



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

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INFORMATION MEMO

March 18, 2020

SUBJECT: Summary of Defense Production Act Title III Authorities

Title III of the Defense Production Act (DPA) (50 U.S.C. §4531-4534) provides the President broad authority to ensure the timely availability of essential domestic industrial resources to support national defense and homeland security requirements through the use of tailored economic incentives. Title III of the DPA authorizes the use of direct purchases, purchase commitments, guarantees of purchases or leases of advanced manufacturing equipment, and loans or loan guarantees in order to “develop, maintain, modernize, restore, and expand the productive capacities of domestic sources for critical components, critical technology items, materials, and industrial resources essential for the execution of the national security strategy of the United States.”¹

The use of Title III authorities is guided by specific criteria in the DPA. Title III authorities under section 303 (50 U.S.C. §4533) of the DPA may be exercised after the President, on a non-delegable basis, has made a determination that:

- the industrial resource, material, or critical technology item is essential to the national defense;
- without Presidential action under section 303 of the DPA (50 U.S.C. §4533), 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; and
- purchases, purchase commitments, or other action pursuant to section 303 of the DPA (50 U.S.C. §4533) are the most cost effective, expedient, and practical alternative method for meeting the need.²

Statutory requirements including a Presidential Determination are waived during a period of national emergency or upon a determination by the President that action is necessary to avert a industrial base shortfall that would severely impair national defense capability.

The DPA Fund contains non-expiring appropriated funds. Executive Order 13603, March 16, 2012, 77 F.R. 16651, reprinted in 50 U.S.C. §4553, designated the Secretary of Defense as the DPA Fund Manager. Therefore, the Secretary of Defense carries out the duties of the DPA Fund Manager, in consultation with the agency heads having approved, and appropriated funds for, projects under Title III of the DPA.³

¹ Exec. Order No. 13603, 77 FR 16651 (2012)

² Section 303 of the Defense Production Act (50 U.S.C. §4533)

³ Exec. Order No. 13603, 77 FR 16651 (2012)