

## SUMMARY OF DPAS REQUIREMENTS

- I. Title I of the Defense Production Act of 1950 authorizes the President of the United States to require priority performance of contracts or orders necessary or appropriate to promote national defense over all other contracts or orders.
- II. Rated Orders. There are two levels of priority for rated orders established by the DPAS, identified by the rating symbols "DO" and "DX". All DO rated orders have equal priority with each other and take preference over unrated orders, whether commercial or Government. All DX rated orders have equal priority with each other and take preference over DO rated and unrated orders. In the case of more than one DX or DO order, FIFO (first in, first out) is to be exercised.
- III. Mandatory Acceptance. A person shall accept every rated order received and must fill such orders regardless of any other rated or non-rated order that has been accepted unless:
  - A. A person is unable to meet the date(s) requested. However, the person must advise the requester of the earliest possible date delivery can be made and offer to accept the order based on that date.
  - B. A person shall not accept a DO rated order for a date which would interfere with delivery of any previously accepted DO or DX rated order. However, the person shall offer to accept the DO or DX order based on the earliest possible date available.
  - C. A person shall not accept a DX rated order for a date that would interfere with any previously accepted DX order. However, the next available date must be offered.
  - D. Optional rejection exists when:
    - 1) The person placing the order is unwilling or unable to meet the terms of sale or payment.
    - 2) The order is for an item not supplied or for services not performed in the normal course of business.
    - 3) The order is for an item not supplied or for services not provided for the supplier's own use and for which no orders have been filled for a period of two years prior to the date of the rated order.
    - 4) Orders relating to controlled materials, set-asides, etc.
- IV. Customer Notification Requirements
  - A. A person must accept or reject a rated order in writing within fifteen (15) working days after receipt of a DO rated order and within ten (10) working days after receipt of a DX rated order. The reason for rejection must be inwriting.
  - B. If a person has accepted a rated order and later discovers that due to circumstances beyond the person's control deliveries will be delayed, the person must notify the customer immediately giving the reason for the delay and advise a new shipment date. Verbal notification of such circumstances must be followed by written confirmation within five (5) working days.
- V. Flowdown. Sub-tier suppliers are required to invoke ratings on lower-tier suppliers for parts or services to be used in support of a rated order. This includes inventories within ninety (90) days of consumption.
- VI. Compliance. Any person who receives or places a rated order should be familiar with and must comply with the provisions of the DPAS regulation.
  - A. Willful violation is subject to a Ten Thousand (\$10,000.00) Dollar fine and/or one-year imprisonment under the Defense Production Act. Maximum penalty under the Selective Service Act and related statutes is a \$50,000 fine and/or three years in prison.
  - B. The Government may seek an injunction to prohibit further violation of the Defense Production Act (i.e., require a supplier to cease all other work until the rated orders are completed).

The preceding are only a few excerpts from the DPAS regulation (15 CFR 700). A 66-page handbook is available from the U.S. Department of Commerce, Office of Industrial Resource Administration in Washington, DC, (202) 482-2000. The information may also be found at <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-A/part-700>

All persons should be fully aware of the content of this regulation and their responsibilities, rights and privileges associated with rated national defense orders.