



**The Defense Production Act Committee  
Report to Congress**

*August 2011*



Homeland  
Security

*Federal Emergency Management Agency*

# Foreword

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We are pleased to present the following report from the Defense Production Act Committee (DPAC). This report is required by Section 11 of the Defense Production Act Reauthorization of 2009 [Public Law 111-67], which amended section 722 of the Defense Production Act of 1950. The report is an interagency effort led by the Federal Emergency Management Agency on behalf of the Department of Homeland Security that includes the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, the Interior, Justice, Labor, Transportation, and the Treasury, and the Federal Reserve Board of Governors, the Council of Economic Advisors, and the Office of Management and Budget.

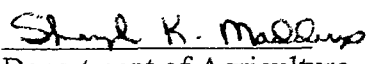
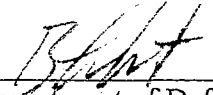
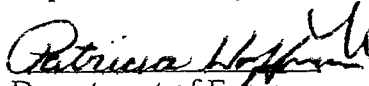

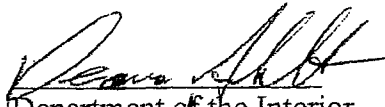

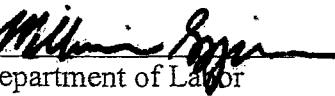
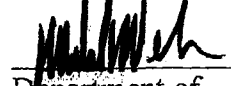
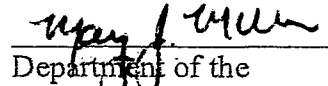
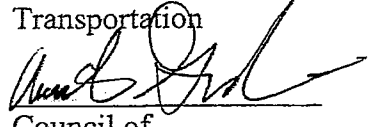
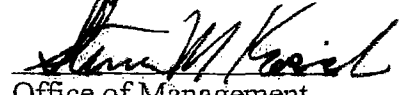
Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Tim Johnson  
Chairman, Senate Banking, Housing, and Urban Affairs Committee

The Honorable Richard C. Shelby  
Ranking Member, Senate Banking, Housing, and Urban Affairs Committee

The Honorable Spencer Bachus  
Chairman, House Financial Services Committee

The Honorable Barney Frank  
Ranking Member, House Financial Services Committee

 Department of Agriculture	 Department of Commerce	 Department of Defense
 Department of Energy	 Department of Health & Human Services	 Department of Homeland Security
 Department of the Interior	 Department of Justice	 Department of Labor
 Department of Transportation	 Department of the Treasury	 Federal Reserve Board of Governors
 Council of Economic Advisors	 Office of Management and Budget	



# Executive Summary

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This report was prepared pursuant to Subsection 722(d) of the Defense Production Act of 1950, as amended [50 U.S.C. App. § 2061 et seq.] (DPA). Subsection 722(d) directs the Defense Production Act Committee (DPAC) to submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives. The report provides a review of how DPA authorities are used by Federal departments and agencies.

The DPAC is established by section 722 of the DPA. The primary purpose of the DPAC is to advise the President on the effective use of DPA authority to expedite supply of and expand productive capacity for materials and services essential to the national defense. The DPAC is composed of the heads of each Federal agency to which the President has delegated DPA authority and the Chairperson of the Council of Economic Advisors.

Most current DPA activities involve use of the priorities authority provided in DPA title I and the purchase, purchase commitment, and other authorities provided in DPA title III. The priorities authority has been a cornerstone of DOD procurement activities for the past 60 years. The DPA section 303 authorities are used by the DOD Title III Program to bolster domestic production and supply capabilities for national defense purposes.

DOD estimates that it places 300,000 DPA priority-rated contracts and orders per year. It is DOD policy to include a Defense Priorities and Allocations System priority rating as a standard clause in all eligible contracts and orders. Use of the priority rating authority by other Federal departments and agencies is more limited. Nevertheless, the priorities authority has been used to support, for example: hurricane and flood preparedness and response activities; Homeland Security Technology Programs; emergency preparedness activities related to the 2009 H1N1 flu virus; the Greater New Orleans Hurricane and Storm Damage Risk Reduction System program (by the U.S. Army Corps of Engineers); the International Safeguards, Second Line of Defense, and Nuclear Counterterrorism Incident Response programs (by DOE's National Nuclear Security Administration); the Geostationary Operational Environmental Satellite, R-Series Program (DOC's National Oceanic and Atmospheric Administration); and the Terrorist Screening Center program (DOJ's Federal Bureau of Investigation).

DOD is, currently, the only Federal agency with title III funding and an active title III program. However, other Federal agencies, including DOE and DHS, have partnered with DOD to address title III actions of mutual interest. The DOD Title III Program executes projects ranging from process improvement to production plant construction. During 2010, the DOD Title III Program completed, successfully, two projects and managed 29 ongoing projects.

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# **1. Introduction**

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## ***1.1. Purpose and Scope***

This report was prepared pursuant to subsection 722(d) of the Defense Production Act of 1950, as amended [50 U.S.C. App. § 2061 et seq.] (DPA). Subsection 722(d) directs the Defense Production Act Committee (DPAC) to submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives. The report provides a review of how DPA authorities are used by Federal departments and agencies.

## ***1.2. Defense Production Act Committee***

The DPAC is established by section 722 of the DPA. The primary purpose of the DPAC is to advise the President on the effective use of DPA authority to expedite supply of and expand productive capacity for materials and services essential to the national defense. The DPAC is composed of the heads of each Federal agency to which the President has delegated DPA authority and the Chairperson of the Council of Economic Advisors.

Pursuant to subsection 722(b)(2) of the DPA, the President has designated the Secretary of Homeland Security (DHS) and the Secretary of Defense (DOD) as rotating chairpersons of the DPAC. The DPAC Chairperson rotates annually on April 1. DHS served as the first DPAC Chairperson until March 31, 2011, and DOD began serving as the DPAC Chairperson on April 1, 2011 (Presidential Memorandum dated May 19, 2010).

## ***1.3. Organization of the Report***

This report is organized in accordance with the contents of the report specified in subsection 722(d) of the DPA. Chapter 2 provides a review of the DPA authority of Federal departments and agencies. Chapter 3 describes plans and programs to make effective use of the DPA authorities to support national defense programs. Chapter 4 describes recent and ongoing efforts to develop and update Executive Branch guidance and procedures for use of DPA authorities. Chapter 5 describes procedures and actions to share information among Federal agencies regarding DPA issues.

## **2. Delegations of DPA Authority**

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This chapter provides a review of the delegations of DPA authority by the President to the heads of Federal departments and agencies. Presidential documents that delegate DPA authority include:

- Executive Order 12919 (June 3, 1994), “National Defense Industrial Resources Preparedness,” delegates DPA authorities and addresses national defense industrial resource policies and programs under the DPA.
- Executive Order 12472 (Apr. 3, 1984), “Assignment of National Security and Emergency Preparedness Telecommunications Functions,” establishes the National Communications System.
- Executive Order 12656 (Nov. 18, 1988), “Assignment of Emergency Preparedness Responsibilities,” delegates emergency preparedness responsibilities, based, in part, on DPA authorities.
- Executive Order 12742 (Jan. 8, 1991), “National Security Industrial Responsiveness,” delegates authorities with respect to the placing of orders for prompt delivery of articles or materials.
- Presidential Memorandum, “Designating the Chairperson of the Defense Production Act Committee,” May 19, 2010.

### **2.1. Title I Priorities and Allocations Authorities**

The President’s priorities and allocations authority under section 101 of the DPA and Section 18 of the Selective Service Act of 1948 are delegated to:

- (1) The Secretary of Agriculture (USDA) with respect to food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer (E.O. 12919); and all food resources (E.O. 12742);
- (2) The Secretary of Energy (DOE) with respect to all forms of energy (both E.O. 12919 and E.O. 12742);
- (3) The Secretary of Health and Human Services (HHS) with respect to health resources (E.O. 12919 only);
- (4) The Secretary of Transportation (DOT) with respect to all forms of civil transportation (both E.O. 12919 and E.O. 12742);
- (5) The Secretary of Defense (DOD) with respect to water resources (E.O. 12919 only); and

- (6) The Secretary of Commerce (DOC) for all other materials, services, and facilities, including construction materials (E.O. 12919).

The authority delegated under E.O. 12742 is limited to use for articles or materials for the exclusive use of the Armed Forces of the United States or for DOE atomic energy programs.

E.O. 12919 directs DOC, in consultation with the heads of the other departments with delegated priorities and allocations authority, to administer the Defense Priorities and Allocations System (DPAS) regulations, which are used to implement the priorities and allocations authority with respect to resources covered in the delegation to DOC. DOC is also directed to re-delegate to DOD and the heads of other departments and agencies, as appropriate, authority to place priority-rated contracts and orders under DPAS.

E.O. 12472 directs DOC to: (1) develop plans and procedures concerning radio spectrum assignments, priorities and allocations for use by Federal departments, agencies and entities; and (2) develop, maintain and publish policy, plans, and procedures for the control and allocation of frequency assignments.

E.O. 12919 also provides that the priorities and allocations authorities may be used only to support programs that have been determined in writing as necessary or appropriate to promote the national defense:

- (1) By DOD with respect to military production and construction, military assistance to foreign nations, stockpiling, outer space, and directly related activities;
- (2) By DOE with respect to energy production and construction, distribution and use, and directly related activities; and
- (3) By DHS with respect to essential civilian needs supporting national defense, including civil defense and continuity of government and directly related activities.

E.O. 12742 requires similar determinations (but applying a “national security” standard) by DOD regarding prompt delivery of the articles or materials for the exclusive use of the armed forces of the United States and DOE regarding prompt delivery of the articles or materials for DOE’s atomic energy programs.

## **2.2. *Title III Authorities***

E.O. 12919 delegates authorities of the President under Sections 301, 302, and 303 of the DPA. The head of each Federal department or agency engaged in procurement for the national defense<sup>1</sup> is authorized to:

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<sup>1</sup> This includes the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Homeland Security, Interior, Transportation, and the Treasury; the General Services Administration; the Government Printing Office; the National Aeronautics and Space Administration; and the Tennessee Valley Authority.

- Make loan guarantees (DPA section 301), direct loans (DPA section 302), purchase commitments and purchases (DPA section 303(a)), and subsidy payments (DPA section 303(c));
- Make provisions to encourage the exploration, development, and mining of critical and strategic materials and other materials (DPA section 303(a)(1)(B));
- Procure and install equipment in industrial facilities (DPA section 303(e));
- Transfer materials acquired under section 303 of the DPA to the National Defense Stockpile, if such transfer is determined by the Secretary of Defense as the National Defense Stockpile Manager to be in the public interest (DPA section 303(f));
- Make provision for the development of substitutes for strategic and critical materials, critical components, critical technology items, and other industrial resources (DPA section 303(g));
- Make the required determinations, judgments, statements, certifications, and findings required by the DPA with respect to use of these authorities [after appropriate consultation];
- Utilize title III authority or any other provision of law, in consultation with the Secretary of Defense, to provide appropriate incentives to develop, maintain, modernize, and expand the productive capacities of domestic sources for critical components, critical technology items, and industrial resources essential for the execution of the national security strategy of the United States (DPA section 107(a)); and
- Utilize the authority of title III of the Act to guarantee the purchase or lease of advance manufacturing equipment and any related services for purposes of the DPA (DPA section 108(b)).

E.O. 12919 delegates authority to the President and Chairman of the Export-Import Bank of the United States (in cases involving capacity expansion, technological development, or production in foreign countries) to make loan guarantees and direct loans, in accordance with DPA sections 301 and 302, respectively.

E.O. 12919 directs the heads of Federal departments or agencies engaged in procurement for the national defense to take appropriate action to ensure that critical components or critical technology items are available from reliable sources when needed to meet defense requirements during peacetime, graduated mobilization, and national emergency (DPA section 107(b)).

E.O. 12919 designates the Secretary of Defense as the Defense Production Act Fund Manager and directs the Secretary to carry out the duties specified in DPA section 304(f), in consultation with the agency heads having approved title III projects and appropriated title III funds.



### ***2.3. Title VII Authorities***

Generally, E.O. 12919 delegates the authorities of the President provided in title VII of the DPA to the heads of each Federal department and agency. These authorities involve:

- Voluntary agreements and plans of action (DPA section 708);
- Employment of personnel for the purposes of the DPA, including establishment of units of the National Defense Executive Reserve (DPA sections 703 and 710);
- The power to re-delegate DPA authorities to subordinates (with certain exceptions provided in the DPA and E.O. 12919); and
- The power of subpoena with respect to priorities and allocations, title III authorities, and the offsets provisions.

### ***2.4. Preparedness Measures***

Based, in part, on DPA authorities, E.O. 12656 directs the head of each Federal department and agency, as appropriate, to design preparedness measures to permit a rapid and effective transition from routine to emergency operations and to make effective use of the period following initial indication of a probable national security emergency. This Executive Order assigns lead responsibilities to various departments and agencies to develop plans, procedures, and programs for national security emergencies with respect to resources within their jurisdictions. Such departments and agencies include: USDA, DOC, DOD, DOE, HHS, the Department of Interior, the Department of Labor, DOT, the Department of the Treasury, the Environmental Protection Agency, DHS, and the Veterans Administration.

### ***2.5. Coordination and Guidance for Use of DPA Authorities***

E.O. 12919 provides that DHS shall: (1) serve as an advisor to the National Security Council (NSC) on issues of national security resource preparedness issues and the use of DPA authorities by Federal departments and agencies; (2) provide for the central coordination of DPA plans and programs; (3) provide guidance and procedures, approved by the Assistant to the President for National Security Affairs, for use of DPA authorities by Federal departments and agencies; (4) establish procedures, in consultation with other Federal departments and agencies, to resolve conflicts and issues involving use of DPA authorities; and (5) assist the Assistant to the President for National Security Affairs in ensuring the coordinated administration of the DPA.

E.O. 12656 directs DHS to serve as an advisor to the NSC on issues of national security emergency preparedness and to assist in the implementation of national security emergency preparedness policy, by coordinating with the other Federal departments and agencies and with State and local governments and by providing periodic reports to the NSC on implementation of national security emergency preparedness policy. It also directs DHS to: (1) coordinate and support the initiation, development, and implementation of national security emergency preparedness programs and plans among Federal departments and agencies; (2) coordinate the

implementation of policies and programs for efficient mobilization of Federal, State, local, and private sector resources in response to national security emergencies; and (3) provide guidance to the heads of Federal departments and agencies on the appropriate use of defense production authorities, including resource claimancy, in order to improve the capability of industry and infrastructure systems to meet national security emergency needs.

## **3. Effective Use of DPA Authorities**

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This chapter describes plans and programs of Federal departments and agencies to make effective use of DPA authorities to support national defense programs. The focus is, primarily, on the Defense Priorities and Allocations System (DPAS), which has been a cornerstone of DOD procurement activities for the past 60 years, and the DOD Title III Program, which has played an important role, since the 1980s, in accelerating the transition of technologies from research and development to affordable production and the insertion of leading-edge technologies into defense systems. There are a number of ongoing activities to support implementation of a consistent and unified Federal priorities and allocations system and use of title III authorities to support energy and homeland security programs, as well, but use of the DPA authorities outside the military arena is still relatively limited.

### **3.1. *Defense Priorities and Allocations System***

DPAS implements the DPA priorities and allocations authority with respect to materials, services, and facilities, including construction materials, covered in the delegation of DPA priorities and allocations authority to DOC. This delegation encompasses most industrial production, construction, and most materials. DPAS has been a cornerstone of DOD procurement activity since 1950. With the recent broadening of DPA authority to include emergency preparedness activities, critical infrastructure protection and restoration, and other homeland security functions, use of DPAS to support non-military programs has been increasing, but is still relatively limited.

DPAS is administered by DOC's Bureau of Industry and Security (DOC/BIS), which has delegated DPAS authority to DOD, DOE, the General Services Administration (GSA), and DHS to place rated orders in support of programs determined eligible for priorities and allocations support, in accordance with the provisions of section 202 of E.O. 12919. DOC/BIS also authorizes other government agencies, foreign governments, owners and operators of critical infrastructure, or companies to place DPAS-rated orders on a case-by-case basis. Such requests must first be determined "necessary or appropriate to promote the national defense" by DOD, DOE, or DHS, depending on the purpose of the program targeted for support (i.e., military, energy, or civilian, respectively).

#### **3.1.1. *Use of DPAS Priority Ratings***

DOD estimates that it places 300,000 rated orders per year. It is DOD policy to include a DPAS priority rating as a standard clause in all eligible contracts and orders. Use of the priority rating authority by other Federal departments and agencies is relatively limited. DOE and GSA use their authority, primarily, to support DOD-approved programs. In addition to DHS, a number of Federal departments and agencies have been authorized to use DPAS priority ratings in support of DHS-approved programs, in recent years. For example, DHS has used rated orders in support of:

- Hurricane and flood preparedness and response activities;

- Homeland Security Technology Programs;
- The Customs and Border Protection Air and Marine P-3 Aviation Program;
- The program to acquire personal protective equipment to protect DHS employees whose duties and responsibilities required interaction with the traveling public or, otherwise, required close proximity to persons specifically known or suspected to be infected with the 2009 H1N1 flu virus; and
- The FEMA National Radio System Program.

Other Federal departments and agencies have been authorized to use DPAS priority ratings in support of DHS-approved programs, including, for example:

- The U.S. Army Corps of Engineers, in support of the Greater New Orleans Hurricane and Storm Damage Risk Reduction System program;
- DOE's National Nuclear Security Administration, in support of the International Safeguards, Second Line of Defense, and Nuclear Counterterrorism Incident Response programs; Administration
- DOC's National Oceanic and Atmospheric Administration, in support of the Geostationary Operational Environmental Satellite, R-Series Program;
- DOC/BIS, in support of its Information Technology Systems Program; and
- DOJ's Federal Bureau of Investigation, in support of the Terrorist Screening Center program.

### **3.1.2. *DOD DPAS Guidance and Procedures***

DPAS Delegation 1 (from DOC) authorizes DOD to: (1) apply priority ratings to contracts and orders supporting national defense programs; (2) request special priorities assistance by DOC; and (3) endorse the requests of other U.S. Federal agencies and foreign governments for authority to place priority ratings on contracts and orders placed with domestic businesses. DPAS Delegation 1 authority is re-delegated by the DOD Secretary to the heads of subordinate organizations in DOD Directive 4400.1, "Defense Production Act Programs."

DOD-wide guidance and procedures have been issued by the Under Secretary of Defense for Acquisition, Technology, and Logistics in DOD 4400.1-M, "Department of Defense Priorities and Allocations Manual," and have been supplemented, in several cases, by additional procedures issued by subordinate organizations. DOD 4400.1-M spells out DPAS functions and responsibilities within DOD.

To supplement DPAS procedures provided in the DOD 4400.1-M, the Office of the Deputy Assistant Secretary of Defense for Industrial Policy has established and chairs a Priority

Allocation of Industrial Resources (PAIR) task force to resolve quickly industry constraints that interfere with military operations and warfighter readiness. The task force ensures industrial resources are allocated to DOD programs, in accordance with operational priorities when emergent requirements create competing demands among acquisition programs. PAIR activity from October 2009 through December 2010 resulted in the issuance of nine official DPAS actions by DOC. All of these actions were taken in support of ongoing operations in Afghanistan.

### **3.1.3. *DHS DPAS Guidance and Procedures***

DPAS Delegation 4 (from DOC) authorizes DHS to place rated orders in support of: (1) DHS programs; and (2) state, local, and tribal government programs, involving emergency preparedness activities conducted pursuant to title VI of the Stafford Act. DPAS Delegation 4 authority is re-delegated by the DHS Secretary to the Administrator of FEMA. This re-delegation of authority was updated in December 2010 to include responsibilities for implementation of DPAS Delegation 4 throughout DHS.

FEMA provides guidance and procedures for implementation of DPAS Delegation 4 authority in FEMA Directive 211-1, "Defense Priorities and Allocations System (DPAS)," and FEMA Manual 211-1-1, "Defense Priorities and Allocations System (DPAS)." In connection with the recent additional delegation of authority, FEMA is updating DPAS guidance and procedures for all DHS. FEMA has also developed two DPAS training courses, which are offered on-line by the Emergency Management Institute.

### **3.2. *Consistent and Unified Federal Priorities and Allocations System***

The six Federal departments that are delegated priorities and allocations authority with respect to certain resources are collaborating to implement a consistent and unified Federal priorities and allocations system, with DHS providing coordination for this interagency effort. New rules for this system will be based, primarily, on long-established DPAS guidance and procedures and address the potential use of the priorities and allocations authority for all types of resources that may be needed to support the national defense. This system is addressed at greater length in Chapter 4.

### **3.3. *Civil Reserve Air Fleet***

DOT administers the allocation of civil aircraft to the DOD Civil Reserve Air Fleet (CRAF) program, pursuant to the delegated authority under section 101 of the DPA. The CRAF program provides for requested civil aircraft to be made available in an airlift emergency to meet national defense requirements.

### **3.4. *Use of Title III Authorities***

Title III of the DPA authorizes various actions by the President to create, expand, maintain, or modernize domestic production capabilities for materials, items and industrial resources needed



to support national defense requirements. Title III efforts are focused on ensuring future U.S. production capabilities and maintaining U.S. technological leadership in critical markets.

DOD is, currently, the only Federal agency with title III funding and an active title III program. However, other Federal agencies, including DOE and DHS, have partnered with DOD to address title III actions of mutual interest. The DOD Title III Program executes projects ranging from process improvement to production plant construction. Title III project objectives include: expanding and sustaining production capacity; ensuring Government access to technology and resources; and ensuring long-term commercial viability. During 2010, the DOD Title III Program completed two projects with enormous success and managed 29 ongoing projects.

### ***3.5. Voluntary Agreements and Plans of Action***

A voluntary agreement is an association approved by the Government and entered into freely by two or more representatives of industry, business, financing, agriculture, labor, or other private interests to plan and coordinate actions in support of the national defense or Government emergency preparedness and response activities. Participants in a voluntary agreement are granted relief from antitrust laws under the provisions of section 708 of the DPA. The purpose of a voluntary agreement is to allow cooperation among business competitors to expedite or expand the supply of critical materials or services, in response to a finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs.

Current use of the section 708 authority is limited to two voluntary agreements, sponsored by the Maritime Administration in DOT. These are: (1) the Voluntary Intermodal Sealift Agreement (VISA); and (2) the Voluntary Tanker Agreement (VTA). The purpose of the VISA is to provide DOD with assured access to commercial, dry cargo sealift capacity and intermodal equipment and systems to support emergency deployment and sustainment of U.S. military forces. The purpose of the VTA is to provide DOD with assured access to commercial tanker capacity in support of DOD contingency requirements.

## 4. Statutory and Regulatory Provisions

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This chapter describes recent and ongoing activities to develop and update DPA guidance and procedures, in accordance with amendments to the DPA. Following enactment of the Defense Production Act Reauthorization of 2009 Act, efforts were initiated to establish a consistent and unified Federal priorities and allocations system, in accordance with the new section 101(d) of the DPA, and to update E.O. 12919, to conform with the amendments to DPA authorities that have occurred since this order was issued in 1994.

### 4.1. *Consistent and Unified Federal Priorities and Allocations System*

Section 101(d) of the DPA directs the head of each Federal agency to which the President has delegated priorities and allocations authority to: (1) issue rules that establish standards and procedures by which this authority is used to promote the national defense; and (2) consult with the heads of other Federal agencies to develop a consistent and unified Federal priorities and allocations system.

An interagency working group (IWG) was established by DHS to coordinate the rule-making efforts of the six Federal departments to which the President has delegated priorities and allocations authority. The IWG met eight times between October 15, 2009, and March 3, 2010, and developed “common” provisions to be incorporated into the priorities and allocations rules of the six departments. These provisions establish a foundation for “a consistent and unified Federal priorities and allocations system,” in accordance with section 101(d)(2) of the DPA. The “common” provisions incorporate several key elements of DPAS: mandatory acceptance of rated orders, preferential scheduling of rated orders to meet delivery requirements, and extension of priority ratings by contractors to lower level suppliers and subcontractors. Proposed rules have been developed by DOC (updating the DPAS regulations), USDA, DOE, HHS, and DOT and are currently in the review/approval process. Each department anticipates that it will issue a final rule in 2011.

To support implementation of this system and pursuant to the determination requirement in section 202(c) of E.O. 12919, DHS has issued six new program determinations that the following DHS programs involving essential civilian needs are necessary or appropriate to promote the national defense and are eligible to be supported using the priorities and allocations authorities provided in section 101 of the DPA:

- (1) Programs involving emergency preparedness activities conducted pursuant to title VI of the Stafford Act;
- (2) Intelligence and warning systems to counter terrorism within the United States;
- (3) Border and transportation security programs to counter terrorism within the United States;
- (4) Programs to address chemical, biological, radiological, and nuclear threats within the United States;

- (5) Other programs, including law enforcement, to counter terrorism within the United States; and
- (6) Programs to protect or restore critical infrastructure.

DHS has also issued two new program determinations involving food and agricultural resources, in connection with the new USDA Agriculture Priorities and Allocations System (APAS):

- (1) Food and food resources (civilian) – programs involving food and food resources processing and storage in support of emergency preparedness activities conducted pursuant to title VI of the Stafford Act; and
- (2) Agricultural and food critical infrastructure protection and restoration – programs to protect or restore the agriculture and food system from terrorist attacks, major disasters, and other emergencies.

These two programs ensure the continuation and viability of the agriculture and food sectors to support the national defense, including emergency preparedness activities and critical infrastructure protection and restoration.

USDA and DOC have, also, concluded an arrangement that authorizes DHS to place priority ratings, in accordance with DOC's DPAS, on orders for food resources to support FEMA's emergency preparedness activities beginning in July 2010 and ending at the time USDA's APAS is implemented or June 30, 2011, whichever comes first.

## **5. Information Sharing on DPA Issues**

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This chapter highlights some of the guidance, procedures, and activities to share information on industrial base capabilities and DPA issues among Federal departments and agencies. Guidance and procedures are provided in a number of orders, directives, regulations, interagency agreements, and other guidance documents. Information is, also, shared on a continuing basis via Government websites and meetings among representatives of the Federal departments and agencies engaged in industrial base assessment activities and DPA plans and programs.

### **5.1. *DPA-Related Guidance and Procedures Involving Information Sharing***

Executive Orders, beginning with E.O. 10161 (September 9, 1950) and continuing with E.O. 12919, have provided for information sharing on DPA issues among Federal departments and agencies for the past 60 years. E.O. 12919, alone, contains more than 20 separate provisions for coordination, consultation, assistance, and information sharing among Federal departments and agencies on use of DPA authorities. Both E.O. 12472 and E.O. 12656 contain numerous similar provisions, relating specifically to DPA authorities and, more generally, to emergency preparedness plans and programs. Beyond the Orders involving, specifically, DPA authorities, Executive Branch guidance and procedures for information sharing among Federal departments and agencies are quite extensive.

### **5.2. *Interagency Working Groups and Agreements***

Pursuant to coordination and guidance responsibilities under section 104(b) of E.O. 12919, DHS convenes interagency working groups (IWGs) to address DPA issues. For example, as described in section 4.1 of this report, a series of eight IWG meetings were held between October 2009 and March 2010 to coordinate rule-making for the Federal Priorities and Allocations System. DHS also convenes a working group each year to share information and prepare a report to Congress on use of DPA section 101 authority to ensure the preparedness of industry to reduce interruptions in critical infrastructure and key resource operations during emergencies. DHS also engages, continually, in ad hoc meetings and other communications with other Federal departments and agencies to share information on DPA issues.

Similarly, DOC engages, frequently, in ad hoc meetings and other communications with other Federal departments and agencies to share information on the use of DPA priorities authority under DPAS. Also, as described in the following section, DOC conducts assessments of industrial base issues for and in collaboration with other Federal departments and agencies.

A number of memoranda of understanding (MOUs) between and among Federal departments and agencies, also, promote information sharing among the participants, sometimes relating to DPA issues. For example, in 2010, DOE and DOD established an MOU concerning cooperation in a strategic partnership to enhance energy security. This MOU covers, but is not limited to, efforts in the areas of energy efficiency, renewable energy, water efficiency, fossil fuels, alternative fuels, efficient transportation technologies and fueling infrastructure, grid security, smart grid, storage, waste-to-energy, basic science research, mobile/deployable power, small

modular reactor nuclear energy, and related areas. Pursuant to this MOU, DOE and DOD are exploring opportunities to collaborate in the use of DPA title III authority.

### ***5.3. Assessment Activities and Reports***

#### ***5.3.1. DOC Defense Industrial Capability and Technology Assessments***

DOC/BIS conducts industry analyses to assess the capabilities of the U.S. industrial base to support the national defense pursuant to section 705 of the DPA and E.O. 12656. These studies are conducted in cooperation with experts from other government agencies (including the DOD and DHS) and the private sector. The goal is to enable government agencies to monitor trends, benchmark industry performance, raise awareness of diminishing manufacturing capabilities, and support national resource preparedness as appropriate.

#### ***5.3.2. Offsets in Defense Trade***

DOC/BIS, in consultation with DOD, the Department of State, DOL, and the United States Trade Representative, prepares an annual report to Congress on the impact of offsets<sup>2</sup> in defense trade pursuant to section 723 of the DPA. The U.S. Government has established an interagency team to consult with foreign nations on limiting the adverse effects of offsets in defense procurement. The data collected by DOC/BIS are utilized in the multilateral and bilateral consultations of the team and its working group. DOC/BIS submitted its 15th report to Congress in January 2011.

#### ***5.3.3. DOD Assessment Activities***

DOD will provide support to the DPAC and DPAC Members, by undertaking assessments to identify deficiencies throughout various supply chains. Once areas of concern are found, appropriate recommendations will be made for use of DPA authorities to ensure the availability of important industrial base capabilities. For example, recent analyses by DOD indicate that title III authority could play an important role in enhancing the viability and reliability of subtier suppliers of rare earth materials, renewable energy (including biofuels), information technology and communications (including trusted electronics), solid rocket motor, casting and forging, and small gas turbine engines.

### ***5.4. DPA Websites***

Federal departments and agencies maintain a number of websites and webpages focused on DPA issues:

#### ***5.4.1. DHS Websites***

FEMA, Office of Policy and Program Analysis, The Defense Production Act Program Division:  
<http://www.fema.gov/about/programs/dpa/index.shtm>

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<sup>2</sup> Offsets in defense trade encompass a range of industrial compensation arrangements required by foreign governments as a condition of the purchase of defense articles and services from a non-domestic source.



Emergency Management Institute Courses:

- IS-245.a - Introduction to the Defense Priorities and Allocations System (DPAS)  
<http://training.fema.gov/EMIWeb/IS/IS245a.asp>
- IS-245.a - IS-246.11 - Implementing the Defense Priorities and Allocations System (DPAS) <http://training.fema.gov/EMIWeb/IS/is246.11.asp>

**5.4.2. DOD Websites**

Assistant Secretary of Defense for Acquisition: “Defense Priorities & Allocations System (DPAS)” – [http://www.acq.osd.mil/asd/initiatives/factsheets/defense\\_priorities/index.shtml](http://www.acq.osd.mil/asd/initiatives/factsheets/defense_priorities/index.shtml)

ODASD(IP): “Defense Priorities & Allocations System (DPAS)” – <http://www.acq.osd.mil/ip/dpas.shtml>

Naval Supply Systems Command: “Defense Priorities & Allocations System (DPAS)” – <http://www.navsup.navy.mil/navsup/ourteam/navsuphq/dpas>

Defense Contract Management Agency (DCMA): “Defense Priorities and Allocations System (DPAS)” – <http://guidebook.dcm.mil/38/dpas.htm>

Defense Acquisition University: “Defense Priorities and Allocations System Continuous Learning Module (CLC 043)” – [https://learn.dau.mil/html/clc/course/CourseLaunch.jsp?course\\_id=803892&clcid=&course\\_prefix=CLC&version=2&scorm\\_version=3&roster\\_id=1\\_803892&course\\_name=Defense%20Priorities%20and%20Allocations%20System%20%28DPAS%29&mode=normal&course\\_number=043&mode\\_id=10&course\\_suffix=](https://learn.dau.mil/html/clc/course/CourseLaunch.jsp?course_id=803892&clcid=&course_prefix=CLC&version=2&scorm_version=3&roster_id=1_803892&course_name=Defense%20Priorities%20and%20Allocations%20System%20%28DPAS%29&mode=normal&course_number=043&mode_id=10&course_suffix=)

Office of the Under Secretary of Defense for Acquisition, Technology and Logistics, Office of Technology Transition: “Defense Production Act Title III Homepage” – <http://www.acq.osd.mil/ott/dpatitle3/>

**5.4.3. DOC Website**

DOC/BIS: “Defense Priorities and Allocations System (DPAS) Program” – <http://www.bis.doc.gov/dpas/default.htm>

DOC/BIS: “Offsets in Defense Trade” <http://www.bis.doc.gov/defenseindustrialbaseprograms/osies/offsets/default.htm>

DOC/BIS: “Defense Industrial Capability and Technology Assessments” <http://www.bis.doc.gov/defenseindustrialbaseprograms/osies/defmarketresearchrpts/default.htm>

#### **5.4.4 DOT Website**

“Civil Reserve Air Fleet (CRAF)” –  
<http://www.dot.gov/ost/oet/craf.htm>

“Voluntary Intermodal Sealift Agreement (VISA)” –  
[http://www.marad.dot.gov/ships\\_shipping\\_landing\\_page/national\\_security/vol\\_intermodal\\_sealift\\_agreement/vol\\_intermodal\\_sealift\\_agreement.htm](http://www.marad.dot.gov/ships_shipping_landing_page/national_security/vol_intermodal_sealift_agreement/vol_intermodal_sealift_agreement.htm)