



DEPUTY SECRETARY OF DEFENSE  
1010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1010

MAY 24 2010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARIES OF DEFENSE  
COMMANDERS OF THE COMBATANT COMMANDS  
ASSISTANT SECRETARIES OF DEFENSE  
GENERAL COUNSEL OF THE DEPARTMENT OF  
DEFENSE  
INSPECTOR GENERAL OF THE DEPARTMENT OF  
DEFENSE  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Waiver of Limiting Legislation for Commanders' Emergency Response  
Program (CERP) for FY 2010

Section 1202 of the National Defense Authorization Act (NDAA) for FY 2006 (Public Law 109-163), as amended by section 1205 of the NDAA for FY 2008 (Public Law 110-181), section 1214 of the Duncan Hunter NDAA for FY 2009 (Public Law 110-417), and section 1222 of the NDAA for FY 2010 (Public Law 111-84), authorizes the use of Department of Defense operation and maintenance funds in FY 2010 for the CERP established for Iraq, and a similar program for Afghanistan.

Section 1202, as amended, also authorizes the Secretary of Defense to waive any provision of law that, if not waived, would prohibit, restrict, limit, or otherwise constrain the exercise of authority under CERP during FY 2010.

The nature of the CERP precludes the application of federal procurement and contracting rules, and requires payments to individuals and other nongovernmental entities that may not be consistent with federal laws, or are subject to military claims laws and procedures. This memorandum records my waiver of the following provisions of law, effective October 1, 2009, and applies to future extensions and expansions of the CERP authority, provided the waiver provision remains unchanged:

- Title 10, United States Code (USC) Chapters 137, 140, and 141, relating to federal procurements.
- Title 41, USC Chapter 4, relating to federal procurements.



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- Title 10, USC Chapter 163, relating to military claims.
- Title 22, USC Chapter 32, relating to foreign assistance.
- Any provisions of annual National Defense and Foreign Assistance Authorization Acts, enacted as of the date of this waiver, that would, but for this waiver, prohibit, restrict, limit, or otherwise constrain the conduct of the CERP.
- Any provisions of annual Department of Defense and Foreign Operations Appropriations Acts and supplemental appropriations acts, enacted as of the date of this waiver, that would, but for this waiver, prohibit, restrict, limit, or otherwise constrain the conduct of the CERP.

Questions regarding this waiver should be directed to Ms. Audrey Clark at (703) 602-0370 or [audrey.clark@osd.mil](mailto:audrey.clark@osd.mil).

A handwritten signature in black ink, appearing to read "W. R. Byrnes". The signature is written in a cursive, slightly slanted style.