UNDER SECRETARY OF DEFENSE
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PERSONNEL AND
READINESS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Limitations on the Use of Contracts and Other Agreements with DoD Nonappropriated Fund Instrumentalities (NAFIs) Pursuant to 10 U.S.C. 2492

This office has received recent reports that the Military Services may be using 10 U.S.C. 2492 to enter into agreements with DoD NAFIs to provide goods and services that are not within the authorized activities of or of direct benefit to exchanges and morale, welfare and recreation (MWR) programs. Further, these agreements may result in the loss of jobs established for the severely handicapped and blind pursuant to the Randolph Sheppard Act, 20 U.S.C. 107-107f (the RSA), and the Javits-Wagner-O'Day Act, 41 U.S.C. 46-48(c) (JWOD). This policy memorandum clarifies the purposes for which DoD NAFIs may enter into contracts or other agreements with DoD elements and other Federal Departments, Agencies, or instrumentalities, pursuant to 10 U.S.C. 2492, for the provision of goods and services, and provides criteria for evaluating the benefit to the NAFI.

Contracts or other agreements established between NAFIs and DoD elements pursuant to 10 U.S.C. 2492, shall be limited to NAFIs directly supporting Armed Service Exchange, Military MWR, Civilian MWR, and Lodging programs. NAFIs may enter into contracts or agreements to provide those goods and services specifically authorized for exchanges pursuant to DoD Instruction 1330.21, *Armed Services Exchange Regulations (ASER)*; military MWR activities as defined in DoD Instruction 1015.10, *Programs for Military Morale, Welfare, and Recreation (MWR);* civilian MWR activities as defined in DoD 1015.8-R, *DoD Civilian Employee Morale Welfare and Recreation Activities and Supporting Nonappropriated Fund Instrumentalities Regulation,* and lodging activities as defined in DoD Directive 1015.11, *Lodging Resource Policy*. Under this authority, DoD NAFIs may also provide services inherent to their internal operation. DoD NAFIs shall not enter into contracts or agreements with DoD elements or other Federal Departments, Agencies or instrumentalities for the provision of goods and services that will result in the loss of jobs created pursuant to the RSA, JWOD, or small business programs.

Before entering into a contract or other agreement pursuant to 10 U.S.C. 2492, the NAFI custodian shall ensure that the agreement or contract will financially benefit the NAFI, considering fixed and variable direct and overhead costs (including depreciation).

The next change to DoD Directive 4105.67, *Nonappropriated Fund Procurement Policy*, shall include this policy change.

for David S. C. Chu