

U.S. Department of Commerce

DPAS DELEGATION 1

DELEGATION OF AUTHORITY TO THE SECRETARY OF DEFENSE

Defense Priorities and Allocations System
(15 CFR Part 700)

A. Authority.

Titles I and VII of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.) and Executive Order 12919 of June 3, 1994 (59 FR 29525); Section 18 of the Selective Service Act of 1948 (50 U.S.C. App. 468), 10 U.S.C. 2538, 50 U.S.C. 82, and Executive Order 12742 of January 8, 1991 (56 FR 1079).

B. Purpose.

This document delegates certain authority to the Secretary of Defense necessary for the effective implementation of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 700).

C. Rating Authority.

The Secretary of Defense is delegated authority under the DPAS to:

(1) Place DO priority rated contracts and orders in support of Department of Defense (DOD) programs determined by the Secretary as necessary or appropriate to promote the national defense with respect to military production and construction, military assistance to foreign nations, stockpiling, space, and directly related activities (approved programs). DOD approved programs are listed in DPAS Schedule 1 to Part 700. These programs include "Food resources (combat rations)", identified by the "C1" program identification symbol, to meet troop support requirements for combat rations, by agreement between the Departments of Agriculture and Commerce, dated January 28, 1991 (see Attachment A to this Delegation).

(2) Place DX priority rated contracts and orders in support of those DOD approved programs determined by the President to be of the Highest National Priority as described in the DOD Master Urgency List.

D. Co-production Programs.

(1) The Secretary of Defense may request priority rating authority from the Department of Commerce (DOC) for specific co-production programs, and if granted, may authorize only those foreign firms which have entered into a formal co-production agreement with a U.S. producer to use priority ratings.

(2) With DOD sponsorship, DOC may authorize the use of **priority** ratings by other foreign firms providing items necessary to the co-production activity on a case-by-case basis.

E. Production and Construction Equipment.

The Secretary of Defense may authorize persons to place rated orders for delivery of production or construction equipment required to support DOD approved programs and projects, when the equipment is necessary for the timely performance or completion of rated contracts or orders and when timely delivery of the equipment cannot be obtained otherwise.

F. Delivery Scheduling.

The Secretary of Defense is delegated the authority to reschedule deliveries of materials or performance of services which are required in support of DOD approved programs, provided that such authority shall be used: (1) only to reschedule deliveries or performance among contracts or orders assigned priority ratings by DOD; and (2) only to the extent that such rescheduling requires no change in the delivery or performance schedules of other rated orders.

G. Special Priorities Assistance.

The Secretary of Defense may sponsor to DOC requests by persons for special priorities assistance upon determining the need for the requested assistance in support of DOD approved programs. DOD will: (1) serve as the initial point of contact for persons needing assistance; (2) verify the accuracy of the information provided and make reasonable efforts to resolve the issues, and, when necessary; (3) expeditiously forward the request to DOC to facilitate timely resolution. Upon receipt of the request for special priorities assistance, DOC will take immediate action to effect resolution and will keep DOD advised of progress.

H. Compliance, Audits, and Training.

In exercising this delegation, the Secretary of Defense should ensure that both DOD personnel and defense contractors under DOD's jurisdiction are in full compliance with the provisions of the DPAS. Accordingly:

(1) The Secretary is delegated the authority to review the implementation of the DPAS by all persons who receive, or are authorized to place, rated orders supporting DOD approved

programs. However, this review shall not include inquiries into the unrated business of these persons.

(2) The Secretary shall notify DOC of any alleged violations of the priorities and allocations provisions of the Defense Production Act; the priorities provisions of the Selective Service Act, 10 U.S.C. 2538 and 2539, and 50 U.S.C. 82; and the DPAS.

(3) In consultation with DOC, the Secretary should conduct a continuing training program to ensure that appropriate DOD and contractor personnel are thoroughly familiar with the provisions of the DPAS and this delegation.

I. Limitations of Authority.

(1) This delegation shall be implemented in accordance with the DPAS and any other related regulations or official actions issued by DOC. It does not limit the authority of the Secretary of Commerce under E.O. 12919, E.O. 12742, or any other authority.

(2) This delegated authority may not be used to support the procurement of:

(a) Civilian items for resale in Military Exchanges or the packaging for such items;

(b) Any end items that (i) are commonly available in commercial markets for general consumption; (ii) do not require major modification when purchased for approved program use; and (iii) are readily available in sufficient quantity so as to cause no delay in meeting approved program requirements; or

(c) Any items to be used primarily for administrative purposes, such as for personnel or financial management.

(3) This delegated authority shall not be used to require action or compliance by any person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities unless authorized by the President or the Secretary of Defense without further relegation.

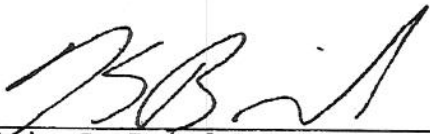
J. Redelegation of Authority.

The authority granted by this delegation may be redelegated within DOD and to other U.S. agencies administering DOD approved programs. Any redelegations of such authority to other U.S. agencies shall be made in writing with a copy furnished to DOC.

K. Effective Date and Revocation of Previous Delegations.

This delegation of authority shall take effect immediately as of the date of its execution, revoking all previous delegations issued by DOC to DOD relating to these authorities.

Dated: 7/11/98



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for Export Administration