

This directive was reviewed and certified as current and necessary by Susan J. Grant, Director, Office of Management, Budget and Evaluation/Chief Financial Officer, 10-12-04.

SUBJECT: PRIORITIES AND ALLOCATIONS PROGRAM

1. **OBJECTIVES.**

- a. To establish responsibilities for the administration of the Department of Energy (DOE) and National Nuclear Security Administration (NNSA) priorities and allocations program for industrial products, materials, and services.
- b. To maintain for both current and emergency conditions a priorities and allocations system for the procurement of industrial products, materials, and services necessary for the timely completion of DOE atomic energy construction, operations, and research and development programs that promote the national defense and programs that are determined by DOE to maximize domestic energy supplies.

2. **CANCELLATION.** DOE O 544.1, *Priorities and Allocations Program*, dated 10-12-04. Cancellation of a directive does not, by itself, modify or otherwise affect any contractual obligation to comply with such a directive. Canceled directives that are incorporated by reference in a contract remain in effect until the contract is modified to delete the reference to the requirements in the canceled directive.

3. **APPLICABILITY.**

- a. **Primary DOE Organizations, Including National Nuclear Security Administration (NNSA) Organizations.** Except for the exclusions in paragraph 3c, this Order applies to all Primary DOE Organizations (see Attachment 1 for a complete list of Primary DOE Organizations). This Order automatically applies to Primary DOE Organizations created after it is issued.

The NNSA Administrator will ensure that NNSA employees and contractors comply with their respective responsibilities under this Order.

- b. **Contractors.** Not applicable. Although the requirements of this directive pertain only to Federal employees, the provisions of the Priorities and Allocations Program are applicable to contractors through the appropriate Federal Acquisition Regulation (FAR) and Department of Energy Acquisition Regulation clauses when incorporated into a contract, which appear in the References section of this directive.
- c. **Exclusions.** This Order is not applicable to the Bonneville Power Administration.

4. REQUIREMENTS. Primary DOE Organizations and field elements must submit and coordinate through heads of contracting activities (HCAs) or their delegates applications for special priorities assistance in the procurement of industrial products, materials, and services related to DOE atomic energy construction, operations, and research and development programs and programs that are determined by DOE to maximize domestic energy supplies.
- a. HCAs coordinate through the Defense DPAS coordination office and DPAS Approving Official to ensure that project priorities are assessed and set by officials with appropriate delegated authorities as defined in the responsibilities paragraphs.
 - b. HCAs appoint, in writing, primary and an alternate priorities and allocations program representatives as set forth in the responsibilities paragraphs.

NOTE: Specific Delegation Orders are cited in paragraph 6 of this Order.

5. RESPONSIBILITIES.
- a. Under Secretary for Nuclear Security and Administrator for National Nuclear Security Administration, per DOE Delegation Order No. 00-003.00, are delegated by the Secretary of Energy the following responsibilities.
 - (1) Ensure that staff and contractors under their jurisdiction are advised of the responsibilities defined in this Order and in DOE Delegation Order No. 00-003.00.
 - (2) Ensure that related procedures are followed and that training required to implement priorities and allocation program procedures is conducted.
 - (3) Appraise contractor Defense Priorities and Allocations System (DPAS) operations to ensure adherence to regulations (Title 15 Code of Federal Regulations, Chapter VII, Part 700), and to ensure that authorized programs are completed on schedule.
 - (4) Assign eligible ratings set forth in DOE Delegation Order No. 00-003.00.
 - b. Director of Procurement and Assistance Management.
 - (1) Develops and maintains policies, standards, contract articles, and procedures.
 - (2) Provides Headquarters direction, coordination, and administration of the DOE-wide DPAS.
 - (3) Modifies responsibilities designated to heads of contracting activities, or their delegates to implement policies and procedures issued by the Department of Commerce.

- (4) Maintains the master list of DOE programs eligible for the DX program rating and notifies heads of contracting activities or their delegates of the eligible programs.
- (5) Reviews and coordinates with responsible organizations and program offices the applications received from heads of contracting activities or their delegates for special priorities assistance to construct or alter privately owned facilities.
- (6) Consult with the General Counsel and the Assistant Secretary for Policy and International Affairs to determine whether to use the authority defined in section 101(c) of the Defense Production Act of 1950, 50 U.S.C. App. 207(c)(1994)], as amended, to maximize domestic energy supplies.
- (7) Notifies heads of contracting activities or their delegates of approval of applications mentioned in paragraph 5c(4).
- (8) Provides special priorities assistance on rated orders when requested by field elements.
- (9) Requests Department of Commerce to provide special priorities assistance on rated orders when regular DPAS procedures have proved ineffective.
- (10) Conducts onsite reviews of field element implementation of the priorities and allocations program.
- (11) Maintains liaison with Department of Commerce as the principal point of contact for DPAS policies, procedures, and regulations.

c. Director, NNSA Office of Procurement and Assistance Management.

- (1) Develops and maintains policies, standards, contract articles, and procedure, and provides Headquarters NNSA direction, coordination, and administration of NNSA-wide DPAS.
- (2) Refers matters that are DOE-exclusive to the appropriate authority in the Contract Administration Division, Office of Contract Management.
- (3) Maintains the master list of NNSA programs designated as eligible for the DX program rating.
- (4) Notifies the heads of NNSA departments of eligible programs.
- (5) Reviews and coordinates with NNSA General Counsel, DOE General Counsel, Assistant Secretary for Policy and International Affairs for special priorities assistance as required.

- (6) Notifies heads of field offices when eligible priority rating applications are approved.
- (7) Provides special priorities assistance on rated orders when requested by field elements.
- (8) Requests Department of Energy/Department of Commerce to provide special priorities assistance on rated orders in cases where regular DPAS procedures have proved ineffective.
- (9) Reviews and coordinates with responsible organizations applications received for special priorities assistance to construct or alter privately owned facilities.
- (10) Conducts onsite evaluation of field element priorities and allocations programs.
- (11) Addresses field element problems.
- (12) Maintains liaison with Department of Commerce and DOE concerning policies, procedures, and regulations of the DPAS.
- (13) Assigns to contractors and subcontractors the right to place rated contracts and orders for maintenance, repair, and operating supplies.
- (14) Ensures that contractors and subcontractors adhere to limitations of authority that may be applicable.

d. Heads of Contracting Activities.

- (1) Ensure that members of their staffs and contractors under their jurisdiction are advised of the provisions of this Order.
- (2) Ensure that related procedures are followed and that required training is conducted.
- (3) Appraise their contractors' operations under the DPAS regulation and procedures to ensure adherence to the priorities and allocations system throughout the industrial chain to ensure that authorized programs are completed on schedule.
- (4) Place rated contracts and orders in accordance with 15 CFR Part 700 and applicable guidance. Heads of Contracting Activity, or their delegates, may use, or authorize their contractors or subcontractors to use, the DO rating on DOE atomic energy construction, operations, (including maintenance, repair, and operating supplies), and research and development program contracts and orders for all products, materials, and services except for those items or services stated in DPAS regulation at 15 CFR 700.18, "Limitations on placing rated orders," or as stated in DOE guidance.

- (5) Authorize contractors and subcontractors to place rated contracts and orders in accordance with 15 CFR 700 and applicable guidance.
- (6) Assign to contractors and subcontractors the right to place rated contracts and orders for maintenance, repair, and operating supplies.
- (7) Authorize the placing of rated contracts and orders for delivery of construction and production equipment in accordance with this order and applicable guidance.
- (8) Ensure that contractors and subcontractors adhere to limitations of authority that may be applicable.
- (9) Forward to the DPAS Coordination Office with appropriate recommendations, applications for special priorities assistance.
- (10) Authorize contractors and subcontractors to place rated contracts and orders when advised by the DPAS approving official that requests for special priorities assistance that have been approved.
- (11) Apply or assign to others the authority to apply the DX program rating when notified of the eligibility of a program by the DPAS Approving Official.
- (12) Apply or assign to others the authority to apply the DX rating, other than the DX program rating only when specifically authorized by the DPAS approving official.
- (13) Appoint and document in writing a primary and an alternate priorities and allocations program representative.
- (14) Ensure that appropriate Federal Acquisition Regulation and DOE Acquisition Regulation contract clauses are inserted into solicitations and contracts that are or will be rated under DPAS.

e. Priorities and Allocations Program Representatives.

- (1) Provide priorities and allocations advice and guidance for their organization.
- (2) Coordinate and conduct program activities for their organizations.
- (3) Serve as principal priorities and allocations contact points for their organizations.
- (4) Represent their organization at Department meetings on priorities and allocations issues.

- (5) Act as liaison with Headquarters, other DOE or NNSA organizations, and DOE or NNSA contractors in priorities and allocations matters affecting their organization.

6. REFERENCES. DOE Secretarial Delegation Orders are available online at <http://www.directives.doe.gov/delegations/index.html>.

- a. Defense Production Act of 1950, dated 9-8-50, as amended, 50 U.S.C. Appendix 2061 et seq., Title I, which authorizes the President to require the priority performance of contracts or orders, and to direct the allocation of materials and facilities, under certain circumstances. Under section 101(a), the President may require the performance on a priority basis of contracts or orders, and to allocate materials, services and facilities, as he deems necessary or appropriate to promote the national defense. Section 101(c) authorizes the President to require priority performance of contracts or orders relating to materials, services, or facilities in order to maximize domestic energy supplies if he makes certain findings.
- b. Defense Priorities and Allocations System Delegation 2, "Delegation of Authority to the Secretary of Energy," amended 08-06-02, which authorizes the Secretary of Energy to: (1) place rated contracts and orders for the procurement of products, materials, and services required for atomic energy construction, operations, and research and development programs subject to conditions stated in the delegation; and (2) make the findings required by section 101(c) of the Defense Production Act of 1950, as amended, that specific supplies of materials and equipment are critical and essential to programs that are determined by DOE to maximize domestic energy supplies.
- c. Executive Order 12919, "National Defense Industrial Resources Preparedness," dated 6-3-94, which delegates to the Secretary of Energy the President's authority under section 101(a) of the Defense Production Act of 1950 (DPA), as amended, with respect to all forms of energy. EO 12919 delegates to the Secretary of Commerce the DPA section 101(a) authority with respect to materials, services and facilities not covered by the President's delegations to other department heads; directs the Secretary of Commerce to administer a "Defense Priorities and Allocation System" (DPAS) to implement the Commerce Department's authority; and directs the Secretary of Commerce to redelegate to other department heads authority for the priority rating of contracts and orders for all materials, services and facilities needed in support of certain approved programs. Finally, EO 12919 delegates the authority under section 101(c) of the Act to the Secretary of Commerce, with the proviso that the Secretary of Commerce redelegate to the Secretary of Energy the authority to make the finding that materials, facilities, or services are critical and essential to maximizing domestic energy supplies. The Secretary of Commerce retains the authority to determine that the use of the section 101(c) authority in a particular case is necessary.
- d. 15 CFR 700, "The Defense Priorities and Allocations System (DPAS) Regulation" and Delegation 2, as revised (63 FR 31918) dated 6-11-98, which contain the

official text for the DPAS regulations to support authorized national defense programs and programs determined by DOE to maximize domestic energy supplies. The Department of Commerce delegates rating authority to the Secretary of Energy under the Delegation 2.

- e. 10 CFR 216, “Materials Allocation and Priority Performance Under Contracts or Orders to Maximize Domestic Energy Supplies,” dated 2-6-78, which contains the rules, regulations, and procedures for implementing the DOE priorities and allocations program for supplies of materials and equipment necessary to maximize domestic energy supplies.
- f. 48 CFR Chapter 9, Department of Energy Acquisition Regulation (DEAR), Subpart 11.600 and contract clauses DEAR 952.211-70, DEAR 952.211-71, or DEAR 970.5244-1(p), which explain the use of and describe clauses for DOE participation in the industrial priorities and allocations program for atomic energy programs and programs that maximize domestic energy supplies.
- g. Federal Acquisition Regulation, Subpart 11.6, and contract clauses FAR 52.211-14 or FAR 52.211-15, which implement the DPAS regulation in prescribing policies and procedures relating to the use of the DPAS in solicitations and contracts.
- h. DOE Delegation Order No. 00-003.00 to the Under Secretary for Nuclear Security/Administrator for National Nuclear Security Administration pursuant to section 642 of the DOE Organization Act (Public Law 95-91, 42 U.S.C. 7252) and by the National Nuclear Security Administration Act (Public Law 106-65, 50 U.S.C. 2401-2484). This delegation order delegates authority for Security Activities, Defense Activities, Naval Reactors Activities, Nuclear Nonproliferation Activities, as well as internal Human Resources Administration, Procurement, and Financial Activities. Additionally, this delegation delegates rating authority to make a determination whether to use the authority contained in section 101(a) of the Defense Production Act of 1950, 50 U.S.C. App 2071 (a)(1994), priority contracting authority to expedite procurement actions to promote National Defense after consultation with DOE General Counsel and the Assistant Secretary for Policy and International Affairs.
- i. DOE Delegation Order No. 00-003.01, which delegates to the Director, Office of Procurement and Assistance and Management, NNSA pursuant to section 3212 of the National Nuclear Security Administration Act priority contracting authority to expedite procurement actions to promote National Defense after consultation with DOE General Counsel and the Assistant Secretary for Policy and International Affairs.
- j. DOE Delegation Order No. 00-002.00A, which delegates to the Under Secretary for Energy, Science and Environment pursuant to section 642 of the DOE Organization Act (P.L. 95-91, 42 U.S.C. 7252) authority to determine whether to use the authority contained in Section 101(c) of the Defense Production Act of

1950, U.S.C. App 2071 (a)(1194), as amended, to maximize domestic energy supplies (after consultation with DOE General Counsel and the Assistant Secretary for Policy and International Affairs).

- k. DOE Delegation Order No. 00-002.07 pursuant to section 202(b) of the DOE Organization Act (Public Law 95-91, 42 U.S.C. 7132(b)) and Secretarial Delegation Order No. 00-002.00A, which delegate to the Director, Office of Procurement authority to determine whether to use the authority contained in Section 101(c) of the Defense Production Act of 1950, U.S.C. App 2071 (a)(1194), as amended, to maximize domestic energy supplies after consultation with DOE General Counsel and the Assistant Secretary for Policy and International Affairs.
 - l. DOE Delegation Order No. 00-022.00, which delegates to the Director, Office of Procurement and Assistance Management pursuant to section 642 of the DOE Organization Act (P.L. 95-91, 42 U.S.C. 7252) authority to make a determination whether to use the authority contained in Section 101(c) of the Defense Production Act of 1950, U.S.C. App 2071 (a)(1194), as amended, to maximize domestic energy supplies (after consultation with DOE General Counsel and the Assistant Secretary for Policy and International Affairs).
 - m. Department of Energy Acquisition Guide, Chapter 11, "Describing Agency Needs," Section (1), "DOE Priorities and Allocations Program Guidance."
7. DEFINITIONS. In addition to the definitions contained in the DPAS regulation (15 CFR Part 700) and 10 CFR Part 216, the following terms are defined for use in this order.
- a. Authorized Program Identifications.
 - (1) E1—Atomic energy construction and alteration for the account of DOE.
 - (2) E2—DOE atomic energy operations, including maintenance, repair, and operating supplies.
 - (3) E3—Expansion of privately owned facilities exclusively or primarily for DOE atomic-energy program purposes.
 - (4) F1—Energy exploration, production, refining, and transportation.
 - (5) F2—Conservation of energy supplies.
 - (6) F3—Construction, repair and maintenance of energy facilities.
 - b. Defense Priorities and Allocations System (DPAS). Commerce Department regulation and set of procedures that operate to direct the flow of material and products to national defense programs and programs that maximize domestic

energy supplies, provide for preferential treatment by industry of contracts and orders placed in support of the programs, and maintain an administrative means of promptly mobilizing the total economic resources of the Nation in the event of a national emergency.

- c. Delegate Agency. A Government agency having delegated authority from the Department of Commerce to place priority ratings on contracts or orders needed to support approved programs. DOE is a delegate agency.
- d. DO. The rating symbol assigned to all authorized programs that are not DX programs.
- e. DX. The rating symbol assigned only to authorized programs of the highest national priority.
- f. Eligible Contracts and Orders. Those contracts and orders for products, materials, and services that may be rated in accordance with the rules and exclusions stated in the Defense Priorities and Allocations System (DPAS) regulation and in the DPAS Delegation 2. Limitations on placing rated orders and a list of items under the jurisdiction of the Department of Commerce that are excluded from the rating provisions of the DPAS regulation are stated at Section 700.18 of “DPAS Defense Priorities and Allocations System” (15 CFR 700).
- g. Fifty Thousand Dollar (\$50,000) Exemption. A person is not required to place a priority rating on an order for less than \$50,000, or one half of the Federal Acquisition (FAR) Simplified Acquisition Threshold, whichever amount is larger, provided that delivery can be obtained in a timely fashion without the use of the priority rating. (See 15 CFR 700.17, “Use of rated orders.”)
- h. Maintenance, Repair, and Operating Supplies. Supplies that are required for maintaining, repairing, and operating a facility, including minor alterations necessary to maintain or repair but not to increase the capacity of the facility.
- i. National Defense. Programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.
- j. Person. Any individual, corporation, partnership, association, or any other organized group of persons, including any agency of the United States Government or any other government.
- k. Rated Order or Contract. A prime contract, a subcontract or a purchase order for services, products, or materials that may be rated in accordance with the DPAS regulation.

- l. Rating. A prefix, either DO or DX, followed by an authorized program identification symbol (e.g., DO-E1, DX-E2).
 - m. Rating Authority. The authority delegated to DOE in the Defense Priorities and Allocations System (DPAS) Delegation 2, to place or authorize others to place rated contracts and orders in support of DOE Emergency Management Agency.
 - n. DPAS Coordination Office.
 - (1) The Contract Administration Division for elements under the Department of Energy, or
 - (2) The Office of Procurement and Assistance Management for elements under the National Nuclear Security Administration.
 - o. DPAS Approving Official.
 - (1) the Director, Office of Procurement and Assistance Management for elements under the Department of Energy, or
 - (2) the Director, Office of Procurement and Assistance Management for elements under the National Nuclear Security Administration.
8. CONTACT. Office of Infrastructure Security and Energy Restoration, Office of Electricity Delivery and Energy Reliability, 202-586-3362 .

BY ORDER OF THE SECRETARY OF ENERGY:



KYLE E. McSLARROW
Deputy Secretary

**PRIMARY DEPARTMENT OF ENERGY ORGANIZATIONS
TO WHICH DOE O 544.1 IS APPLICABLE**

Office of the Secretary
National Nuclear Security Administration
Office of Civilian Radioactive Waste Management
Office of Congressional and Intergovernmental Affairs
Office of Counterintelligence
Office of Energy Assurance
Office of Energy Efficiency and Renewable Energy
Office of Environment, Safety and Health
Office of Environmental Management
Office of Fossil Energy
Office of Intelligence
Office of Management, Budget and Evaluation/Chief Financial Officer
Office of Nuclear Energy, Science and Technology
Office of Science
Office of Security and Safety Performance Assurance
Office of Security
Southeastern Power Administration
Southwestern Power Administration
Western Area Power Administration

**PRIMARY DEPARTMENT OF ENERGY ORGANIZATIONS
TO WHICH O 544.1 IS NOT APPLICABLE**

Chief Information Officer
Departmental Representative to the Defense Nuclear Facilities Safety Board
Energy Information Administration
Office of Economic Impact and Diversity
Office of Electric Transmission and Distribution
Office of General Counsel
Office of Hearings and Appeals
Office of Independent Oversight and Performance Assurance
Office of the Inspector General
Office of Legacy Management
Office of Policy and International Affairs
Office of Public Affairs
Secretary of Energy Advisory Board
Bonneville Power Administration