

**BY ORDER OF THE  
SECRETARY OF THE AIR FORCE**

**AIR FORCE INSTRUCTION 63-141**

**9 OCTOBER 2014**

**Acquisition**

**DEFENSE PRODUCTION ACT PROGRAMS**



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This instruction implements Air Force Policy Directive (AFPD) 63-1/20-1, *Integrated Life Cycle Management*, DoD Directive 4400.01E, *Defense Production Act Programs*, DoD Instruction 2000.25, *DoD Procedures for Reviewing and Monitoring Transactions Filed with the Committee on Foreign Investment in the United States (CFIUS)*, and DoD Manual 5220.22 V-3, *National Industrial Security Program: Procedures for Government Activities Relating to Foreign Ownership, Control, or Influence (FOCI)*. To the extent its direction is inconsistent with other Air Force publications, the information herein prevails, in accordance with AFI 33-360, *Publications and Forms Management*. This instruction outlines the process and integrates activities of Title I, Title III, and Title VII of the Defense Production Act (DPA) into the Air Force Industrial Base Program. The authorities to waive wing/unit level requirements in this publication are identified with a Tier (“T-0, T-1, T-2, T-3”) number following the compliance statement; unmarked mandates in this publication shall be treated as Tier-0. See AFI 33-360, Table 1.1 for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the Publication OPR for non-tiered compliance items.

This AFI should be periodically reviewed and updated to reflect changes in overarching policy directives and incorporate suggested comments from the field. Refer recommended changes and questions about this publication to SAF/AQXA using the AF Form 847, *Recommendation for Change of Publication*; route AF Form 847s from the field through Major Command

(MAJCOM) publications/forms managers. Forward all comments regarding this AFI to: [usaf.pentagon.saf-aq.mbx.saf-aqxa-workflow@mail.mil](mailto:usaf.pentagon.saf-aq.mbx.saf-aqxa-workflow@mail.mil). Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of in accordance with Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS). The use of the name or mark of any specific manufacturer, commercial product, commodity, or service in this publication does not imply endorsement by the Air Force.

This publication applies to all military and civilian Air Force personnel including major commands (MAJCOMs), direct reporting units (DRUs) and field operating agencies (FOAs), and to other individuals or organizations as required by binding agreement or obligation with the Department of the Air Force (DAF). This publication applies to the Air Force Reserve Command (AFRC) and Air National Guard (ANG), except as noted in the publication. For nuclear systems or related components ensure the appropriate nuclear regulations are applied in addition to the guidance in this AFI.

### ***SUMMARY OF CHANGES***

This document is new and must be completely reviewed. This document combines AFI 63-602, *Defense Production Act Title I – Defense Priorities and Allocations System*, and AFI 63-603, *Defense Production Act Title III Program*; adds information and procedures for Defense Production Act Title VII; and updates references and functional address symbols. The following forms are adopted: DD Form 691, *Application for Priority Rating for Production or Construction Equipment*, and BIS Form 999, *Request for Special Priorities Assistance*.

## Chapter 1

### INTRODUCTION

#### 1.1. Purpose.

**1.1.1. This instruction provides guidance on how to implement the Defense Production Act (DPA) of 1950 (50 U. S.C. App § 2061 et seq.) and the Department of Commerce (DOC) Defense Priorities and Allocations Systems (DPAS) Regulation (15 CFR 700). It describes rated orders, the organizations responsible for implementing DPAS, and procedures for processing rated orders and obtaining Special Priorities Assistance (SPA). This instruction also describes the process for direct investment in developing or sustaining industrial capacity and provides detailed procedures for the Air Force national security review of foreign direct investments in or acquisitions of US companies under review by the Committee on Foreign Investment in the United States (CFIUS).**

#### 1.2. Applicability.

1.2.1. This instruction applies to AF programs throughout the lifecycle, as well as AF purchase orders that are designated as “highest” or “critical to” national urgency. This instruction also applies to activities that maintain industrial base capabilities and to any foreign acquisitions of US industrial capabilities key to national security.

#### 1.3. Background.

1.3.1. Congress enacted the Defense Production Act (DPA) of 1950 (50 U.S.C. App § 2061 et seq.) to provide the President the authority to ensure the nation’s industrial resources would be made available in a timely manner to support national security needs for products, equipment, materials, and services. The DPA is not a permanent law; it must be periodically reauthorized. The DPA has three titles.

1.3.2. Title I, Defense Priorities and Allocations System (DPAS). Title I provides the President with authorities to put defense orders placed with domestic companies ahead of commercial orders placed with these same firms. Defense orders are assigned an industrial priority rating of either “DO” or “DX”. The “DX” rating is authorized by the Secretary of Defense in support of programs of the highest national urgency. The industrial priority rating cascades from the prime contractor down through all subcontractors. A rated order placed with a supplier takes precedence over all non-rated orders and must be filled ahead of the non-rated orders as needed to meet required delivery dates. DPAS also provides for Special Priorities Assistance (SPA) through the Department of Commerce to enable national security programs to address unique needs.

1.3.3. Title III, Expansion of Productive Capacity and Supply. The authorities provided in Title III enable the President to authorize direct investment in developing or sustaining industrial capacity in areas determined critical to national security. Title III provides authorities to make investments in domestic industrial capabilities but typically does not have its own appropriations. Congress first authorized the DPA Title III program in 1950 to enable industry to mine and produce materials for the Korean War. Title III continues to adapt to changing defense needs and today creates capacity for a diverse set of advanced materials.

1.3.4. Title VII, Authority to Review Certain Mergers and Acquisitions. Title VII gives the President the authority to block or undo the foreign acquisition or investment in cases involving domestic industrial capabilities key to national security. This Presidential authority is exercised through the CFIUS chaired by the Secretary of the Treasury. The committee determines the impact on national security of foreign acquisitions of U.S. companies and provides a recommendation to: allow the transaction to proceed, mitigate the risk to national security, or block the transaction. The Department of Defense (DoD) is a standing member of the Committee represented by the Secretary of Defense. The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy (DASD(MIBP)) is the DoD official with primary responsibility for CFIUS matters.

## Chapter 2

### ROLES AND RESPONSIBILITIES

**2.1. The Assistant Secretary of the Air Force (Acquisition) (SAF/AQ).** SAF/AQ is delegated responsibility for the Air Force implementation of DPA. SAF/AQ:

- 2.1.1. Administers the Air Force DPAS Program (Title I)
  - 2.1.1.1. Establishes Air Force guidance and procedures for implementing DPAS.
  - 2.1.1.2. Designates the Air Force Research Lab Materials and Manufacturing Directorate (AFRL/RX) as the office of primary responsibility for Air Force DPAS management.
  - 2.1.1.3. Represents the Air Force at the Department of Defense DPAS Council meetings and associated Priorities and Allocations of Industrial Resources Task Force activities.
  - 2.1.1.4. Assists in resolving DPAS violations and interagency conflicts.
- 2.1.2. Fulfills the role of the Secretary of the Air Force as the DoD Executive Agent for the Title III Program.
- 2.1.3. Has primary responsibility for Air Force involvement in CFIUS activities (Title VII).

**2.2. The Air Force Research Laboratory Materials and Manufacturing Directorate (AFRL/RX).** AFRL/RX:

- 2.2.1. Is the office of primary responsibility for management of DPAS for all Air Force weapon systems programs. Responsibilities include:
  - 2.2.1.1. Administering SPA; educating contractors and Government personnel about the requirements, obligations, and benefits of DPAS; and conducting DPAS compliance reviews at contractors' facilities.
  - 2.2.1.2. Providing DPAS assistance to all Air Force activities.
  - 2.2.1.3. Supporting DoD DPAS council activities.
  - 2.2.1.4. Reviewing and recommending changes to DPAS procedures.
- 2.2.2. Serves as Title III Program Office for the Air Force to manage the DoD DPA Title III Program. The Title III Program Office:
  - 2.2.2.1. Provides a senior executive, approved by SAF/AQ, to serve on a Title III Steering Committee as requested.
  - 2.2.2.2. Identifies and advocates requirements for adequate resources, including, but not limited to, management, engineering, and contracting personnel, for carrying out Title III activities.
  - 2.2.2.3. Executes activities under the authority of DPA Title III as directed by the DoD Title III Program Director.
  - 2.2.2.4. Advocates utilization of the Title III materials in other defense systems.
- 2.2.3. Provides a senior executive to serve as the Source Selection Authority and/or Decision Authority for all Title III contracting actions executed by the Title III Program Office.

**2.3. MAJCOMS:**

- 2.3.1. Appoint a DPAS officer and alternate and provide name and contact information to AFRL/RX and SAF/AQXL.
- 2.3.2. Provide subject matter experts as needed to review CFIUS cases.
- 2.3.3. May designate DPAS officers and Title III focal points at a lower organizational level but not lower than wing, complex, or center.

**2.4. Appointed DPAS Officers:**

- 2.4.1. Serve as the organization's activity focal point for all material priorities/program allocations.
- 2.4.2. Provide assistance and training to program managers and contracting officers concerning application of DPAS to include selection of appropriate industrial priority rating, nomination for DX industrial priority rating, and requesting Special Priorities Assistance (SPA).

**2.5. Contracting Organizations:**

- 2.5.1. Ensure a process is in place so that all contracts and purchase orders meet the requirements of Federal Acquisition Regulation (FAR) Subpart 11.6 (Priorities and Allocations).
- 2.5.2. Ensure all ratable solicitations, contracts and orders:
  - 2.5.2.1. Include provisions/clauses prescribed at FAR 11.604 and 12.603(c)(1)(xiv) as appropriate.
  - 2.5.2.2. Contain required delivery date.
  - 2.5.2.3. Contain the appropriate rating symbol and program identification symbol (DO-AI, DX-A2, etc.) as found in 15 CFR 700 Schedule 1: Approved Programs and Delegate Agencies.
- 2.5.3. Request DPAS and SPA information and assistance from local DPAS Officers or AFRL/RX.

## Chapter 3

### TITLE I: DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM (DPAS)

#### 3.1. Application of DPAS.

3.1.1. All contracting officers and Program Managers shall follow the guidance and procedures in DoD 4400.1-M for applying DPAS, including selecting the correct industrial priority rating, nominating programs for DX rating, and requesting SPA. DPAS procedures are followed with any contract let by the Air Force, and in most cases are transparent to the program manager. Supporting information concerning DPAS may be found at the Department of Commerce Bureau of Industry and Security website

#### 3.2. AF DPAS Rating Process.

3.2.1. Contracting Officers apply priority ratings to contracts or orders according to the DoD 4400.1-M.

3.2.2. If a contractor cannot fill a rated order due to lack of proper production equipment or supplies, either the DPAS Officer or Contract Administration Office recommends the contractor file a DD Form 691, *Application for Priority Rating for Production or Construction Equipment*, to request a priority rating (based on the rated order) for the U.S. supplier. Follow procedures in DoD 4400.1-M.

#### 3.3. Special Priorities Assistance (SPA).

3.3.1. SPA is a process that can be used to expedite product delivery at any level of the supply chain to meet a specific date or to accelerate delivery under a rated order due to a change in military urgency. It can also be used to resolve delivery conflicts among various rated orders.

3.3.2. Procedures for SPA are called out in DoD 4400.1-M. Instructions for filling out the BIS-999 are in Attachment 2 of this AFI.

## Chapter 4

### TITLE III: EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

#### 4.1. Authority.

4.1.1. Title III, Expansion of Productive Capacity and Supply, of the Defense Production Act (DPA) of 1950, as revised and amended, authorizes the President to use various forms of financial incentives to expand productive capacity and supply. These incentives include loan guarantees (Section 301), direct Federal loans (Section 302), purchases and purchase guarantees, installation of equipment in contractor facilities, and other incentives (Section 303). Title III authorities can be delegated to other Federal agencies as well as to the Department of Defense.

4.1.2. Executive Order 13603, National Defense Industrial Resources Preparedness, as revised and amended, delegates to the Department of Defense the authority to develop and promote measures for the expansion of productive capacity and of production and supply of materials and facilities necessary for the national defense.

4.1.3. DODD 4400.1E, *Defense Production Act Programs*, designates the Secretary of the Air Force as the DOD Executive Agent for the Defense Production Act Title III Program and directs the establishment and support of a Title III Program Office to execute the Program.

4.1.4. HAF MD 1-10 delegates Title III authorities to the Assistant Secretary of the Air Force (Acquisition) SAF/AQ.

#### 4.2. SAF/AQ:

4.2.1. Designates a flag rank officer, senior executive, or staff members to serve on OSD-led Title III steering committees or working groups.

4.2.2. Coordinates the DPA Title III Program with other elements of industrial base programs to ensure it supports them.

#### 4.3. AFRL/RX shall:

4.3.1. Establish, document, and implement a structured process for project identification, evaluation, selection and execution of Title III Projects. (T-1)

4.3.2. Oversee technical and administrative performance of the Title III contracts. Coordinate assessments of contractors' progress with the project sponsors, working groups, and the Title III Focal Point. (T-1)

4.3.3. Provide information about contractors' progress and production schedules to members of the service or agency working group and managers of programs requiring contract deliverables. (T-2)

## Chapter 5

### TITLE VII: AUTHORITY TO REVIEW CERTAIN MERGERS AND ACQUISITIONS

#### 5.1. Overview.

5.1.1. The Committee on Foreign Investment in the United States (CFIUS) was established to support the President in determining the impact on national security of foreign acquisitions of U.S. companies and to provide a recommendation to allow the transaction to proceed, mitigate the risk to national security, or block the transaction. The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy (DASD(MIBP)) is the DoD official with primary responsibility for CFIUS matters.

#### 5.2. Procedures for reviewing CFIUS transactions.

5.2.1. The Air Force will review assigned CFIUS transactions to assess the impact on the ability of the Air Force to conduct its national security mission and will provide a recommendation back to OSD.

5.2.1.1. SAF/AQ will:

5.2.1.2. Receive and review the cases from OSD.

5.2.1.3. Staff cases to provide for functional and subject matter expert review.

5.2.1.4. Coordinate and de-conflict recommendations from Air Force elements.

5.2.1.5. Develop an Air Force recommendation for each case.

5.2.1.6. Participate in CFIUS case deliberations as required by OSD.

5.2.1.7. Inform Air Force leadership on CFIUS cases that may significantly impact the Air Force.

5.2.1.8. Notify DASD(MIBP) of any foreign acquisitions of U.S. companies that have not been submitted for CFIUS review.

5.2.2. SAF/AAZ will:

5.2.2.1. Review CFIUS transactions received from DoD SAPCO.

5.2.2.2. As appropriate, notify SAF/AQXL of any CFIUS issues for consideration into a consolidated Air Force recommendation.

5.2.3. Air Force organizations tasked to review a CFIUS transaction will:

5.2.3.1. Using criteria in Attachment 3, review CFIUS transactions to identify and assess the national security implications relevant to the Air Force arising from the transfer of technology and/or production capacity when an acquired firm is a current or former defense contractor or possesses critical technologies and provide recommendation to SAF/AQ. (T-1)

5.2.3.2. Inform SAF/AQ as soon as they determine there is a national security concern with any transaction. (T-1)

- 5.2.3.3. When recommending further investigation, provide either General Officer or Senior Executive endorsement. (T-1)
- 5.2.3.4. Recommend actions to mitigate risks arising from the transaction. (T-1)
- 5.2.3.5. Participate in case deliberations. (T-2)
- 5.2.3.6. Support monitoring of mitigation or security agreements they recommend. (T-1)
- 5.2.4. Per DoDI 2000.25 Enc 3 (2a), components must review cases within 21 days.
- 5.2.5. Documents and materials filed with the committee in support of transactions are exempt from disclosure under section 552 of Title 5, United States Code also known as the Freedom of Information Act and will not be made public.
- 5.2.6. As directed by Treasury Department, all CFIUS case materials and recommendations will be transmitted over a secure network, the SIPRNet.

WILLIAM A. LAPLANTE  
Assistant Secretary of the Air Force (Acquisition)

**Attachment 1****GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

DoDI 2000.25, *DoD Procedures for Reviewing and Monitoring Transactions Filed with the Committee on Foreign Investment in the United States (CFIUS)*, August 2010

DoDD 4400.01E, *Defense Production Act Programs*, October 2001, certified current as of September 14, 2007

DoD 4400.1-M, *Priorities and Allocations Manual*, February 2002

DoDM 5220.22 Volume 3, *National Industrial Security Program: Procedures for Government Activities Relating to Foreign Ownership, Control, or Influence (FOCI)*, April 2014

DPAS Regulation, Subpart C, Section 700.8. The definitions specified in this DPAS Regulation apply to this instruction.

HAF MD 1-10, *Assistant Secretary of the Air Force (Acquisition)*, June 2013.

AFPD 63-1\_20-1, *Integrated Lifecycle Management*, July 2012

AFI 33-360, *Publications and Forms Management*, March 2013

AFMAN 33-363, *Management of Records*, March 2008

***Prescribed Forms***

None

***Adopted Forms***

BIS-999, *Request for Special Priorities Assistance*

DD Form 691, *Application for Priority Rating for Production or Construction Equipment*

AF Form 847, *Recommendation for Change of Publication*

***Abbreviations and Acronyms***

**AFRL**—Air Force Research Laboratory

**AFRL/RX**—The Air Force Research Laboratory Materials and Manufacturing Directorate

**DASD(MIBP)**—Deputy Assistant Secretary of Defense, Manufacturing and Industrial Base Policy

**DOC**—Department of Commerce

**DPA**—Defense Production Act

**DPAS**—Defense Priorities and Allocations System

**HQ AFMC**—Headquarters Air Force Materiel Command

**OPR**—Office of Primary Responsibility

**PAM**—Priorities and Allocations Manual

**SPA**—Special Priorities Assistance

**SAF/AQX**—Deputy Assistant Secretary of the Air Force (Program Integration)

## Attachment 2

### FILLING OUT FORM BIS-999 ENTRIES

#### A2.1. General Information.

A2.1.1. Air Force field activities obtain Form BIS-999 from the Bureau of Industry and Security website. For each form, restrict entries to:

A2.1.2. One applicant.

A2.1.3. One supplier.

A2.1.4. One type of material, component, assembly, or subassembly.

A2.1.5. One purchase-order line item. **EXCEPTION:** When you include two or more line items that conform to A2.1.1. through A2.1.3. on one request, enter "See Attachment" on Blocks 2 and 5 if necessary. Include the requested and promised dates for each item on the attachments for Block 2 and 5. Label the schedule for each item with the appropriate item identification.

#### A2.2. Classified.

A2.2.1. Do not include classified information on Form BIS-999. If you are asked for classified information, enter "classified" and provide the information or requested data through proper channels for transmitting classified information.

#### A2.3. Copies.

A2.3.1. Submit a copy of both the contract face page and the contract delivery page with Form BIS-999. Encourage contractors submitting Form BIS-999 to include a copy of the purchase order to the problem supplier.

**A2.4. Required Entries:** Block 1a -- Enter the name and address of the activity requesting SPA.

Block 1b -- If applicant is not the end-user, enter the applicant's customer (i.e., procuring Government agency, prime contractor). If the prime contractor experiences delays, you may enter DoD CAS or the purchasing activity. Include the telephone number, name of contact, and include the prime contract number if known. This information is vital to quickly determine urgency and various expediting alternatives.

Block 2 -- Indicate the product being produced or service to be performed by the applicant.

Block 3 -- Be sure that the "Quantity" amount corresponds to the "number of units" identified in Block 5. Respond in as much detail as possible to assist in the search for alternate sources and materials.

Block 4a -- Enter the supplier with whom the applicant is experiencing the delay. Give the name of the highest official in the company who is directly involved with the applicant, including title, telephone and FAX numbers, if known.

Block 4b -- Enter applicant's purchase order number to supplier, date issued and priority rating.

Block 5a -- Be sure that all rated orders contain a required delivery date or schedule and number of units/items required. Specify the delivery date and quantity currently required by applicant.

Block 5b -- Indicate the quantity of units/items and delivery schedule currently promised by the supplier. If this differs significantly from the quantity and schedule provided in the original

contract/purchase order, provide the original schedule and quantity in the Continuation Block.

Block 6 -- State the reasons given by the supplier explaining why the required delivery (Block 5a) cannot be met. Attach any pertinent written correspondence to the form.

Block 7 -- Explain the effect the delay in receipt of the item(s) in Block 3 will have on delivery of the item(s) in Block 2 (production stoppage, shipment delay, etc.). Describe in-house efforts and steps you have taken with the supplier to resolve the critical item shortage.

Block 8 -- The DPAS officer of the DoD activity, or authorized representative of a private company filing the Form BIS 999, completes and signs the certification required in this block.

Block 9 -- Sponsoring U.S. Government Agency -- Agency which issued a contract or order for which applicant's material is needed. Complete sponsor activity information.

a. Self-explanatory.

b. Self-explanatory.

c. Self-explanatory.

d. Describe any other factors that may justify special assistance. Indicate the likely consequences if you cannot obtain the priorities assistance you are requesting.

e. Show how you are coordinating with the applicant. Include a description of what the sponsoring DPAS officer has done to resolve the problem, verify the facts, and recommend actions for higher headquarters to take. Describe the actions you have taken with other major commands or other services to resolve the shortage.

f. Self-explanatory.

**Attachment 3****AF REVIEW OF CFIUS CASES- REVIEW PROCESS STEPS**

**A3.1. STEP 1.** OSD CFIUS Team sends case to SAF/AQXL via SIPRnet.

A3.1.1. SAF/AQXL:

A3.1.1.1. Reviews case for Air Force equities.

A3.1.1.2. Determines which AF elements may have either an interest in the case or the necessary expertise to review the case.

A3.1.1.3. Establishes an internal suspense.

**A3.2. STEP 2.** SAF/AQXL transmits the case files to reviewing organizations.

**A3.3. STEP 3.** Reviewing organizations:

A3.3.1. Provide subject matter expert to review case information.

A3.3.2. Assess case against criteria identified in DoDI 2000.25, *DoD Procedures for Reviewing and Monitoring Transactions Filed with the Committee on Foreign Investment in the United States (CFIUS)*, Enclosure 4.

A3.3.3. Develop a recommendation for the case. If recommending further investigation or risk mitigation, provide either General Officer or Senior Executive level endorsement.

A3.3.4. Return recommendation to SAF/AQXL.

**A3.4. STEP 4.** SAF/AQXL:

A3.4.1. Reviews and, as needed, deconflicts recommendations from reviewers.

A3.4.2. Develops an Air Force recommendation.

A3.4.3. Transmits the Air Force recommendation to OSD.

**A3.5. Further Investigation.** For cases when reviewing organizations recommend further investigation (45 day period):

A3.5.1. SAF/AQXL works with reviewing organization to develop General Officer or Senior Executive endorsed memorandum recommending further investigation.

A3.5.2. SAF/AQXL transmits recommendation and memorandum to OSD.

A3.5.3. As needed, SAF/AQXL and reviewing organization support OSD in developing a DoD recommendation.

**A3.6. Risk Mitigation.** For cases when reviewing organizations recommend actions to mitigate risk:

A3.6.1. SAF/AQXL assists reviewing organization in conducting a Risk-Based Assessment as described in DoDI 2000.25.

A3.6.2. As needed, SAF/AQXL and reviewing organization work with OSD to finalize the assessment and the recommended mitigation actions.

A3.6.3. As needed, support monitoring of mitigation or security agreements they recommend.