



Introduction to the Defense Priorities and Allocations System



Purpose



- This training introduces the Defense Priorities and Allocations System (DPAS) Regulation.
- The primary purpose of the DPAS Regulation is to promote the national defense by ensuring the timely availability of industrial resources by providing priorities support.
 - Priorities support may be provided through the authorization of placing DPAS rated orders.
- Persons receiving and/or placing DPAS rated orders must be thoroughly familiar with, and comply with, the provisions of the DPAS Regulation.
- The purpose of this training is to outline some of the basic requirements persons in receipt of or placing DPAS rated orders must adhere to.



Topics



1. [DPAS Title I Priorities and Allocations Authorities](#)
2. [DPAS Delegate Agencies](#)
3. [DPAS Rated Orders](#)
4. [Step by Step Guide: Processing DPAS Rated Orders](#)
5. [Additional Information](#)
6. [DPAS Compliance](#)
7. [What official actions does DOC/BIS utilize to implement/enforce the DPAS provisions?](#)
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DPA Title I Priorities and Allocations Authorities



DPA Title I Priorities and Allocations Authorities



[Defense Production Act of 1950,](#)
[50 U.S.C. 4501, et seq.](#)

Title I of the DPA is the President's primary authority to expedite production/delivery of critical items from the United States (U.S.) industrial base (referred to as "priorities and allocations authorities").

[Executive Order](#)
[13603](#)

The National Defense Resources Preparedness Executive Order is the implementing guidance for DPA Title I priorities and allocations authorities.

[DPAS Regulation](#)
[15 CFR part 700](#)

The DPAS Regulation implements the DPA Title I priorities and allocations authorities with respect to industrial resources delegated to DOC.



Defense Production Act



- The DPA was enacted at the start of the Korean War as part of a broad war and civil defense mobilization effort.
 - The DPA was created to ensure the availability of the country's production sources to address national defense requirements.
- Some DPA authorities are time-limited and undergo periodic amendment and reauthorization.
 - The DPA was reauthorized in the John S. McCain National Defense Authorization Act of 2019 and will expire in 2025.



Defense Production Act



- DPA Title I priorities and allocations authorities empower the President to require:
 - Contracts or orders (other than contracts of employment) which the President deems necessary or appropriate to promote the national defense to take priority over performance under any other contract or order.
 - To assume such priority, the President is authorized to require acceptance and performance of such contracts or orders in preference to other contracts or orders.
 - The allocation of materials, services, and facilities in such a manner, upon such conditions, and to such extent as the President shall deem necessary or appropriate to promote the national defense.



Defense Production Act



- The DPA Title I priorities and allocations authorities may only be used to support programs determined to be necessary or appropriate to promote the ***national defense***.
- The DPA defines ***national defense*** to mean 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.
 - Emergency preparedness activities conducted pursuant to Title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, *et seq.*).
 - Critical infrastructure protection and restoration.



Executive Order 13603









- E.O. 13603 is the implementing guidance for:
 - Priorities and allocations authorities;
 - National defense resource programs; and
 - Policies under the DPA.
- E.O. 13603 delegates the DPA Title I priorities and allocations authorities to various Federal Departments.



Executive Order 13603



Section 201 of E.O. 13603 delegates the President's DPA Title I priorities and allocations authorities to six different departments (the “**Resource Departments**”).

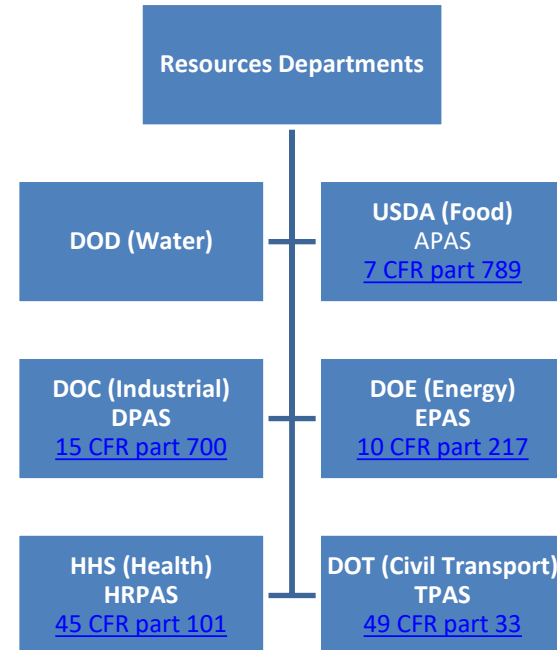
RESOURCE DEPARTMENTS			
	Department of Agriculture (USDA) With respect to food resources, food resource facilities, livestock resources, veterinary resources, plant health resources, and the domestic distribution of farm equipment and commercial fertilizer.		Department of Defense (DOD) With respect to water (non potable) resources.
	Department of Energy (DOE) With respect to all forms of energy.		Department of Transportation (DOT) With respect to all forms of civil transportation.
	Department of Health and Human Services (HHS) With respect to health resources.	 DPAS	Department of Commerce (DOC) With respect to all other materials, services, and facilities (including construction materials) that have not been delegated to the other departments. Generally called “Industrial Resources”



Executive Order 13603



- Each Resource Department, except DOD, has:
 - Issued Regulations, and
 - Established standards and procedures by which the authority shall be used to promote the national defense.
- Each Resource Department's regulation covers only their delegated resources outlined in section 201 of E.O. 13603.
 - For example, health resources are outside the jurisdiction of DPAS Regulation and covered by HHS' HRPAS.
- If a person seeks prioritization of certain resources, the person must request special priorities assistance (SPA) from the Resource Department responsible for that resource.
- The figure to the right lists the citations for each department's regulation.



APAS – Agricultural Priorities and Allocations System
DPAS – Defense Priorities and Allocations System
EPAS – Energy Priorities and Allocations System
HRPAS – Health Resources Priorities and Allocations System
TPAS – Transportation Priorities and Allocations System



Executive Order 13603



- The authority delegated in section 201 of E.O. 13603, except as provided in section 201(e) of E.O. 13603, may only be used to support programs determined in writing as necessary or appropriate to promote the national defense.
 - This is referred to as a “**program determination.**”
- Section 202 of E.O. 13603 delegates the program determination authority to the:
 - Secretary of Defense – with respect to military production and construction, military assistance to foreign nations, military use of civil transportation, stockpiles managed by DOD, space, and directly related activities.
 - Secretary of Energy – with respect to energy production and construction, distribution and use, and directly related activities.
 - Secretary of Homeland Security – with respect to all other national defense programs, including civil defense and continuity of Government.
- These departments are referred to as “**Determination Departments.**”



DPAS Regulation: 15 CFR Part 700



- The DPAS Regulation implements the DPA Title I priorities and allocations authorities for **industrial resources** delegated to DOC.
 - The DPAS Regulation is administered by DOC's Bureau of Industry and Security (BIS).
- Industrial resources are all other materials, services, and facilities (including construction materials) that have not been delegated to the other Resource Departments.
- The DPAS Regulation establishes procedures for:
 - The placement, acceptance, and performance of priority rated contracts and orders for industrial resources supporting approved national defense programs.
 - The allocation of materials, services, and facilities supporting approved national defense programs.
- The DPAS Regulation is not limited to crises, emergency, or armed conflict.
- Use of the DPAS Regulation in support of an approved program requires written authorization from DOC/BIS



DPAS Delegate Agencies



DPAS Delegate Agencies



- DOC/BIS has delegated certain priority rating authority under the DPAS Regulation to the following departments and agency (referred to as “**Delegate Agencies**”):
 - DOD
 - DOE
 - DHS
 - Federal Emergency Management Agency (FEMA) is the ~~DPAS~~ lead agency within DHS.
 - HHS
 - General Services Administration (GSA)

Note: DOD, DOE, and DHS are both Determination Departments and DPAS Delegate Agencies; however, the responsibilities of a Determination Department are different from the responsibilities of a DPAS Delegate Agency.



DPAS Delegate Agencies



- DOC/BIS's delegations provide DPAS Delegate Agencies with certain authority to:
 - Place DPAS priority rated contracts and orders for industrial resources needed to support approved national defense programs.
 - Delegate Agencies may use the program identification symbol corresponding to the approved national defense program listed in Schedule I of the DPAS Regulation.
 - Place priority rated contracts and orders for industrial resources needed to implement any approved national defense program related to food resources, energy resources, health resources, civil transportation, or water resources.
 - Delegate Agencies must first have authorization to place priority rated contracts and orders by the appropriate Resource Department (i.e., USDA, DOD, DOE, DOT, or HHS).
- DOC/BIS's delegations outline:
 - Limitations to the delegated authority; and
 - Responsibilities required by the Delegate Agency, including:
 - Ensuring compliance with the DPAS Regulation, and
 - Providing DPAS training, in coordination with DOC.



DPAS Delegate Agencies



- DPAS provisions are a standard part of the U.S. defense contracting process.
- The DPAS is a standard clause in DOD contracts/orders.
- DOD uses DPAS authority delegated to it by DOC to place ratings on approximately 400,000 contracts annually.
- DOC and DOD estimate that, in addition, approximately 400,000 rated orders are “flowed down” annually through the supply chain to support those rated orders.





DPAS Rated Orders



DPAS Rated Orders



- A DPAS rated order is a prime contract, a subcontract, or a purchase order issued in accordance with the provisions of the DPAS Regulation.
- Who may place DPAS rated orders?
 - Any of the below that have received written authorization from DOC/BIS:
 - U.S. Government Agencies;
 - Companies located in the United States;
 - Foreign government agencies or companies;
 - International organizations.
 - Any of the below that have received written authorization from a DPAS Delegate Agency in accordance with the authority granted by DOC/BIS under the delegation:
 - U.S. Government Agencies; or
 - Companies located in the U.S.
 - Any person in receipt of a properly DPAS rated contract or purchase order may in turn flow down the applicable DPAS priority rating on their contracts and purchase orders with suppliers located in the United States for items needed to fulfill the DPAS rated contract or purchase order they received.
- The following slides will provide a Step-by-Step Guide to identifying, processing, and placing DPAS rated orders in accordance with the DPAS Regulation.



Step by Step Guide: Processing DPAS Rated Orders



Step by Step Guide: Processing DPAS Rated Orders



Below are four important steps needed to process DPAS rated orders.

[Step 1: Identify Required Elements of DPAS Rated Order](#)

[Step 2: Accept or Reject the Rated Order](#)

[Step 3: Preferential Scheduling](#)

[Step 4: Extension of Priority Ratings](#)

The following slides provide additional information on each step.



Step 1



Step 1: Identify Required Elements of DPAS Rated Orders



- A contract or order is properly rated if it contains all four required elements of a DPAS rated order outlined in the DPAS Regulation (15 CFR § 700.12) and listed below:
 1. Priority Rating
 2. Required Delivery Date(s)
 3. Authorized Written or Digital Signature
 4. A Certification Statement
- These four elements must appear on every DPAS priority rated contract, purchase order, or delivery order.
 - If they do not appear, the contract, purchase order, or delivery order is not properly rated under the DPAS Regulation.
 - The company may not accept the order. Instead, the company should request a completed rated order from the customer.
- To learn more about these required elements, please see the following slides for additional information on each element.



Element 1: Priority Rating

15 CFR § 700.11 and 15 CFR § 700.12(a)



- Rated orders are identified by a priority rating.
- A priority rating consists of the rating symbol and a program identification symbol:

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



Element 1: Priority Rating

15 CFR § 700.11 and 15 CFR § 700.12(a)



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

- **Rating Symbol**

- There are two types of Rating Symbols established by the DPAS Regulation:
 1. DX – All DX rated orders have equal priority and take preference over DO and unrated orders (based on needed delivery date).
 2. DO – All DO rated orders have equal priority and take preference over unrated orders (based on needed delivery date).

Note: Currently, the only use of DX DPAS priority ratings are approved by the Secretary of Defense or the Deputy Secretary of Defense.



Element 1: Priority Rating

15 CFR § 700.11 and 15 CFR § 700.12(a)



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

- **Program Identification (ID) Symbol:**
 - Indicate which national defense program, referred to as “approved program,” is being supported by the DPAS rated order.
 - The list of approved programs and their identification symbols are enumerated in Schedule I of the DPAS Regulation.
 - See next slide for additional information on Schedule I of the DPAS Regulation.
 - It is also important to note that program identification symbols, in themselves, do not connote any priority.
 - If the program identification symbol is not listed on the order, it is not a properly DPAS rated order and should not be treated as such.



Element 1: Priority Rating

15 CFR § 700.11 & 15 CFR § 700.12(a)(1)



- **Schedule I of the DPAS Regulation:**
 - Provides a list of approved national defense programs.
 - Use of the DPAS Regulation in support of an approved national defense program requires written authorization by DOC/BIS.
 - DOC/BIS has authorized the DPAS Delegate Agencies listed in the third column of Schedule I to use the DPAS Regulation in support of those programs assigned to them.
 - DOC is also listed as an agency in the third column of Schedule I for programs where DOC/BIS's written authorization is necessary to place DPAS rated orders.
 - Companies must ensure the program ID symbol in the priority rating of a DPAS rated order is a program ID symbol listed in Schedule I.
- To review Schedule I of the DPAS Regulation, click here: [Schedule I.](#)



Element 1: Priority Rating

15 CFR § 700.11 and 15 CFR § 700.12(a)(1)



- **Example of a Priority Rating:**

- If a company receives a DPAS rated order on a contract for the production of an aircraft, the order will contain a DO-A1 or DX-A1 priority rating.
- “A1” is the program identification symbol for Aircraft per Schedule I of the DPAS Regulation.

Example

DOA1 = (DO) + (A1) <Aircraft>

DXA1 = (DX) + (A1) <Aircraft>



Element 2: Required Delivery Date(s) 15 CFR § 700.12(a)(2)



- Rated orders are required to have a delivery date or dates.
- The words “immediately” or “as soon as possible” do not constitute a delivery date.
- A “requirements contract,” “basic ordering agreement,” “prime vendor contract,” or similar procurement document bearing a priority rating may contain no specific delivery date or dates and may provide for the furnishing of items from time-to-time or within a stated period against specific purchase orders, such as “calls,” “requisitions,” and “delivery orders.”
 - For these types of procurement documents, the purchase orders placed against them must specify a required delivery date or dates to meet the delivery date requirements.
 - These purchase orders are to be considered as rated as of the date of their receipt by the supplier and not as of the date of the original procurement document.



Element 3:

Authorized Signature or Name

15 CFR § 700.12(a)(3)



- A DPAS rated order is required to have a:
 - Written signature on a manually placed DPAS rated order, or
 - Digital signature or name on an electronically placed DPAS rated order.
- The signature or electronic name is that of the individual authorized to sign DPAS rated orders for the person placing the order.
 - The DPAS Regulation defines “person” in 15 CFR § 700.8 as “any individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof; or any authorized State or local government or agency thereof; and for purposes of administration of this part, includes the U.S. Government and any authorized foreign government or international organization or agency thereof, delegated authority as provided in this part.”
- The signature or use of the name certifies that the rated order is authorized under the DPAS Regulation and that the requirements of the DPAS Regulation are being followed.



Element 4:

Certification Statement

15 CFR § 700.12(a)(3)



- A certification statement is required on the DPAS rated order and should read in substance:
 - *This is a rated order certified for national defense use, and you are required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR part 700).*
- A statement that includes only part of the sentence above is not sufficient to meet the requirement of a certification statement.
 - Examples of insufficient certification statements include:
 - A statement that identifies that the order is rated but does not state that the person in receipt is required to follow the provisions of the DPAS Regulation.
 - A statement that only refers to the DPAS Regulation and/or citation but does not state that the order is rated.



Step 1: Identify Required Elements of DPAS Rated Orders



- **For Prime Contracts/Purchase Orders:**
 - A company will most likely receive a standard acquisition form known as the SF-33 (Solicitation, Offer and Award Form).
 - A company may be able to determine whether it has received a DPAS rated order by reviewing the rating block (e.g., Block 1 of SF-33).
 - If it is a DPAS rated order, a DPAS priority rating will be listed.
 - In addition to the priority rating, the other three elements of a DPAS rated order must be on the prime contract/purchase order.

NOTE:

- *The use of a SF-33 or rating block is not required for a prime contract/order to be rated under the DPAS Regulation.*
- *The only requirements under the DPAS Regulation to priority rate a contract or order are the four required elements of a DPAS rated order.*

SOLICITATION, OFFER AND AWARD		THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING		PAGE		OF		PAGES																																																																																	
2. CONTRACT NUMBER		3. SOLICITATION NUMBER		4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB)		5. DATE ISSUED		6. REQUISITION/PURCHASE NUMBER																																																																																			
7. ISSUED BY		CODE		8. ADDRESS OFFER TO (if other than item 7)																																																																																							
<p>NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".</p> <p>SOLICITATION</p> <p>9. Sealed offers in original and _____ copies for furnishings the supplies or services in the Schedule will be received at the place specified in item 8, or if hand carried, in the depository located in _____ until _____ local time _____ (Hour) _____ (Date)</p> <p>CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.</p> <p>10. FOR INFORMATION CALL: <input type="checkbox"/> A. NAME _____ B. TELEPHONE (W/O COLLECT CALLS) _____ C. E-MAIL ADDRESS _____ AREA CODE _____ NUMBER _____ EXTENSION _____</p> <p>11. TABLE OF CONTENTS</p> <table border="1"><thead><tr><th>(X)</th><th>SEC.</th><th>DESCRIPTION</th><th>PAGE(S)</th><th>(X)</th><th>SEC.</th><th>DESCRIPTION</th><th>PAGE(S)</th></tr></thead><tbody><tr><td></td><td></td><td>PART I - THE SCHEDULE</td><td></td><td></td><td></td><td>PART II - CONTRACT CLAUSES</td><td></td></tr><tr><td></td><td>A</td><td>SOLICITATION/CONTRACT FORM</td><td></td><td></td><td>I</td><td>CONTRACT CLAUSES</td><td></td></tr><tr><td></td><td>B</td><td>SUPPLIES OR SERVICES AND PRICES/COSTS</td><td></td><td></td><td>II</td><td>LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.</td><td></td></tr><tr><td></td><td>C</td><td>DESCRIPTION/SPEC./WORK STATEMENT</td><td></td><td></td><td>J</td><td>LIST OF ATTACHMENTS</td><td></td></tr><tr><td></td><td>D</td><td>PACKAGING AND MARKING</td><td></td><td></td><td></td><td>PART IV - REPRESENTATIONS AND INSTRUCTIONS</td><td></td></tr><tr><td></td><td>E</td><td>INSPECTION AND ACCEPTANCE</td><td></td><td></td><td>K</td><td>REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS</td><td></td></tr><tr><td></td><td>F</td><td>DELIVERIES OR PERFORMANCE</td><td></td><td></td><td>L</td><td>INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS</td><td></td></tr><tr><td></td><td>G</td><td>CONTRACT ADMINISTRATION DATA</td><td></td><td></td><td>M</td><td>EVALUATION FACTORS FOR AWARD</td><td></td></tr><tr><td></td><td>H</td><td>SPECIAL CONTRACT REQUIREMENTS</td><td></td><td></td><td></td><td></td><td></td></tr></tbody></table> <p>OFFER (Must be fully completed by offeror)</p> <p>NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.</p> <p>12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days / 90 calendar days unless a different</p>												(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)			PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			A	SOLICITATION/CONTRACT FORM			I	CONTRACT CLAUSES			B	SUPPLIES OR SERVICES AND PRICES/COSTS			II	LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			C	DESCRIPTION/SPEC./WORK STATEMENT			J	LIST OF ATTACHMENTS			D	PACKAGING AND MARKING				PART IV - REPRESENTATIONS AND INSTRUCTIONS			E	INSPECTION AND ACCEPTANCE			K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS			F	DELIVERIES OR PERFORMANCE			L	INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS			G	CONTRACT ADMINISTRATION DATA			M	EVALUATION FACTORS FOR AWARD			H	SPECIAL CONTRACT REQUIREMENTS					
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Step 1: Identify Required Elements of DPAS Rated Orders



- **For Subcontracts/Purchase Orders:**
 - When a company is awarded a subcontract or receives a purchase order from another company, it must determine whether the contract/purchase order is DPAS rated.
 - For a DPAS rated subcontract/purchase order, the four required elements of a DPAS rated order must appear on the subcontract/purchase order.

NOTE: A prime contract number is not a required element of a DPAS rated order.



Step 2



Step 2: Accept or Reject the DPAS Rated Order



Once a company has identified that it has received a DPAS rated order, the company must either accept or reject the DPAS rated order and provide customer notification according to the instructions provided in the DPAS regulation (15 CFR § 700.13).

The topics below will be covered in the following slides:

- [Mandatory Acceptance](#)
- [Mandatory Rejection](#)
- [Optional Rejection](#)
- [Customer Notification Requirements](#)



Step 2: Mandatory Acceptance

15 CFR § 700.13(a)



- Any company physically located in the United States must accept and fill a DPAS rated order for items that the company normally supplies.
- A company may not discriminate against rated orders in any manner, such as by charging higher prices or by imposing different terms and conditions than for comparable unrated orders.
- If a company accepts a rated order, the company must meet the requirements of that rated order, such as delivery date.



Step 2: Mandatory Rejection

15 CFR § 700.13(b)



- A company shall not accept a DPAS rated order for delivery on a specific date if it is unable to meet that date.
 - However, the company must inform the customer of the earliest date on which delivery can be made and offer to accept the DPAS rated order on the basis of that date.
- The existence of previously accepted unrated or lower DPAS rated orders is not sufficient reason for rejecting a DPAS rated order.



Step 2: Optional Rejection

15 CFR § 700.13(c)



A company may reject a DPAS rated order in any of the following cases as long as it does not discriminate among customers:

1. If the customer placing the order is unwilling or unable to meet regularly established terms of sale or payment.
2. If the order is for an item not supplied or a service not performed.
3. If the order is for an item produced, acquired, or provided only for the company's own use for which no orders have been filled for two years prior to the date of the receipt of the rated order. If, however, the company has sold some of these items, it must accept rated orders up to the quantity or portion of production, whichever is greater, sold within the past two years.
4. If the customer placing the order, other than the U.S. Government, makes the item or performs the service being ordered.



Step 2: Customer Notification Requirements

15 CFR § 700.13(d)(1)



- A company must accept or reject a customer's DPAS rated order in writing (hard copy), or in electronic format, within 15 working days after receipt of a "DO" DPAS rated order and 10 working days after receipt of a "DX" DPAS rated order.
- If the DPAS rated order is rejected, a company must provide the reasons in writing for the rejection.



Step 2: Customer Notification Requirements

15 CFR § 700.13(d)(2)



- DPAS rated orders placed for emergency preparedness requirements may be required to be accepted or rejected in an expedited timeframe.
- 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 section 700.12(b), then a company must accept or reject the rated order (in writing or electronically) within the time specified in the rated order.
- The minimum times for acceptance or rejection that such orders may specify are:
 - Six hours after receipt of the order if the order is issued by an authorized person in response to a hazard.
 - Twelve hours after receipt of the order if the order is issued by an authorized person to prepare for an imminent hazard.



Step 2: Customer Notification Requirements

15 CFR § 700.13(d)(3)



- The DPAS regulation requires that if a company has accepted a DPAS rated order and subsequently finds that the shipment or performance will be delayed, the company must:
 - Notify the customer immediately,
 - Give the reasons for the delay, and
 - Advise of 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.



Step 3



Step 3:

Preferential Scheduling

15 CFR § 700.14



- Once a company has accepted a DPAS rated order, it must then schedule operations, including the acquisition of all needed production items, to satisfy the delivery requirements of each DPAS rated order.
- Companies are required to reschedule unrated orders if they conflict with performance against a DPAS rated order and must reschedule “DO” DPAS rated orders if they conflict with performance against a “DX” DPAS rated order.
- The DPAS regulation (15 CFR § 700.14) describes the requirements for preferential scheduling in further detail.
- The following slide provides examples of preferential scheduling.



Step 3:

Preferential Scheduling

15 CFR § 700.14



Below are examples of how preferential scheduling would be applied:

- Example 1: If a company receives a “DO” DPAS 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.
- Example 2: If a “DX” DPAS rated order is received requiring delivery on July 15 and a company has a “DO” DPAS rated order requiring delivery on June 3 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” DPAS rated order.
- Example 3: If a “DX” DPAS rated order is received requiring delivery on July 15 and a company has a “DO” DPAS rated order requiring delivery on June 3 and operations cannot be altered to meet both the June 3 and July 15 delivery dates, then the “DX” DPAS rated order must be given priority over the “DO” DPAS rated order.



Step 4



Step 4: Extension of Priority Ratings

15 CFR § 700.15



- If the contract or order received is properly DPAS rated, a person must include the applicable DPAS priority rating on its contracts and purchase orders with suppliers located in the U.S. for items needed to fulfill the rated contract or purchase order it received.
 - This continues from contractor to subcontractor to supplier throughout the entire U.S. supply chain.
 - Companies must use the DPAS priority rating indicated on the customer's DPAS rated order, except as otherwise provided in the DPAS regulation or as directed by DOC/BIS.
 - Please see [slides 23-31](#) for more information regarding required elements of a DPAS rated order.



Step 4: Extension of Priority Ratings

15 CFR § 700.15



- The DPAS regulation has no authority outside of the United States
 - Once an order is placed with a supplier that is physically located outside of the United States, the DPAS no longer applies.
 - If a foreign supplier requires items from the United States and they are aware that their order is in support of a DPAS rated contract/order, they must receive written authorization from DOC/BIS to place a DPAS rated order with the U.S. supplier through the Special Priorities Assistance (SPA) process.



Step 4: Extension of Priority Ratings 15 CFR § 700.17(f)



- A person is not required to place a priority rating on an order for less than \$125,000, or one half of the Simplified Acquisition Threshold (SAT) (as established in the Federal Acquisition Regulations (FAR)), whichever amount is greater, provided that delivery can be obtained in a timely fashion without the use of the DPAS priority rating.
 - This is not an exception to the extension of priority ratings provisions of the DPAS regulation.
 - If an order to be placed with a supplier to fulfill a DPAS rated order is less than \$125,000 or one half of the SAT but delivery cannot be obtained by the required delivery date, a person must place the order as a DPAS rated order.



Additional Information



Additional Information



The DPAS regulation provides additional information that a company in receipt of a rated order should be aware of. The topics below are covered in the following slides:

- [Changes or Cancellations of Priority Ratings and Rated Orders \(15 CFR § 700.16\)](#)
- [Use of Rated Orders \(15 CFR § 700.17\)](#)
- [Limitations on Placing Rated Orders \(15 CFR § 700.18\)](#)
- [Records and Reports \(15 CFR § 700.91\)](#)



Additional Information: Changes or Cancellations

15 CFR § 700.16



- A DPAS rated order may be changed or cancelled by:
 - An official action of DOC/BIS; or
 - Written notification from the person who placed the DPAS rated order (including a DPAS Delegate Agency)
- If an unrated order is amended to make it a DPAS rated order, or a “DO” rating is changed to a “DX” rating, the supplier must give the appropriate preferential treatment to the order as of the date the change is received by the U.S. supplier.
 - Example: An unrated order is received on April 1 by a U.S. supplier. On May 1, the U.S. supplier receives an amendment to that unrated order that makes it a DPAS rated order. The order is considered a DPAS rated order and should be treated as such as of the date the DPAS rated order was received by the U.S. supplier (i.e., May 1). The DPAS priority rating cannot be retroactively applied to the unrated order placed on April 1.



Additional Information: Changes or Cancellations

15 CFR § 700.16



- An amendment to a DPAS rated order that significantly alters a supplier's original production or delivery schedule shall constitute a new rated order as of the date of its receipt.
 - The supplier must accept or reject the amended order according to the provisions of 15 CFR § 700.13.
- The following amendments do not constitute a new DPAS rated order:
 - a change in shipping destination;
 - a reduction in the total amount of the order;
 - an increase in the total amount of the order which has negligible impact upon deliveries;
 - a minor variation in size or design; or
 - a change which is agreed upon between the supplier and the customer.
- If a person no longer needs items to fill a DPAS rated order, any DPAS rated orders placed with suppliers for the items, or the priority rating on those orders, must be cancelled.
- When a priority rating is added to an unrated order, or is changed or cancelled, all suppliers must be promptly notified in writing.



Additional Information:

Use of Rated Orders

15 CFR § 700.17(a)(1)-(4)



- A company must use DPAS rated orders to obtain:
 - Items which will be physically incorporated into other items to fill rated orders, including that portion of such items normally consumed, or converted into scrap or by-products, in the course of processing;
 - Containers or other packaging materials required to make delivery of the finished items against rated orders;
 - Services, other than contracts of employment, needed to fill rated orders; and
 - Maintenance and repair and/or operating supplies (MRO) needed to produce the finished items to fill rated orders.
 - However, for MRO, the priority rating used must contain the program identification symbol H7 along with the rating symbol ("DX" or "DO") contained on the customer's rated order.
 - For example, a person in receipt of a DO-A3 rated order, who needs MRO, would place a DO-H7 rated order with the person's supplier.



Additional Information:

Use of Rated Orders

15 CFR § 700.17(a)(4)



- MRO as defined in the DPAS regulation (15 CFR § 700.8):
 - Maintenance is the upkeep necessary to continue any plant, facility, or equipment in working condition.
 - Repair is the restoration of any plant, facility, or equipment to working condition when it has been rendered unsafe or unfit for service by wear and tear, damage, or failure of parts.
 - Operating supplies are any items carried as operating supplies according to a person's established accounting practice. Operating supplies may include hand tools and expendable tools, jigs, dies, fixtures used on production equipment, lubricants, cleaners, chemicals and other expendable items.
 - MRO does not include:
 - items produced or obtained for sale to other persons or for installation upon or attachment to the property of another person, or items required for the production of such items;
 - items needed for the replacement of any plant, facility, or equipment; or
 - items for the improvement of any plant, facility, or equipment by replacing items which are still in working condition with items of a new or different kind, quality, or design.



Additional Information:

Use of Rated Orders

15 CFR § 700.17(b)



- A person may use a DPAS rated order to replace inventoried items (including finished items) if such items were used to fill rated orders.
 - The order must be placed within 90 days of the date of use of the inventory.
 - A DO rating symbol and the program identification symbol indicated on the customer's rated order must be used on the order.
 - A DX rating symbol may not be used even if the inventory was used to fill a DX rated order.
 - If the priority ratings on rated orders from one customer or several customers contain different program identification symbols, the rated orders may be combined.
 - In this case, the program identification symbol H1 must be used.



Additional Information:

Limitations on Placing Rated Orders

15 CFR § 700.18



- A person may not place a “DO” or “DX” DPAS rated order unless entitled to do so under the DPAS regulation.
- DPAS rated orders may not be used to obtain:
 - Delivery on a date earlier than needed,
 - A greater quantity of the item than needed (with exception), or
 - Items in advance of the receipt of a rated order (with exception).
 - Any of the following items unless specific priority rating authority has been obtained from the Department of Commerce or Delegate Agency:
 - Items for plant improvement, expansion or construction, unless they will be physically incorporated into a construction project covered by a rated order; or
 - Production or construction equipment or items to be used for the manufacture of production equipment.
- Additional limitations may be found in 15 CFR § 700.18.



Additional Information:

Records and Reports

15 CFR § 700.91



- A company must adhere to recordkeeping and reporting requirements outlined in the DPAS regulation (15 CFR § 700.91).
- Information obtained under section 700.91 of the DPAS regulation is deemed confidential under section 705(d) of the DPA which prohibits publication or disclosure of information unless the President determines that withholding it is contrary to the interest of the national defense. DOC will assert the appropriate Freedom of Information Act (FOIA) exemptions if such information is the subject of FOIA requests.
- Below are a few examples of the important requirements:
 - A company is required to make and preserve for at least three years, accurate and complete records for any transaction covered by the DPAS Regulation or an official action.
 - Records must be maintained in sufficient detail to permit the determination, upon examination, of whether each transaction complies with the provisions of this part or any official action.
 - Records required to be maintained must be made available for examination on demand by duly authorized representatives of DOC.



DPAS Compliance



DPAS Compliance

15 CFR § 700.70-75



- Information regarding compliance with the DPAS Regulation is outlined in 15 CFR § 700.70– 75.
- DOC/BIS works closely with the Determination Departments (DOD, DOE, and DHS) and Delegate Agencies (DOD, DOE, GSA, DHS, and HHS) to ensure compliance with the DPAS Regulation.
- Willful violation of the provisions of Title I or sections 705 or 707 of the DPA, the priorities provisions of the Selective Service Act (SSA) and related statutes, or this part is a crime and upon conviction, a person may be punished by fine or imprisonment, or both, as provided in sections 103 and 705 of the DPA and in section 468(f) of the SSA.
 - The maximum penalty provided by the DPA is currently a \$10,000 fine, or one year in prison, or both.



DPAS Compliance

15 CFR § 700.70-75



- All companies physically located in the United States must comply with the provisions of the DPAS Regulation. For the purposes of the DPAS Regulation, the United States includes any state, territory, or possession of the United States and the District of Columbia.
 - A foreign company's subsidiary or facility located in the United States is subject to the DPAS Regulation.
 - A U.S. company's subsidiary or facility located outside of the United States is not subject to the DPAS Regulation.
 - Location is key regardless of ownership. If the company is physically located in the United States, it is subject to the DPAS Regulation. If the company is physically located outside of the United States, it is not subject to the DPAS Regulation.
- Any person who places or receives a DPAS rated order should be thoroughly familiar with, and must comply with, the provisions of the DPAS Regulation.



**What official actions does
DOC/BIS utilize to
implement/enforce the DPAS
provisions?**



Official Actions



When necessary, DOC/BIS may take specific official action to implement or enforce the DPAS Regulation, including the issuance of:

- [Rating Authorizations \(15 CFR § 700.61\)](#)
- [Directives \(15 CFR § 700.62\)](#)
- [Letters of Understanding \(15 CFR § 700.63\)](#)

Please see the following slides for additional information on each topic.



Official Actions:

Rating Authorizations

[15 CFR § 700.61](#)



A rating authorization grants specific priority rating authority that permits a person to place a DPAS priority rating on a contract or order. This includes:

- Contracts or orders for an item not normally ratable under the DPAS Regulation.
- Authorizing a person to modify a priority rating on a specific order or series of contracts or orders.
- For more information on requesting a rating authorization, see [Special Priorities Assistance Requests](#).



Official Actions: Directives

15 CFR § 700.62



- A Directive requires a company to deliver an item or take other action within a specified time frame.
- A person must comply with each Directive issued by DOC/BIS, however, a person may not use or extend a Directive to obtain any items from a supplier, unless expressly authorized to do so in the Directive.
- Directives take precedence over all DX DPAS rated orders, DO DPAS rated orders, and unrated orders previously or subsequently received, unless a contrary instruction appears in the Directive.



Official Actions: Letters of Understanding

15 CFR § 700.63



- A Letter of Understanding may be issued by DOC/BIS in resolving SPA requests to reflect an agreement reached by all parties (DOC, the Delegate Agency, the supplier, and the customer).
- A Letter of Understanding is used to confirm production or shipping schedules which do not require modifications to other rated orders.
- A Letter of Understanding is NOT used to alter scheduling between rated orders, to authorize the use of priority ratings, to impose restrictions under this Regulation, or to take other official actions.



How does the DPAS Regulation provide protection against claims?



Protection Against Claims

15 CFR § 700.90



- The DPAS Regulation provides that 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 Regulation or official action from DOC/BIS.
- Protection against claims related to DPAS implementation is outlined in section 700.90 of the DPAS Regulation.



U.S. Department of Commerce Contact Information



Bureau of Industry and Security
Office of Strategic Industries &
Economic Security
Defense Programs Division
(202) 482-3634
DPAS@bis.doc.gov

www.bis.doc.gov/index.php/other-areas/strategic-industries-and-economic-security-sies/defense-priorities-a-allocations-system-program-dpas



DPAS Determination Departments Contact Information



U.S. Department of Defense

Office of the Deputy Assistance Secretary of
Defense for Industrial Policy

(703) 697-0051

[osd.pentagon.ousd-a-s.mbx.indpol-dpa-title-
i@mail.mil](mailto:osd.pentagon.ousd-a-s.mbx.indpol-dpa-title-i@mail.mil)

www.businessdefense.gov

U.S. Department of Homeland Security

Federal Emergency Management Agency

Office of Policy & Program Analysis

Defense Production Act Program Division

(202) 212-2900

FEMA-DPA@fema.dhs.gov

[www.fema.gov/disaster/defense-production-
act](http://www.fema.gov/disaster/defense-production-act)

U.S. Department of Energy

Office of Cybersecurity, Energy Security, and Emergency Response

(202) 586-8100

askcr@hq.doe.gov



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