



DCMA

DPAS

Defense Priorities & Allocations System for the Contractor

Presented By:

DCMA

Thursday, August 17, 2017

Any person who places or receives a rated order should be thoroughly familiar with, and must comply with, the provisions of 15 CFR 700

<http://www.ecfr.gov>

This training is a representation of the basic requirements that a person must adhere to when accepting DPAS rated orders from activities or services of the Department of Defense

Contractor should ensure that DPAS is integrated into their Production Planning and Control System in order to be in compliance with the requirements of rated orders.

Program Overview

- Definitions
- DPAS Authority
- Purpose
- Objectives
- Priority ratings for DoD
- Provisions
- Special Priorities Assistance (SPA)
- Compliance
- Protection Against Claims
- Applicability



- **Person** - any individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof.
- **Approved program** - A program determined as necessary or appropriate for priorities and allocations support to promote the national defense by the Secretary of Defense.
- **Delegate Agency** - A government agency authorized by delegation from the Department of Commerce to place priority ratings on contracts or orders needed to support approved programs.



- **Official action** - An action taken by Commerce under the authority of the Defense Production Act, the Selective Service Act and related statutes, and 15 CFR 700. Such actions include the issuance of Set-asides, Rating Authorizations, Directives, Letters of Understanding, Demands for Information, Inspection Authorizations, and Administrative Subpoenas.
- **Rated order** - A prime contract, a subcontract, or a purchase order in support of an approved program issued in accordance with the provisions of 15 CFR 700.



- **Defense Production Act** - the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, et seq.).
- **Selective Service Act and related statutes** - Section 18 of the Selective Service Act of 1948 (50 U.S.C. app. 468), 10 U.S.C. 2538, and 50 U.S.C. 82.
- **Stafford Act** - Title VI (Emergency Preparedness) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5195 et seq.).
- **National Defense** - Includes programs for military and energy production or construction, military or critical infrastructure assistance to any foreign nation, homeland security, stockpiling, space, and any directly related activity.

Defense Production Act of 1950

- President's primary authority to mobilize resources and expedite critical industrial items for national defense
- Does not require an emergency declaration
- Require priority in acceptance
- Require priority in scheduling



Defense Priorities and Allocations System (DPAS)

- A regulation administered by the Department of Commerce (DoC) that implements the priorities and allocations authority contained in Title 1 of the Defense Production Act (DPA) of 1950 with respect to industrial resources. The purpose of DPAS is to ensure the timely availability of industrial resources to meet national defense and emergency preparedness requirements. Certain national defense, energy, and homeland security programs are approved for priorities and allocations support. The DoC has delegated authority to DoD to place priority ratings on its contracts in accordance with DPAS and DoD issues approximately 300,000 rated orders annually. DoD uses two priority ratings: DX and DO. DX rated programs and their orders are of the highest national defense urgency and are approved by the Secretary of Defense (SECDEF) or Deputy Secretary of Defense (DEPSECDEF). DO rated orders are of lower priority than DX-rated orders but take precedence over unrated orders. DPAS cannot be used to prioritize food, energy, health, water, or civil transportation resources.

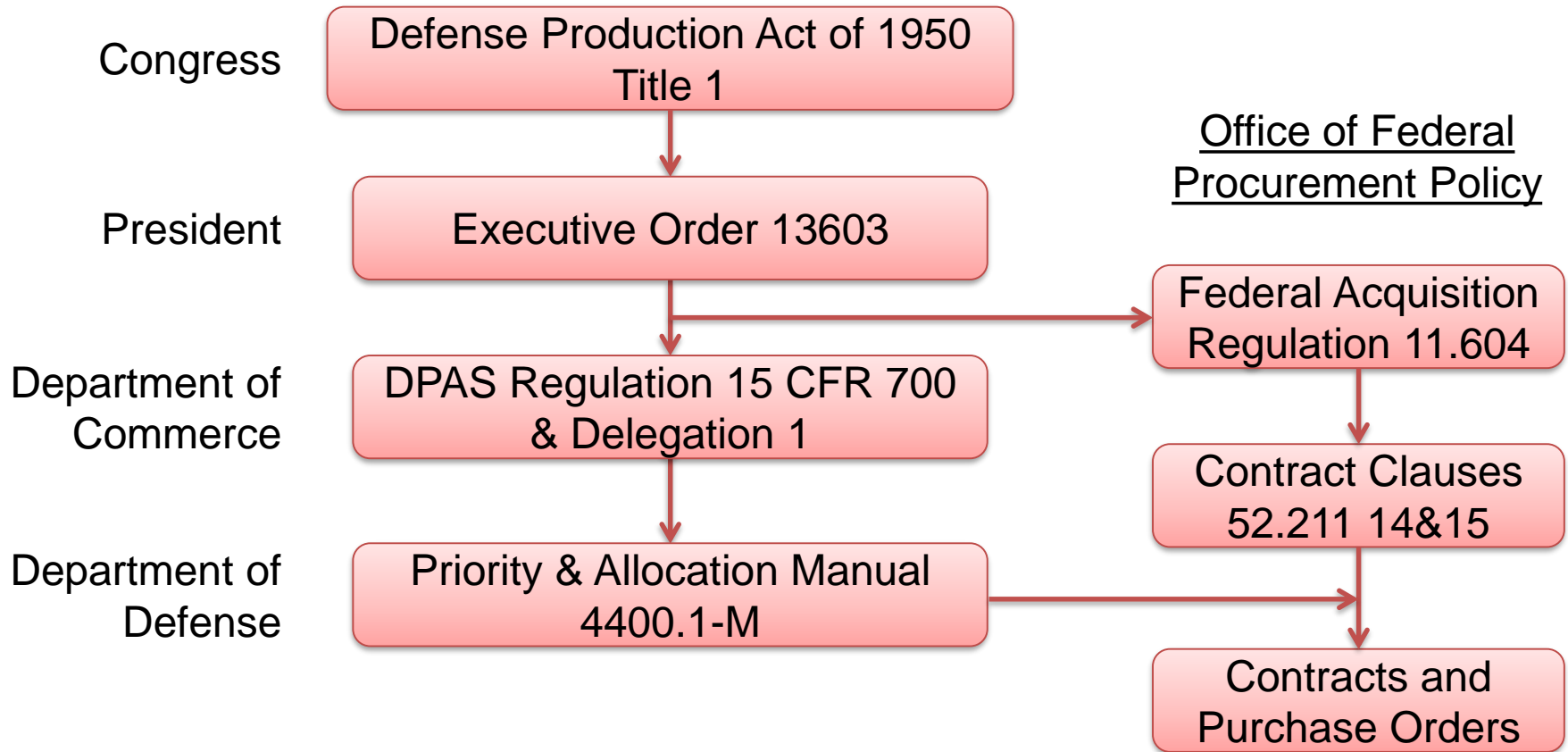
Title 1 of the DPA: Priorities and Allocation

- Allows the President to require persons (including businesses and corporations) to prioritize and accept contracts for materials and services as necessary to promote the national defense.



- Title 1 of the Defense Production Act (DPA) of 1950 is the statutory basis for the Defense Priorities and Allocations System (DPAS). Title 1 is also one of the non-permanent provisions of the DPA that needs to be periodically reauthorized, which Congress has done in the past for periods of 1 to 5 years. The DPA provides the President with the authority to require acceptance and priority performance on contracts and orders, and to allocate materials, services, and facilities to support national defense and emergency preparedness requirements. The President has delegated his priority and allocation authority to the Department of Defense, the Department of Homeland Security, and the Department of Energy according to resource required.

How Title 1 Works



Section 201 of Executive Order 13603 delegates the authority granted the President in Section 101 of the DPA



Agriculture Defense

Food Resources and Related Facilities, Domestic Distribution of Farm Equipment and Commercial Fertilizer



Defense

Water Resources



Energy

All Forms of Energy



Transportation

All Forms of Energy Civil Transportation



Health and Human Services

Health Resources



Commerce

All other materials, Services & Facilities (Including Construction Materials). Generally called "industrial resources"

DPAS 



Executive Order 13603

- Part II-Priorities and Allocations, Section 201-Delegation of Priorities and Allocations, authorizes the **Secretary of Commerce** to re-delegate to the **Secretary of Defense**, and the heads of other departments and agencies as appropriate, authority for the priority rating of contracts and orders for all materials, services, and facilities needed in support of programs approved under Section 202 of Executive Order 13603.



Priorities and Allocations (P&A) Manual 4400.1-M

- The DoC implements its P&A authority by issuing, administering, and **enforcing** the DPAS Regulation 15 CFR 700. The Secretary of Commerce has re-delegated authority under the DPAS to the Secretary of Defense to rate contracts and orders that support national defense programs.

Department of
Defense

Priority & Allocation Manual
4400.1-M

DPAS Priority

Contracts and
Purchase Orders



- Assure timely availability of industrial resources to meet **current national defense** and **emergency preparedness** program requirements



- Authority to order priority performance (delivery) on defense contracts and allocate materials to meet national security requirements (DO/DX ratings)



- Provide an operating system to support rapid industrial response in a national emergency



- Minimize disruption to normal commercial activities



DPAS rules are standard part of U.S. defense contracting process: (15 CFR 700.11 (a))

- Two levels of priority ratings:
 - (DX) Highest national defense urgency
 - All DX rated orders have equal priority and take preference over DO and unrated orders (**based on ship schedule**)
 - (DO) Critical to national defense
 - All DO rated orders have equal priority and take preference over unrated orders (**based on ship schedule**)

A blue, cloud-shaped callout box with a white border and a drop shadow, containing text.

Provides DoD
Priority in
Market Place

Priority Rating = (Rating Level) + (Program ID Symbol)

Examples: $DOA1 = (DO) + (A1)$ <Aircraft>
 $DXA4 = (DX) + (A4)$ <MRAP Vehicles>

Question: How do I know what a Program ID Symbol identifies?

Answer: Schedule I to 15 CFR Part 700—Approved Programs and Delegate Agencies

(Program identification symbols, in themselves, do not connote any priority)



Program identification symbol	Approved program	Delegate agency
Defense programs:		
A1	Aircraft	Department of Defense. ¹
A2	Missiles	Do.
A3	Ships	Do.
A4	Tank—Automotive	Do.
A5	Weapons	Do.
A6	Ammunition	Do.
A7	Electronic and communications equipment	Do.
B1	Military building supplies	Do.
B8	Production equipment (for defense contractor's account).	Do.
B9	Production equipment (Government owned)	Do.
C1	Food resources (combat rations)	Do.
C2	Department of Defense construction	Do.
C3	Maintenance, repair, and operating supplies (MRO) for Department of Defense facilities.	Do.
C9	Miscellaneous	Do.

¹ Department of Defense includes: The Office of the Secretary of Defense, the Military Departments, the Joint Staff, the Combatant Commands, the Defense Agencies, the Defense Field Activities, all other organizational entities in the Department of Defense, and, for purposes of this regulation, the Central Intelligence Agency and the National Aeronautics and Space Administration as Associated Agencies.

- **Question:** How do I know what programs are approved for DX rating?
- **Answer:** You can retrieve an updated copy of programs that have been approved by the Secretary of Defense for the use of DX ratings on contracts, subcontracts, and purchase orders by going to [US DoC Bureau of Industry and Security](#) and viewing the list of DPAS Program Resources.



Bureau of Industry and Security

U.S. Department of Commerce

Where Industry and Security Intersect



DX PROGRAMS

- ***Updated: March 1, 2016***

- **The Department of Defense has authority under the Defense Priorities and Allocations System (15 CFR 700) to place industrial priority ratings on its contracts. DoD uses two ratings: "DO" and "DX." If necessary to meet required delivery dates at any level in the supply chain, DO rated orders must be given production preference over unrated (commercial) orders, and DX rated orders must be given preference over DO-rated orders and unrated orders.**

- **In accordance with DoD 4400.1-M, "Department of Defense Priorities and Allocations Manual," DO ratings are placed on the vast majority of DoD contracts. DX ratings can only be approved by the Secretary of Defense. DoD components are currently authorized to use DX industrial priority ratings in support of the following programs:**

- **Department of Defense**

- Program 390
- Integrated Ballistic Missile Defense System

- **Department of the Navy**

- Presidential Helicopters (VH-3, VH-60)
- Fleet Ballistic Missile Weapons System, Trident System
- Program 341

- **Department of the Air Force**

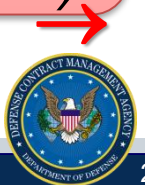
- Space-Based Infrared System (SBIRS) High
- Intercontinental Ballistic Missile, Minuteman III
- B-2 Stealth Bomber
- VC-25A Presidential Aircraft

A rated order is a prime contract, a subcontract or a purchase order in support of an approved program issued in accordance with the provisions of 15 CFR 700.

Supported by four key elements:

- Priority Rating (DOA1)
- A required delivery date (on or about or asap will not do)
- Manual or electronic signature
- A statement that reads in substance:

"This is a rated order certified for national defense use, and you are required to follow all provisions of the Defense Priorities and Allocations System regulation (15 CFR 700).“ (FAR 52.211-15)”



What Is A Rated Order

- The four elements of a properly rated order on the previous slide must appear on every contract, purchase order, or delivery order.
- A person receiving a rated order must ensure during the receipt and review process determining acceptance or rejection of the order, that all four elements are present.

The elements of a rated order are discussed in section 700.12 (a, b, c, d)



Mandatory Acceptance or Rejection of Rated Orders (Section 700.13)



Preferential Scheduling (Section 700.14)



Extension of Priority Ratings (Section 700.15)



Mandatory Acceptance or Rejection of Rated Orders (Section 700.13)

- A person shall accept every rated order received and must fill such orders regardless of any other rated or unrated orders
- A person shall not discriminate against rated orders
- A person shall not accept a rated order for delivery on a specific date if unable to fill the order by that date. However, the person must inform the customer of the earliest date on which delivery can be made
- Unless otherwise directed by Commerce, rated orders may be rejected in accordance with 700.13 (c) (1-5)



Customer notification requirements:

A person must accept or reject a rated order and transmit the acceptance or rejection in writing (hard copy), or in electronic format, within fifteen (15) working days after receipt of a DO rated order and within ten (10) working days after receipt of a DX rated order. If the order is rejected, the person must also provide the reasons for the rejection, pursuant to paragraphs (b) and (c) of this section, in writing (hard copy) or electronic format.

If a rated order is placed for the purpose of emergency preparedness requirements and expedited action is necessary or appropriate to meet these requirements and the order includes the statement set forth in §700.12(b), a person must accept or reject the rated order and transmit the acceptance or rejection in writing or in an electronic format within the time specified in the rated order.



Customer notification requirements: (Continued)

The minimum times for acceptance or rejection that such orders may specify are six (6) hours after receipt of the order if the order is issued by an authorized person in response to a hazard that has occurred, or twelve (12) hours after receipt if the order is issued by an authorized person to prepare for an imminent hazard.

If a person has accepted a rated order and subsequently finds that shipment or performance will be delayed, the person must notify the customer immediately, give the reasons for the delay, and advise of a new shipment or performance date. If notification is given verbally, written (hard copy) or electronic confirmation must be provided within one working day of the verbal notice.



Preferential Scheduling (Section 700.14)

- A person must schedule operations, including the acquisition of all needed production items, in a timely manner to satisfy the delivery requirements of each rated order. Modifying production or delivery schedules is necessary only when required delivery dates for rated orders cannot otherwise be met.



- Examples: If a person receives a DO rated order with a delivery date of June 3 and if meeting that date would mean delaying production or delivery of an item for an unrated order, the unrated order must be delayed. If a DX rated order is received requiring delivery on July 15 and a person has a DO rated order requiring delivery on June 2 and operations can be scheduled to meet both deliveries, there is no need to alter production schedules to give any additional preference to the DX rated order.



Conflicting rated orders:

1. If a person finds that delivery or performance against any accepted rated orders conflicts with the delivery or performance against other accepted rated orders of equal priority status, the person shall give preference to the conflicting orders in the sequence in which they are to be delivered or performed (not to the receipt dates). If the conflicting rated orders are scheduled to be delivered or performed on the same day, the person shall give preference to those orders which have the earliest receipt dates.
2. If a person is unable to resolve rated order delivery or performance conflicts under this section, the person should promptly seek special priorities assistance as provided in §§700.50 through 700.54. If the person's customer objects to the rescheduling of delivery or performance of a rated order, the customer should promptly seek special priorities assistance as provided in §§700.50 through 700.54. For any rated order against which delivery or performance will be delayed, the person must notify the customer as provided in §700.13(d)(3).



Extension of Priority Ratings (Section 700.15)

- A person must use rated orders with suppliers to obtain items needed to fill a rated order. The person must use the priority rating indicated on the customer's rated order, except as otherwise provided in 15 CFR 700 or as directed by the Department of Commerce.



- For example, if a person is in receipt of a DO-A3 rated order for a navigation system and needs to purchase semiconductors for its manufacture, that person must use a DO-A3 rated order to obtain the needed semiconductors.
- The priority rating must be included on each successive order placed to obtain items needed to fill a customer's rated order. This continues from contractor to subcontractor to supplier throughout the entire procurement chain.

§700.50 General provisions.

- The DPAS is designed to be largely self-executing.
- Special Priorities Assistance (SPA) is a service provided to alleviate problems that do arise.
- SPA should be sought from the Delegate Agency through the **contract administration office**.

Uses:

- Obtaining timely deliveries of items needed to satisfy rated orders.
- Authorizing the use of priority ratings on orders.



§700.51 Requests for priority rating authority

- If a rated order is likely to be delayed because a person is unable to obtain items not normally rated under 15 CFR 700, the person may request the authority to use a priority rating in ordering the needed items.
- Rating authority for production or construction equipment. (Department of Defense Form DD 691.)
- Rating authority in advance of a rated prime contract. Must follow guidance of 700.51 (c) (1-5)



§700.52 Examples of assistance

- While special priorities assistance may be provided for any reason in support of 15 CFR 700, it is usually provided in situations where:
 - Difficulty in obtaining delivery against a rated order by the required delivery date.
 - Cannot locate a supplier for an item needed to fill a rated order.



§700.53 Criteria for assistance

- Requests for special priorities assistance should be timely, i.e., the request has been submitted promptly and enough time exists for the Delegate Agency or Commerce to effect a meaningful resolution to the problem, and must establish that:
 - There is an urgent need for the item
 - The applicant has made a reasonable effort to resolve the problem



§700.54 Instances where assistance will **not** be provided

- Secure a price advantage
- Obtain delivery prior to the time required to fill a rated order
- Gain competitive advantage
- Overcome a supplier's regularly established terms of sale or conditions of doing business



FORM BIS-999 (formerly form BXA-999)
REV. 4-03

U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY

FOR DOC USE OMB NO. 0694-0057

REQUEST FOR SPECIAL PRIORITIES ASSISTANCE

READ INSTRUCTIONS ON LAST PAGE
FILL OUT USING YOUR COMPUTER

Submission of a completed application is required to request Special Priorities Assistance (SPA). See sections 700.50-55 of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR 700). It is a criminal offense under 18 U.S.C. 1001 to make a willfully false statement or representation to any U.S. Government agency as to any matter within its jurisdiction. All company information furnished related to this application will be deemed BUSINESS CONFIDENTIAL under Sec. 705(d) of the Defense Production Act of 1950 [50 U.S.C. App. 2155(d)] which prohibits publication or disclosure of this information unless the President determines that withholding it is contrary to the interest of the national defense. The Department of Commerce will assert the appropriate Freedom of Information Act (FOIA) exemptions if such information is the subject of FOIA requests. The unauthorized publication or disclosure of such information by Government personnel is prohibited by law. Violators are subject to fine and/or imprisonment. [Note: The Bureau of Export Administration is now the Bureau of Industry and Security (BIS).]

1. APPLICANT INFORMATION

a. Name and complete address of Applicant (Applicant can be any person, partnership, corporation, or supplier. See definition of "Applicant" in the Instructions on last page of this form.)

Applicant Name: China
Address: Ministry of Defense
City: _____ State: _____ Zip: _____

Contact's name: _____
Title: _____
Telephone: _____ Fax: _____
E-mail address: _____

2. APPLICANT ITEM(S). If Applicant is not end-user Government agency, describe item(s) to be delivered by Applicant under its customer's contract or purchase order through the use of item(s) listed in Block 3. If known, identify Government program and end-item for which these items are required. If Applicant is end-user Government agency and Block 3 item(s) are not end-items, identify the end-item for which the Block 3 item(s) are required. See definition of "item" in Footnotes section on last page of this form.

3. ITEM(S) (including service) FOR WHICH APPLICANT REQUESTS ASSISTANCE

Quantity <i>Pieces, units</i>	Description <i>Include identifying information such as model or part number</i>	Dollar Value <i>Each quantity listed</i>
13	Transducer Part Number 00-05004-001	\$ 163,000

FORM BIS 999

This form can be found as Appendix I to 15 CFR 700

4. SUPPLIER INFORMATION

a. Name and complete address of Applicant's Supplier.

Supplier Name: ABC Systems
Address: 108 Michales Ave
City: Syracuse State: NY Zip: 13208
Contact Name: John Smith
Telephone: (703) 601-5007 Fax: (703) 607-4126
E-mail address: john.smith@abosys.com

b. Applicant's contract or purchase order to Supplier.

Number: abcde-C-123456
Dated: January 1, 2008
Priority rating: none
(If none, so state)

If Supplier is an agent or distributor, give complete producer or lower tier supplier information in Continuation Block on page 3, including purchase order number, date, and priority rating (if none, so state).

5. SHIPMENT SCHEDULE OF ITEM(S) PROVIDED BY SUPPLIER

a. Applicant's original shipment/performance requirement	Month	Year	Total units			
	Apr-2009	May-2009				25
b. Supplier's original shipment/performance promise	Month	Year	Apr-2009	May-2009		Total units
	Number of units		13	12		25
c. Applicant's current shipment/performance requirement	Month	Year	Aug-2008	Sep-2008	Oct-2008	Total units
	Number of units		13	6	6	25
d. Supplier's current shipment/performance promise	Month	Year	Apr-2009			Total units
	Number of units		25			25

6. REASONS GIVEN BY SUPPLIER for inability to meet Applicant's required shipment or performance date(s).

Unable to achieve expedited as suppliers have US Government orders with DPAS rating on them. Items not due until 27 April 2009. Contract has been awarded.

7. BRIEF STATEMENT OF NEED FOR ASSISTANCE. As applicable, explain effect of delay in receipt of Block 3 item(s) on achieving timely shipment of Block 2 item(s) (e.g. production line shutdown or the impact on program or project schedule). Describe attempts to resolve problems and specific needs why assistance is required. Priority is high. Delay is unacceptable. Any slip in delivery date or loss of items will have a dramatic effect on Ministry of Defense Chinook fleet and upgrade readiness.

8. CERTIFICATION: I certify that the information contained in Blocks 1 - 7 of this form, and all other information attached, is correct and complete to the best of my knowledge and belief (omit signature if this form is electronically generated and transmitted - use of name is deemed certification).

Signature of Applicant's authorized official: _____ Title: _____
Print or type name of authorized official: _____ Date: _____

Your local DCMA DPAS POC will assist in preparation of BIS 999

§700.70 General provisions

- Any person who places or receives a rated order should be thoroughly familiar with, and must comply with, the provisions of 15 CFR 700.
- Willful violation of any of the provisions of Title I or section 705 of the Defense Production Act, 15 CFR 700, or an official action of the Department of Commerce, is a criminal act, punishable as provided in the Defense Production Act and as set forth in §700.74 of 15 CFR 700.



§700.71 Audits and investigations

- Audits and investigations are official examinations of books, records, documents, other writings and information to ensure that the provisions of the Defense Production Act, the Selective Service Act and related statutes, 15 CFR 700, and official actions have been properly followed. An audit or investigation may also include interviews and a systems evaluation to detect problems or failures in the implementation of 15 CFR 700.



§700.72 Compulsory process

- If a person refuses to permit a duly authorized representative of Commerce to have access to any premises or source of information necessary to the administration or the enforcement of the Defense Production Act, the Selective Service Act and related statutes, 15 CFR 700, or official actions, the Commerce representative may seek compulsory process. Compulsory process means the institution of appropriate legal action, including ex parte application for an inspection warrant or its equivalent, in any forum of appropriate jurisdiction.



§700.72 Compulsory process (Continued)

- Compulsory process may be sought in advance of an audit, investigation, or other inquiry, if, in the judgment of the Director of the Office of Strategic Industries and Economic Security, U.S. Department of Commerce, in consultation with the Chief Counsel for Industry and Security, U.S. Department of Commerce, there is reason to believe that a person will refuse to permit an audit, investigation, or other inquiry, or that other circumstances exist which make such process desirable or necessary.

§700.73 Notification of failure to comply

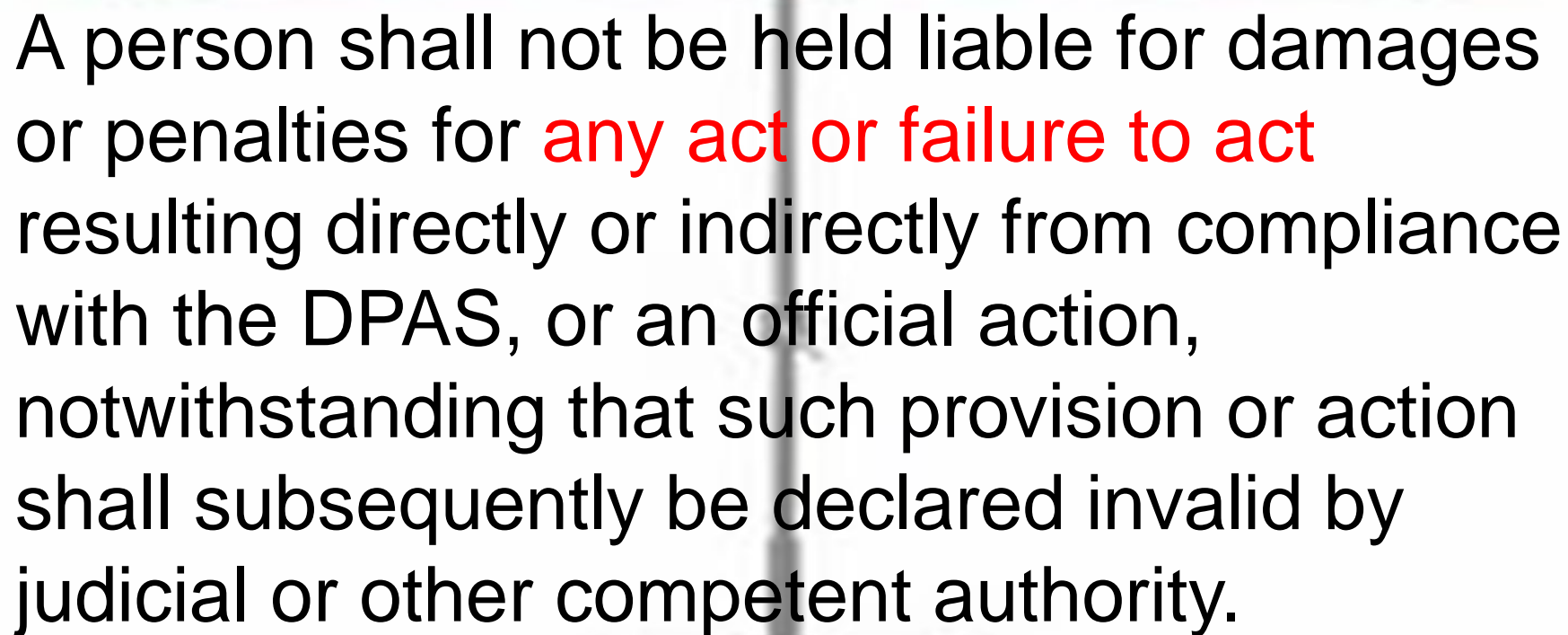
- Commerce may inform the person in writing where compliance with the requirements of the Defense Production Act, the Selective Service Act and related statutes, 15 CFR 700, or an official action were not met.
- In cases where Commerce determines that a person has failed to comply, the person may be informed in writing of the particulars involved and the corrective action to be taken. Failure to take corrective action may then be construed as a willful violation of the Defense Production Act, 15 CFR 700, or an official action.

§700.74 Violations, penalties, and remedies

- Willful violation of the provisions of Title I or Sections 705 or 707 of the Defense Production Act, the priorities provisions of the Selective Service Act and related statutes, 15 CFR 700, or an official action, is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. The maximum penalty provided by the Defense Production Act is a \$10,000 fine, or one year in prison, or both. The maximum penalty provided by the Selective Service Act and related statutes is a \$50,000 fine, or three years in prison, or both.

§700.75 Compliance conflicts

- If compliance with any provision of the Defense Production Act, the Selective Service Act and related statutes, 15 CFR 700, or an official action would prevent a person from filling a rated order or from complying with another provision of the Defense Production Act, 15 CFR 700, or an official action, the person must immediately notify the Department of Commerce for resolution of the conflict.
- DoC e-Mail: DPAS@bis.doc.gov

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A person shall not be held liable for damages or penalties for **any act or failure to act** resulting directly or indirectly from compliance with the DPAS, or an official action, notwithstanding that such provision or action shall subsequently be declared invalid by judicial or other competent authority.

§700.92 Applicability of 15 CFR 700 and official actions

- 15 CFR 700 and all official actions, unless specifically stated otherwise, apply to transactions in any state, territory, or possession of the United States and the District of Columbia.
- 15 CFR 700 and all official actions apply not only to deliveries to other persons but also include deliveries to affiliates and subsidiaries.

- Department of Commerce Regulation
 - 15 CFR 700
- DOD Priorities and Allocation Manual
 - DoD 4400.1M

- Contact the Engineering Manufacturing Group representative (Industrial Specialist/Engineer) at the DCMA contract administration office identified on your contract.

7. ADMINISTERED BY <i>(If other than 6)</i>	CODE	S511A
DCMA HAMPTON FAX 757-788-328 2000 ENTERPRISE PARKWAY SUITE 200 HAMPTON VA 23666		
CRITICALITY: A		

SAMPLE

Manufacturing & Production

- Primary HQ DPAS Officer - VACANT
- Alternate HQ DPAS Officer – VACANT
 - For DPAS inquiries, please submit through;
 - Askmanufacturing@dcma.mil