

Defense Production Act, Title III Program (50 U.S.C. App. § 2091 et seq.)

BLUF FOR IMPLEMENTATION OF DPA TITLE III:

- DPA Title III has unique statutory requirements that must be met
- Stakeholders: ensure companies are willing to accept DPA Title III funds prior to nomination
- DPA Title III funding is not a grant--a well-scoped work package must be defined
- DPA Title III cannot provide loans to companies
- Approved projects receive authorization & funds from the OSD DPA Title III Program Office
- All projects are executed by, or delegated from, the Executive Agent Program Office at AFRL
- If an existing contract is suggested for rapid execution, confirm it can take production funds & ensure it would not be considered an augmentation of funds

AUTHORITIES:

- The Defense Production Act of 1950, as amended (50 U.S.C. App. § 2061 et seq.)
- FY11 National Defense Authorization Act, PL 111-83
- Executive Order 13603, "National Defense Resources Preparedness," 16 March 2012
- DoD Directive 4400.01E, "Defense Production Act Programs," 12 October 2001 (certified current as of 14 September 2007)
- DoD Directive 5101.1, "DoD Executive Agent," 9 May 2003
- HAF Mission Directive 1-10, "Assistant Secretary of the Air Force (Acquisition)," 24 June 2014
- Air Force Instruction 63-603, "Defense Production Act Title III Program," 17 December 2003
- DoD Instruction 4000.19, Support Agreements, 25 April 2013.

BACKGROUND:

The Title III program provides the President a unique and broad authority to ensure the timely availability of essential domestic industrial resources to support national defense and homeland security requirements through the use of highly tailored economic incentives. Specifically, the program is designed to create, maintain, protect, expand, or restore domestic industrial base capabilities. The Secretary of Defense serves as the Defense Production Act Fund Manager. The Secretary of Defense designated the Secretary of the Air Force as the DoD Executive Agent for the DPA Title III program. Congress assigned responsibility for the DPA Title III Program to the Deputy Assistant Secretary of Defense, Office of Industrial Policy DASD(INDPOL). The Secretary of the Air Force delegated Executive Agent responsibility for the DPA Title III program to SAF/AQ. The Air Force Title III Program Office is located within the Materials and Manufacturing Directorate (AFRL/RX) at Wright-Patterson Air Force Base, Ohio.

KEY ELEMENTS AND REQUIREMENTS FOR DPA TITLE III AUTHORITY:

- In practice, only Section 303 of the Act is used—there is currently no mechanism for providing loans or loan guarantees under Sections 301 or 302
- The Act allows the President to invest in industrial capability in order to create, maintain, protect, expand, or restore domestic industrial base capabilities essential for the national defense, the President may make provision:

- for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale;
- for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials;
- or the development of production capabilities; and
- for the increased use of emerging technologies in security program applications and the rapid transition of emerging technologies—
 - from Government-sponsored research and development to commercial applications; and
 - from commercial research and development to national defense applications
- DPA Title III Section 303(e) allows for installation of equipment in industrial facilities, if the President determines that such action will aid the national defense. The President is authorized—
 - to procure and install additional equipment, facilities, processes or improvements to plants, factories, and other industrial facilities owned by the Federal Government;
 - to procure and install equipment owned by the Federal Government in plants, factories, and other industrial facilities owned by private persons;
 - to provide for the modification or expansion of privately owned facilities, including the modification or improvement of production processes, when taking actions under section 301 [section 2091 of 50 U.S.C. Appendix], 302 [section 2092 of 50 U.S.C. Appendix], or this section; and
 - to sell or otherwise transfer equipment owned by the Federal Government and installed under this subsection to the owners of such plants, factories, or other industrial facilities.
- Requirements for DPA Title III Investment (§4533):
 - The industrial resource, material, or critical technology item is **essential to national defense**;
 - Without Presidential action under this section, United States **industry cannot reasonably be expected to provide the capability** for the needed industrial resource, material, or critical technology item **in a timely manner**;
 - Purchases, purchase commitments, or other action pursuant to this section are the most cost effective, expedient, and practical alternative method for meeting the need.
- DPA Title III Success Criteria

- **Creation** of an economically viable, self-sustaining business selling qualified product to DoD programs of record and commercial entities
- **Expansion** of domestic production capacities
- **Sustainment** of critical industrial base capabilities
- **Strengthen** and **Enhance** capabilities and technologies
- **Establish** or **reestablish** a domestic supply for a critical material or technology
- **Scale up/Tech Transition** of next generation technologies for future demand