this architecture will include:

- Maximum use of competition to ensure pricing based on competition.
- Use of acknowledged best practices.
- Appropriate application of performance-based approaches.
- Enhanced contract performance management supported by:
 - Early-on identification of appropriate contract performance metrics.
 - Quality Assurance Surveillance Plans included in the contract.
 - Appointment of properly trained contracting officer representatives.
- Enhanced application of past performance information.
- Maximum small business participation and socio-economic goal achievement.

Acquisition Workforce

With regard to the adequacy of the Department of Defense acquisition workforce to carry out its responsibilities, in my role I serve as the functional leader of the contracting professionals of the Department of Defense, both civilian and military. I am also a member of the Acquisition, Technology and Logistics Steering Group established by the USD(AT&L) to address the implementation of our AT&L Human Capital Strategic Plan.

Frequently, I am asked two questions regarding our workforce: (1) whether or not we have enough people in the Department to perform our mission effectively, efficiently, and in a manner that assures the lawful operation of the federal acquisition system and (2) whether or not our contracting workforce is sufficiently qualified to do the same.

Over the past ten years our workload has increased significantly. The number of actions in excess of \$100,000 has increased by over 60 percent, the total value of our procurement actions has increased by well over 100 percent and I believe that our workload will continue to increase. During that timeframe, our acquisition workforce has decreased by approximately 5-10 percent.

We have useful information regarding the numbers of our professional contracting employees and we have a very good sense of how they have been trained. We also believe that because of the downsizing of the workforce that took place in the late 90's the overall capability of our workforce requires improvement. However, while we can surmise, we can not determine with specificity, where those shortfalls in capability exist.

Earlier in my comments, I mentioned that we have done a significant amount of work associated with the assessment of our workforce. For the past five months, my office, in concert with the Defense Acquisition University, the Military Departments and the Defense Agencies, has been developing a model that will address the skills and competencies necessary for our contracting workforce. We will complete development of the contracting competency model in March 2007. Beginning in the second quarter of CY 2007, we will begin deployment of that competency modeling across the entire DoD contracting workforce. This is a major undertaking and it will be the first time the Department has attempted to assess its contracting capability across the entire enterprise. The modeling will enable us to assess workload demands for and the degree to which members of the workforce possess these competencies. The competency assessment will

also allow the Department to assess the workforce in terms of size, capability and skill mix and to develop a comprehensive recruiting, training, and deployment plan to meet the identified capability gaps.

DoD Contracting for Services and Interagency Contracting

Concerning DoD contracting for services and interagency contracting, the Department is taking action to improve the way it manages and acquires services. This integrated action involves changes and improvements in: 1) our organization, 2) our strategic approach, and 3) the tactical methods we will use to manage and acquire services. We have made organizational changes and are taking steps to improve workforce skills to more efficiently and effectively acquire services. In a recent organizational realignment within the Department, responsibility for Strategic Sourcing has been moved to the Acquisition and Technology organization. In addition to my duties as the Director of Defense Procurement and Acquisition Policy, I am now charged with the responsibility for oversight of the strategic sourcing activities across the Department. In this new role, I am responsible for working with the Military Departments and the Defense Agencies to craft a coordinated and integrated strategic approach to the management and acquisition of services.

We believe the consolidation of the development of acquisition and procurement policy with the oversight of strategic sourcing of services will result in a more cohesive and integrated approach. It will ensure that the tactical approaches utilized within the

Department are consistent and aligned with the strategic objectives for the acquisition of services.

In addition, the Department has set a course to completely reassess its strategic approach to services. This involves the examination of the types and kinds of services that we acquire and an integrated assessment of how to meet the needs of our warfighters while ensuring that the expenditure of taxpayer funds is wise and effective. We concurred with the GAO when they said that a more coordinated and integrated strategic approach to acquiring services is necessary. The ongoing reassessment also includes examination of how those services are acquired by the Department or how they are acquired on its behalf by other Federal Agencies, such as General Services Administration (GSA) and the DoI. We expect to have the reassessment completed in the second quarter of CY 2007.

Upon completion of that reassessment, we will develop an effective strategic sourcing deployment plan. We expect the plan to be completed in CY 2007. The fundamental tenets of our strategy will be straightforward: Ensure that we effectively and efficiently, in terms of both timeliness and cost effectiveness, acquire the services necessary to meet the needs of our warfighters. Underpinning our strategy will be the utilization of contracting tools that ensure competition whenever possible.

While we look for areas where combined buying power will result in savings, we are ever mindful of our responsibilities to fulfill the socioeconomic goals of the Department. It is our belief that the use of competition, at all levels, is the most effective tool we have in the acquisition of services.

Finally, we must implement our strategy with straightforward and simple tactical methods: 1) ensure that we clearly identify our requirement, 2) select the most efficient and effective tool to acquire particular services, 3) drive consistency and discipline across the Department, and 4) ensure that we have metrics and accountable individuals who will oversee performance.

We would like to point out some specific actions we have taken with regard to interagency contracting and contract surveillance. With regard to interagency contracting, the Department is proactively and aggressively working to improve policies, procedures and oversight of interagency acquisitions. DoD is an active participant in the Office of Federal Procurement Policy (OFPP) working group to improve the management and use of interagency contracts. We are working with the GSA and DoI to reconcile and return unused funds to DoD. For example, by working together, GSA has already been able to return virtually all unused DoD funds from prior years. We continue to update policies and procedures to ensure DoD properly uses “Assisting Agencies” (e.g. GSA, National Aeronautics and Space Administration, Interior, and Treasury) acquisition services. For example, we have issued revised guidance specific to interagency acquisition and now require DoD components to review interagency acquisitions as part of our tri-annual review process. We are coordinating with the Under Secretary of Defense (Comptroller) (USD(C)) and the Office of General Counsel on issuing additional legal guidance governing the proper use of funds under interagency agreements.

The Department has issued a series of policy memos on Interagency Acquisition dating back to October 2004. The policies established standards for using assisting

agencies providing acquisition support to the Department. The policies were issued both jointly by USD (AT&L) and USD(C) and separately by each organization. In addition, we developed and revised training materials to address the deficiencies identified in the Interagency Acquisition process.

Since April 2006, the Department has collaborated with the senior leadership at GSA, NASA, Interior and Treasury to identify solutions to the issues identified in the audits. We have hosted a number of meetings with the military department Senior Procurement Executives to collaboratively strategize on long-term goals and objectives related to interagency acquisition.

We recently signed a Memorandum of Agreement with the GSA that includes an action plan that addresses twenty-four specific actions the Department and GSA will undertake to ensure acquisition excellence when GSA acts on behalf of DoD. The Administrator of General Services has also issued guidance that brings her agency's fiscal policies into harmony with DoD's. We expect to have similar agreements with all executive agencies that support the Department. Additionally, the Department has been very active in working with the Office of Federal Procurement Policy on their study of the proliferation of multiple award contracts and the Government's response to GAO's High Risk Report of January 2005, which added the "Management of Interagency Contracting" as an issue area.

In October 2006, the Department issued a policy memorandum that requires a DoD contracting officer review any action greater than \$500,000 that is going to an

assisting agency for contract placement. This review should assist in alleviating many of the concerns raised in recent audit reports.

When utilizing interagency acquisitions our goals and objectives are the same as if we were doing the acquisition ourselves: acquiring the right product or service, at the right price, at the right time, consistent with statute, regulation and policy. When done properly interagency acquisitions can be an efficient and effective means to meet critical DoD requirements. It maximizes the buying power of the Department and is a good business decision. When done improperly interagency acquisitions can be inefficient, ineffective, and result in poor business decisions.

With regard to contract surveillance for contracts for services, we have made numerous adjustments to our policies and guidance. We issued a policy memorandum, "Interagency Acquisition: A Shared Responsibility," dated September 20, 2005, which addresses proper contract administration functions. We also updated and clarified the Defense Federal Acquisition Regulation Supplement (DFARS) and DFARS Procedures, Guidance and Instructions with a requirement for designating a properly trained Contracting Officer's Representative (COR) before contract performance begins and issued a policy memorandum in December, 2006, reinforcing this requirement. The Defense Acquisition University deployed an updated, web-based COR training module "COR with a Mission Focus" in December 2005.

In conclusion, I believe that there is not another organization that rivals the procurement and contracting expertise residing within the Department of Defense. The range and depth of the approximately 300 billion dollars of items and services that we

buy on an annual basis are unparalleled in any other procurement organization in the world. Our training programs are the envy of industry. The contracting functions that we perform are not trivial. Whether contracting for base operating support, contingency contracting or the procurement of an aircraft carrier, our contracting professionals require unique and significant skill and expertise. We recognize that there is much improvement needed in order to ensure that we provide the most effective and efficient means of contracting for the goods and services necessary to support our warfighters. We must always remember, however, that while we strive to provide our warfighters the very best, we must also ensure that we do so while being good stewards of taxpayer funds. Our warfighters deserve nothing less and our taxpayers, rightfully, should insist on nothing less.

Mr. Chairman, I thank you and the members of the committee for your interest in our efforts, and would be happy to address any questions that you may have for me.

Thank you.