U.S. Government Accountability Office

Defense Production Act: Information Sharing Needed to Improve Use of Authorities

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Q&A Report to Congressional Requesters
June 12, 2025

Why This Matters

The Defense Production Act (DPA) of 1950 is a key tool that delegated federal agencies can use to ensure the supply and timely delivery of products, materials, and services critical to national defense in times of peace as well as national emergencies. For example, agencies used the DPA to secure access to personal protective equipment like gloves and masks during the COVID-19 response and to replenish U.S. supplies of ammunition sent to Ukraine. The various DPA authorities enable the domestic industrial base—which includes companies in the U.S. and certain allied nations—to maintain or increase production of key defense resources.

Currently, the DPA provides the President three broad authorities—Titles I, III, and VII. Title I authority allows agencies and other entities delegated authority by the President to place priority ratings on certain contracts and orders and allocate materials to support national defense. Title III allows agencies delegated by the President to provide financial incentives—through either investments or loans—to the domestic industrial base to add new or increase existing capacity. Title VII allows agencies delegated by the President to survey the industrial base for vulnerabilities, establish voluntary agreements with industry to foster collaboration, and create an executive reserve to include private sector personnel to aid federal agencies in times of national emergency, among other things.

In 2018, Congress reauthorized the DPA through September 30, 2025, at which point most of the DPA's provisions are set to expire unless action is taken by Congress. We were asked to review agencies' use of the DPA authorities since the last reauthorization, including challenges and areas for improvement. This report describes how selected federal agencies have used each of the DPA authorities from fiscal years 2018 to 2024 as well as examples of outcomes of its use. It also examines challenges experienced and actions agencies can take to more effectively use the DPA authorities. For this review, we selected the seven federal agencies delegated responsibility for implementing the expiring DPA authorities identified in Executive Order 13603—the Departments of Agriculture (USDA), Commerce, Defense (DOD), Energy (DOE), Homeland Security (DHS), Health and Human Services (HHS), and Transportation.

Key Takeaways

From fiscal years 2018 to 2024, the selected agencies placed over 2.5 million Title I priority ratings on contracts or orders, which require the receiving companies to preference the delivery of goods or services needed to support national defense. For example, DOD uses priority ratings to support the production of military aircraft and ships, among others.

The selected agencies made 222 Title III investments valued at approximately $3.2 billion from fiscal years 2018 to 2024 to bolster the domestic industrial base. DOD made 208 of these investments to respond to COVID-19 and increase production of strategic and critical materials used in weapon systems, among others.

The selected agencies' use of Title VII authorities varied. For example, DOD, HHS, DHS, and Commerce requested or completed industrial base assessments to understand several supply chain sectors such as microelectronics. The Federal Emergency Management Agency (FEMA), which is part of DHS, was the only agency to establish a new voluntary agreement with industry since 2018.

The selected agencies have not collected or shared lessons learned for awarding or monitoring the outcomes of Title III investments. We are recommending that the FEMA Administrator—as DPA government-wide coordinator—take steps to ensure that these lessons learned are collected and shared.

What is the Defense Production Act?

During the Korean War, Congress enacted the Defense Production Act of 1950, granting the President expanded authority over defense production and economic policy to ensure the availability of industrial resources for national defense.[1]

Originally the Act included seven titles with various authorities, but, by 1953, Congress allowed four of these Title authorities to expire.[2] These authorities related to the President's ability to control wages and pricing, mediate labor disputes, control consumer credit, and seize equipment and supplies from private industry. Currently, there are three DPA Titles in effect—DPA Titles I (priorities and allocations), III (expansion of productive capacity and supply through financial incentives), and VII (general provisions).

Since the DPA was enacted, Congress amended it to broaden its applicability beyond military use and expanded coverage to include crises resulting from natural disasters or human-caused events not amounting to an armed attack on the U.S. The definition of "national defense" in the Act has been amended to also include emergency preparedness activities conducted pursuant to Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and critical infrastructure protection and restoration.[3] Additionally, Congress broadened the definition of domestic source for Title III to include companies in Australia, Canada, and the United Kingdom under certain conditions.[4]

Through Executive Order 13603, issued in March 2012, the President has delegated the ability to implement and exercise certain DPA authorities to various agencies discussed throughout the report below.[5] The Executive Order also assigned DHS to provide government-wide coordination for certain DPA programs, which includes providing guidance to agencies assigned DPA functions, in consultation with such agencies. DHS has further delegated the execution of this responsibility to FEMA.

What are Title I authorities?

Title I allows agencies that are delegated authority by the President to require companies in the U.S. to prioritize certain contracts or orders (referred to as priority ratings in this report) and allocate materials, services, and facilities as necessary or appropriate to promote the national defense.[6]

Priority ratings and allocations are authorized and placed through one of six systems—collectively referred to as the Federal Priorities and Allocations System. Executive Order 13603 delegates responsibilities for administering these systems to specific agencies with subject-matter expertise.[7] See figure 1.

Figure 1: Overview of Federal Agencies' Priorities and Allocations Systems

PRIORITIES AND ALLOCATIONS SYSTEMS		
Agriculture	**Defense**	**Energy**
Promotes the national defense with respect to food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer *Administered by the Department of Agriculture*	Promotes the national defense with respect to industrial resources *Administered by the Department of Commerce*	Promotes the national defense with respect to all forms of energy *Administered by the Department of Energy*
Health Resources	**Transportation**	**Water**
Promotes the national defense with respect to health resources *Administered by the Department of Health and Human Services*	Promotes the national defense with respect to all forms of civil transportation *Administered by the Department of Transportation*	Promotes the national defense with respect to water resources *Administered by the Department of Defense*

Source: GAO analysis of Executive Order 13603. I GAO-25-107688

Each administering agency is responsible for developing and maintaining the regulations governing its system.[8] These regulations include details on the elements of a rated order, limitations on placing a rating, and the penalties for not complying with a rated order, among others. For example, a priority rating may not be used to obtain items quicker or in greater quantity than what is needed for national defense. Additionally, Commerce's Defense Priorities and Allocations System Regulation states that priority ratings may not be placed on certain materials, such as gravel and sand, without prior authorization. FEMA is responsible for ensuring the regulations are consistent across the systems.

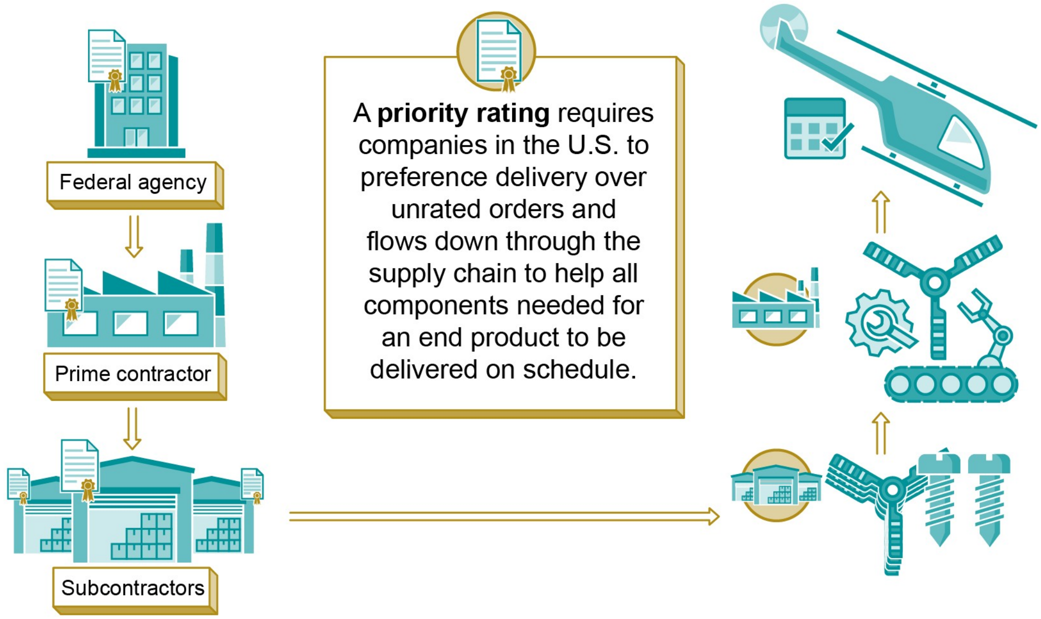
In addition to the agencies in figure 1 the President delegated DOD, DOE, and DHS the authority to determine programs eligible for the use of a priority rating.[9] As of March 2025, there were 50 approved programs such as the Strategic National Stockpile of medical supplies, various types of weapon systems, and military building supplies across the priorities and allocations systems.

Priority ratings. Priority-rated contracts and orders take preference over unrated contracts or orders if a contractor cannot meet all required delivery dates. Various entities, including agencies that have been delegated authority by the President, are eligible to place a priority rating.[10] Placing a priority rating on a contract or order requires four pieces of information: (1) the rating level and program it supports, (2) the required delivery date, (3) the signature of the rating official, and (4) the certification statement explaining that the contract or order is priority-rated.[11]

Ratings can be added at any point in the contracting process. For example, if an agency knows that a contract may include a priority rating, it can signal this information to industry in the solicitation and will carry the information over onto the signature page of the contract if finalized. Alternatively, agencies can modify the contracts or orders to add a priority rating if it is determined to be needed to support national defense. For example, HHS modified an order for respirator masks during COVID-19 to apply a rating that required the company to fill HHS's order over unrated orders.

While placing a priority rating does not guarantee delivery on a given date, preferential scheduling can help entities more easily secure goods or services needed to support national defense or prepare for emergencies. Representatives from the National Defense Industrial Association told us that priority ratings on contracts and orders also help companies that often face long lead times get materials from their suppliers sooner. Figure 2 provides an example of how a priority rating placed by a federal agency flows down the supply chain and the potential benefits on an end-product.

Figure 2: Example of the Flow-Down Process and Benefits of a Priority Rated Order Placed by a Federal Agency



Source: GAO analysis of 50 U.S.C. § 4511, Executive Order 13603, and other agency documentation; GAO (icons). I GAO-25-107688

Allocations. Allocation orders control the distribution of materials, services, or facilities in the U.S. commercial market deemed necessary to support national defense. The orders are used when there is not enough supply in the market to fulfill national defense requirements through priority ratings and can require companies to take one or more of the following actions:

reserve resources in anticipation of filling priority rated orders,

divert resources for a new purpose, or

limit the amount of a resource to be used for a specific purpose.

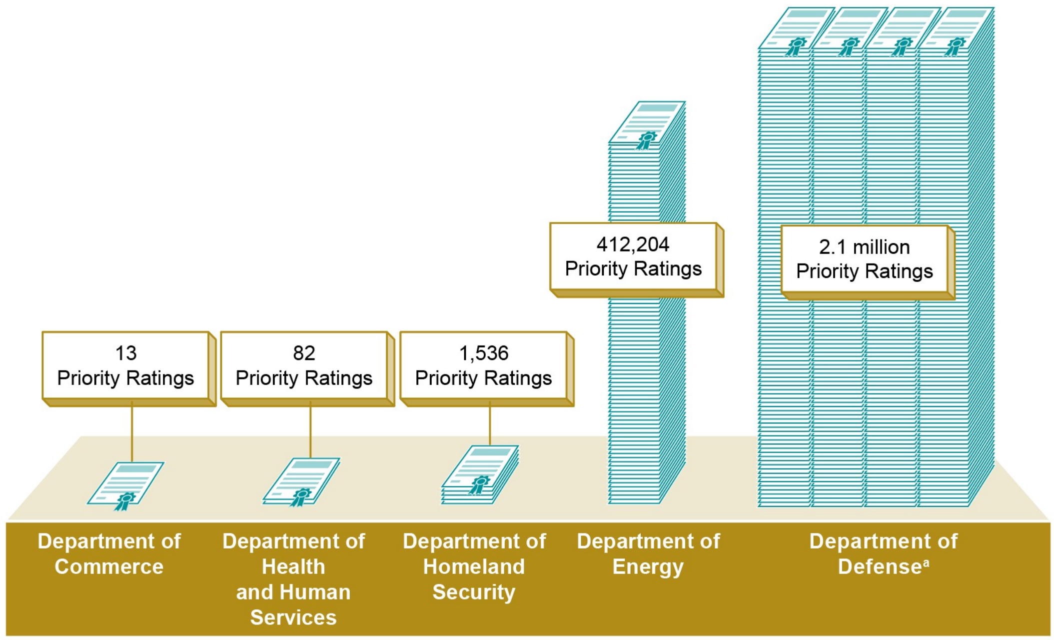
Failure to comply with a priority rating or allocation order can result in penalties, such as a $10,000 fine. In November 2024, FEMA, after consultation with relevant agencies such as DOD and Commerce, proposed to Congress that it should increase the penalty for willful noncompliance to $100,000 to account for inflation. In its proposal, FEMA noted that the current $10,000 fine was established in 1950 and is likely no longer sufficient for deterring noncompliance. Congress will determine whether to include this proposal in its reauthorization of the DPA, currently set for fall of 2025.

Conversely, the DPA provides protection to companies complying with a priority rating or allocation order from damages or penalties that may arise as a result.[12] For example, if a company is unable to fulfill an unrated contract because it is fulfilling a priority rated contract, the DPA protects the company from any liability.

How have agencies used Title I authorities since fiscal year 2018?

The selected agencies have used Title I authorities to ensure timely delivery of goods or services needed to respond to a variety of national defense threats, including natural disasters and the COVID-19 pandemic. Priority ratings were the most used DPA authority since fiscal year 2018. Commerce, HHS, DHS, DOE, and DOD placed over 2.5 million rated orders from fiscal years 2018 to 2024, with DOD accounting for 84 percent.[13] Figure 3 provides an overview of agencies' estimated use.

Figure 3: Selected Agencies' Estimated Total Number of Title I Priority Ratings Placed, Fiscal Years 2018 to 2024



Source: GAO analysis of agency provided data; GAO (icons). I GAO-25-107688

Accessible Data for Figure 3: Selected Agencies' Estimated Total Number of Title I Priority Ratings Placed, Fiscal Years 2018 to 2024

Agency	Number of priority ratings
Department of Commerce	13
Department of Health and Human Services	82
Department of Homeland Security	1,536
Department of Energy	412,204
Department of Defense	2.1 million

Source: GAO analysis of agency provided data; GAO (icons). I GAO-25-107688

Note: The Departments of Agriculture and Transportation did not report placing a priority rating during this time frame.

[a]Department of Defense officials provided a rough estimate of the number of priority ratings placed based on the number of prime contracts it awarded each year during this period.

Nearly all the priority ratings placed were for military goods. According to DOD documentation, DOD places a priority rating on all its procurement contracts because they support one of the approved Title I programs for defense, such as aircraft and ships. All but four of DOE's priority ratings were placed by its National Nuclear Security Administration for missile programs.

Priority ratings were used to a far lesser degree for non-military goods. For example, DHS placed about 1,500 priority ratings, nearly half of which were used to ensure the delivery of supplies needed to recover from natural disasters, such as hurricanes, earthquakes, and wildfires, according to FEMA officials.

Agencies can generally track when a priority rating is placed, but do not have insight into whether a company had to reprioritize unrated orders to meet the government's needs, according to FEMA officials. Companies are required, however, to provide preferential treatment to rated orders and must immediately notify the agency that placed the rating if the order will be delayed and advise on a new shipment date. According to DOD officials, when delays in shipments occur, DOD works with the companies to ensure its needs are met as soon as possible.

While over 2.5 million priority ratings were placed, only one allocation order was issued from fiscal years 2018 to 2024. The allocation order was issued by the President in April 2020.[14] It was carried out by HHS and FEMA to control the distribution of certain scarce or threatened health and medical resources—particularly personal protective equipment—within the commercial market during COVID-19. The goal of this order was to ensure companies were not hoarding or exporting these resources outside of the U.S. According to HHS officials, it exercised this authority in April 2020 by requiring two U.S. companies to sell their imported shipment of face masks to HHS. The allocation order expired in June 2021.

FEMA officials stated that the COVID-19 experience was an anomaly in that it was the first time the U.S. used an allocation order for finished products. They added that the U.S. has historically used allocation orders to control the distribution of raw materials to ensure companies can manufacture needed items.

What challenges did agencies face, and what mitigating actions did they take, when using DPA Title I authorities?

Agencies—specifically HHS and DOD—experienced challenges using the priority rating authorities of Title I and have taken steps to address them. According to HHS and DOD officials, program offices and industry partners do not always understand how the requirements of a priority-rated order apply throughout the supply chain. Similarly, representatives from the National Defense Industrial Association told us that its member companies also observed instances where priority ratings have failed to flow to sub-tier suppliers, in part, because vendors are unaware of their responsibilities for doing so.

To better educate its program offices, HHS officials said it hosted a training class in February 2022 for all contracting officials on how to place priority ratings in the Health Resources Priorities and Allocations System. Similarly, DOD officials said they are updating DOD's Priorities and Allocations Manual to help provide clarification on the rating flow-down process. They also said they are working with the Defense Acquisition University to update its training course on using the Defense Priorities and Allocations System.

To help industry, HHS officials told us that, since COVID-19, they started holding one-on-one trainings with companies that receive a rated order from their system. DOD is also conducting outreach to industry partners to educate them on their roles and responsibilities when receiving an order through the Defense Priorities and Allocations System, according to officials.

We previously reported on an example of a potential challenge to industry related to priority ratings.[15] During COVID-19, HHS officials said that more than 10 companies with priority ratings were trying to obtain meltblown fabric—a common raw material for ventilators and N95 respirators that was in short supply—at the same time. To address this problem, an HHS official stated that HHS, DOD, FEMA, Commerce, and other agencies began meeting in the spring of 2020 to discuss potential effects of placing a priority rating on suppliers. HHS officials told us that, currently, any priority rating requests for the Health Resources Priorities and Allocations System are discussed at the monthly DPA interagency working group or more frequently if needed to ensure visibility across the agencies.

What are Title III authorities?

Title III allows agencies with authority delegated by the President to provide a variety of financial incentives to suppliers in the U.S. and, under certain conditions, in Australia, Canada, and the United Kingdom to meet national defense goals, including maintaining, restoring, and expanding the domestic industrial base.[16] The incentives can help reduce the risks for suppliers to secure resources required to establish, expand, or preserve production capabilities and are broken into two components:

Investments. Title III allows agencies to purchase or make purchase commitments for industrial resources or critical technology items; make subsidy payments for domestically produced materials; and install and purchase equipment for government and privately owned industrial facilities to expand their productive capacity. We refer to these options collectively as "investments" for reporting purposes. DOD officials explained that Title III investments have a number of benefits, such as easing supply-chain concerns and keeping specialized defense companies in the industrial base. Representatives from a company that received Title III funding from DOD said it would have taken over twice as long to secure a source for an engine part without the DPA investment.

Loans. Title III allows agencies to issue direct loans or loan guarantees to reduce current or projected shortfalls of industrial resources, critical technology items, or essential materials needed for national defense purposes. Under Title III, a direct loan is a loan from the federal government to a company that requires repayment, at an interest rate determined reasonable by the Department of the Treasury. A loan guarantee allows the federal government to guarantee a loan made by a nonfederal lender to a nonfederal borrower, by pledging to pay back part of the loan in cases when the borrower is unable to do so. According to DOD officials, loans, by nature of having to be repaid, may provide a better return on investment to the government than Title III investments since the government can get the benefit of increased production capacity as well as recoup funds.

To use Title III authorities, agencies must obtain a presidential determination authorizing that the investment or loan is needed to avert a shortfall in industrial resources, critical technologies, or essential materials supporting national defense or emergency preparedness. According to DOD officials, this process takes between 6 to 12 months. The presidential determination may be waived for investments during a congressionally declared national emergency or if the President has determined that a waiver is necessary to avert a shortfall that would severely impair national defense.[17] From fiscal years 2018 to 2024, four broad waivers were issued to: (1) respond to COVID-19, (2) secure America's supply chains, (3) combat adversarial aggression, and (4) produce essential medicines.[18]

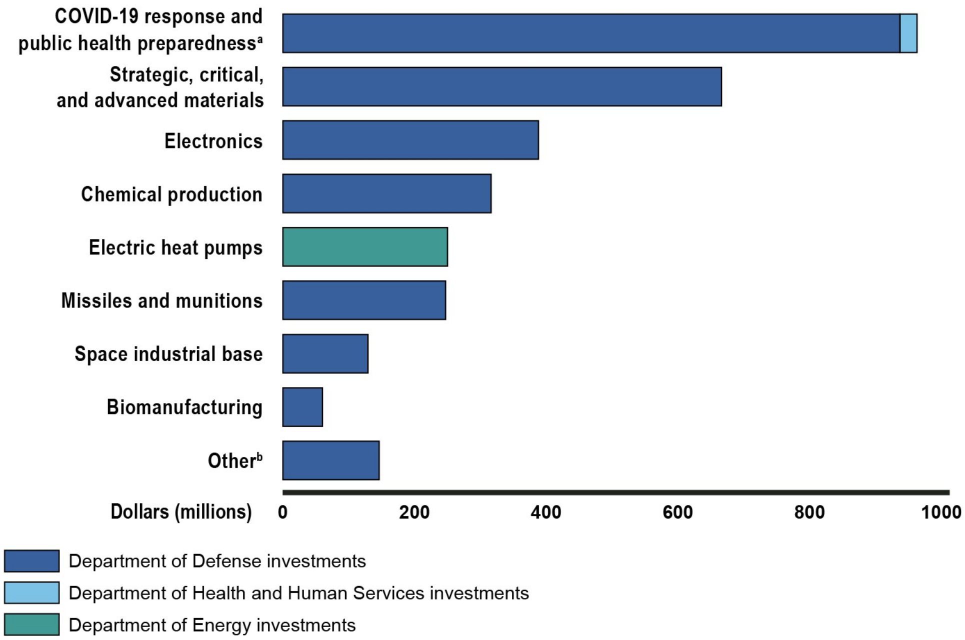
Additionally, Title III funding must be directly appropriated by Congress. Congress has placed an annual balance limitation of $750 million on the DPA fund that holds Title III appropriations with excess returning to the Department of the Treasury.[19] This limitation excludes funds that are already obligated or appropriated during that fiscal year. Executive Order 13603 authorizes at least 14 federal entities with a role in procuring goods for the support of national defense to use Title III authorities.[20]

How have agencies used Title III authorities since fiscal year 2018?

The selected agencies used Title III authorities to sustain production capacity during COVID-19, increase domestic manufacturing capacity, and bring new suppliers into the market.[21] DOD, HHS, and DOE made 222 investments valued at about $3.2 billion to at least 182 companies. All but five of the companies were located within the U.S. with the others located in Canada.

DOD made 208 of the investments, while DOE and HHS made 12 and two, respectively. The largest category of investments was made by DOD to support companies that faced financial challenges during COVID-19. DOE's awards were for the domestic manufacturing of electric heat pumps. HHS made investments in fiscal year 2024 to help better prepare for future health emergencies by increasing domestic production of pharmaceutical ingredients. Figure 4 provides a summary of the Title III investment areas and associated dollars by agency from fiscal years 2018 to 2024.

Figure 4: Selected Agencies' Title III Investments by Area, Fiscal Years 2018 to 2024



Source: GAO analysis of the Departments of Defense, Energy, and Health and Human Services data. I GAO-25-107688

Accessible Data for Figure 4: Selected Agencies' Title III Investments by Area, Fiscal Years 2018 to 2024

Category	DOD Investments	HHS Investments	DOE Investments
COVID-19 response and public health preparedness[a]	$937,937,754	$26,000,000	0
Strategic, critical, and advanced materials	$666,341,660	0	0
Electronics	$388,244,042	0	0
Chemical production	$316,477,687	0	0
Electric heat pumps	0	0	$250,000,000
Missiles and munitions	$247,033,044	0	0
Space industrial base	$129,407,679	0	0
Biomanufacturing	$60,205,452	0	0
Power storage and generation	$43,050,000	0	0
Other[b]	$139,308,351	0	0

Source: GAO analysis of the Departments of Defense, Energy, and Health and Human Services data. I GAO-25-107688

[a]COVID-19 response and public health preparedness included roughly $208 million in investments from the Department of Defense (DOD) and $26 million from the Department of Health and Human Services for health resources as well as $730 million in investments from DOD to support companies experiencing economic hardships resulting from the pandemic.

[b]Other includes investments for power storage and generation, shipbuilding, hypersonics, and directed energy, among others.

As of November 2024, 85 of the investments—all awarded by DOD—were completed,130 were ongoing, and seven were either canceled or the status was not disclosed.[22] DOD provided information on the outcomes for 74 of the completed investments (see fig. 5 for examples).[23]

Figure 5: Examples of Completed Title III Investment Outcomes Provided by DOD

49 | 16 | 10

Sustained existing capacity or capability including during COVID-19

DOD's investments helped

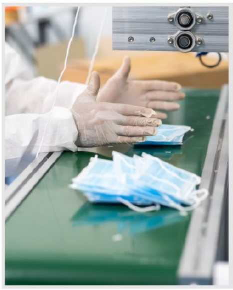
- sustain capacity at a ship repair company when the Navy deferred all maintenance orders during COVID-19 restrictions;
- allow a U.S. company to continue performing engineering work on adaptive engine technology for military aircraft; and
- maintain operations of the sole U.S. supplier for a key component of one of DOD's directed energy programs.

49 | 16 | 10

Established a new domestic source for needed products

DOD's investments helped

- establish capacity at a U.S. company to produce a new type of wheel to provide altitude control for military spacecraft including satellites;
- establish a U.S. company to produce a certain type of space-qualified infrared detector that meets the U.S. government's needs; and
- re-establish a U.S. company to produce a critical explosive material after the sole domestic facility closed.



49 | 16 | 10

Expanded existing domestic capacity for for needed products

DOD's investments helped

- increase a U.S. company's ability to produce N95 respirators during the COVID-19 pandemic by 240 million respirators per year within 5 months of the award;
- expand a U.S. company's capacity to produce a key part of a military aircraft when other sources became unavailable; and
- expand a U.S. company's capacity to separate and process light rare earth materials used in a variety of items from electric vehicles to medical equipment.

Source: GAO analysis of Department of Defense (DOD) provided data; (top to bottom): U.S. Navy, MC2 A. Okafor; aapsky/stock.adobe.com; NVB Stocker/stock.adobe.com. | GAO-25-107688

Note: These examples represent DOD's needs at the time of award and do not necessarily reflect capacity sustained in the industrial base beyond the period of performance. One project is counted twice in the figure because DOD said it both increased existing capacity and added a new supplier to the domestic industrial base.

DOD, HHS, and DOE officials told us they track the performance of companies receiving Title III investments at regularly scheduled intervals. For example, on a quarterly basis, DOD tracks companies' progress toward meeting established metrics, such as increasing production to a certain amount in a specified period. Once the period of performance has ended, DOD identifies some investments to continue monitoring for up to 5 years, but it does not have consistent insight beyond this point.

The new or expanded capacity resulting from Title III investments may not continue long term as market demand for the product changes. For example, a company that received Title III funds to increase production of medical swabs for COVID-19 testing closed one of its manufacturing sites in late 2023 due to a significant drop in product demand, according to DOD documentation. This is not always the case, however, as representatives from the company that received a Title III investment to produce a key part for a military aircraft said they have experienced an over 40 percent increase in demand for the part since 2019.

DOD, with assistance from the U.S. International Development Finance Corporation, executed the only Title III loan from fiscal years 2018 to 2024.[24] The $410 million loan was made in 2023 to a U.S. company to increase its manufacturing capacity for vaccines and critical medicines. DOD officials stated that the loan has a 20-year lifespan, and DOD is responsible for monitoring company performance and compliance for its duration.

What challenges did agencies face, and what mitigating actions did they take, when using DPA Title III authorities?

DOD and HHS identified several challenges in using Title III authorities for investments and loans. For example, DOD officials told us that DOD struggled to make timely investments to ensure it does not exceed the $750 million balance limitation for two primary reasons—

1. The Air Force is the designated executive agent for DOD's Title III investment program, which limits the contracting resources available.
2. Congress recently provided significant supplemental DPA appropriations in addition to DOD's annual DPA budget requests, such as $1 billion in the CARES Act and $250 million in the Inflation Reduction Act. These supplementals occurred in the middle to later part of the fiscal year but, according to DOD officials, still count toward the following fiscal year's fund balance and limit DOD's ability to plan or initiate investments earlier in the year. Similarly, DOD officials said that recent extended continuing resolutions have made obligating funds difficult as DOD is limited in moving forward with investments until the budget is enacted.

To mitigate its investment challenges, DOD proposed legislative changes in July 2024 that would allow other DOD entities to also award Title III investments and increase the annual balance limitation to $1 billion. Congress will determine which, if any, of the proposals to include in its reauthorization of the DPA, currently set for fall of 2025.

Additionally, while DOD officials expressed interest in pursuing more DPA loans, they stated that DOD does not currently have the expertise within its Defense Production Act Purchases Office to fully leverage Title III loan authorities. DOD's Office of Strategic Capital began offering loans outside of the DPA authority in January 2025, ranging from $10 million to $150 million to eligible businesses in the critical technology sector, to expand production capabilities and modernize processes. Officials from DOD's Defense Production Act Purchases Office told us they will continue to coordinate closely with this office moving forward.

HHS also experienced challenges in awarding its first Title III investments in 2024. Particularly, HHS officials told us that, as the first civilian agency to request a presidential determination for a Title III investment, it was time consuming and difficult to navigate the process. HHS officials believe it will be easier and quicker to do so moving forward. Previously, HHS relied on DOD to award Title III investments on its behalf in response to COVID-19.[25] In December 2023, HHS assumed responsibility for awarding its own Title III investments.

What additional actions can agencies take to improve use of Title III authorities?

FEMA—the current DPA government-wide coordinator—has not collected and shared lessons learned on Title III financial incentives among the agencies. For example, FEMA has not collected lessons learned from DOD, which has the most experience using Title III authorities—over 30 years of awarding and managing Title III investments. During this time, DOD officials told us that they have identified several helpful practices to make the process more efficient and increase the likelihood of a successful outcome. Among others, they include the following:

DOD structures its Title III investments to require companies to contribute their own funding when practical. Companies contributed approximately $1.1 billion of the total $4 billion, or about 28 percent, spent on DOD's Title III investments between fiscal years 2018 and 2024. According to DOD officials, requiring companies to invest their own money can lead to better project outcomes.

DOD continues to monitor some Title III investments beyond the contractual period of performance to maintain visibility into production capacity for up to 5 years. DOD considers factors such as the government's total investment and risks in the industrial base sector where the investment was made when deciding whether to pursue additional monitoring. DOD determined this type of monitoring was necessary for at least 18 of its Title III investments awarded after fiscal year 2018 and completed by November 2024.

As part of its role as current government-wide DPA coordinator, FEMA holds regular DPA interagency working group meetings for agency officials to discuss a variety of DPA topics. These discussions include any challenges agencies faced in using the DPA authorities, proposed legislative changes, or upcoming reporting requirements. Our analysis of meeting notes from 2024 found that the number of agencies that were represented at these meetings ranged from seven to 11.

The working group has focused primarily on Title I authorities, but FEMA officials told us that lessons learned related to Title III investments can be shared as needed. Our analysis of the meeting notes, however, did not find any documentation of FEMA collecting such information. In addition, DOD officials told us that DOD, the primary user of Title III authorities, has not shared its lessons learned at these meetings in the recent past. HHS awarded its first Title III investments in August and September of 2024 and potentially could have benefited from this information.

Standards for Internal Control in the Federal Government notes the importance of externally communicating the necessary quality information to achieve objectives.[26] It also highlights the need to select the appropriate method of communication to ensure, among other things, that information is readily available when needed. By collecting and periodically sharing quality information such as lessons learned, the DPA government-wide coordinator would help ensure that agencies considering making a Title III investment are better positioned to structure and oversee the investments.

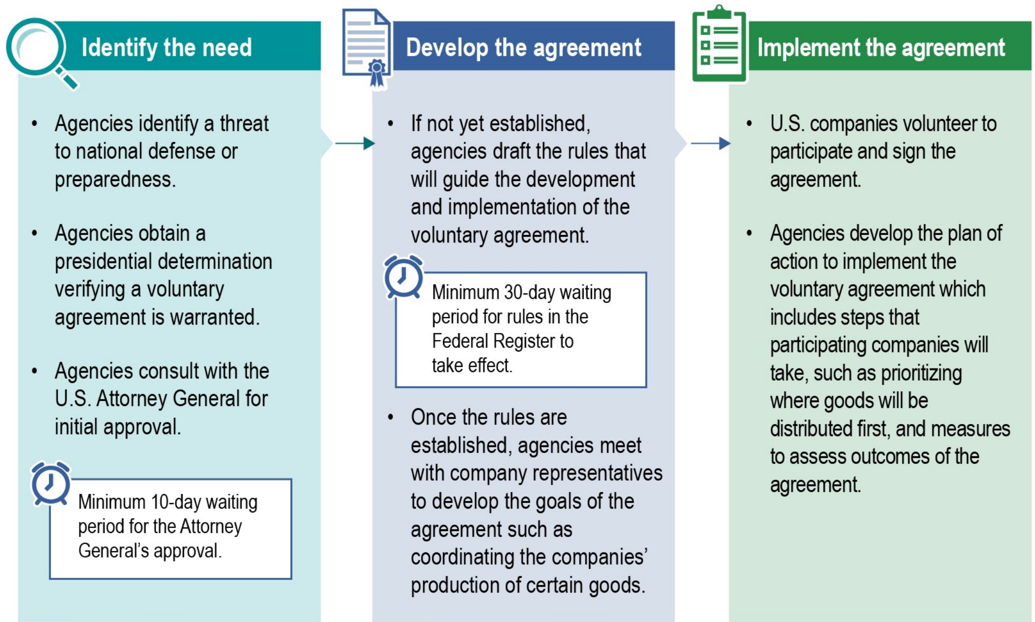
What are Title VII authorities?

Title VII provides the President a range of authorities, including the ability to conduct industrial base assessments, establish voluntary agreements, and establish a national defense executive reserve.[27] Executive Order 13603 delegates Title VII authorities to agencies involved in procuring goods for the support of national defense.[28]

Industrial base assessments. Commerce can conduct assessments of domestic industrial capabilities at the request of another federal agency, Congress, the President, or industry. The assessments are intended to help decision-makers determine the best use of DPA authorities and agency resources. Through its delegated authority, Commerce can mandate that U.S. companies comply with information requests related to a Title VII industrial base assessment. According to Commerce officials, these assessments are funded by the requesting entity and generally take between 12 and 24 months to complete.

Voluntary agreements. Private companies can voluntarily agree to collaborate with government agencies and each other to share information or coordinate actions for providing needed resources with limited protection from antitrust laws. Antitrust laws are generally designed to prohibit business conduct and mergers that deprive consumers of the benefits of competition. Agencies follow specific steps to establish a voluntary agreement, as shown in figure 6.

Figure 6: Overview of the Process for Establishing a Title VII Voluntary Agreement



Source: GAO analysis of Defense Production Act requirements; GAO (icons). | GAO-25-107688

Once the agreement is established, agencies hold meetings with participating companies to carry out the plans of action. Voluntary agreements typically expire in 5 years unless renewed or terminated early.

National defense executive reserve. Agencies can establish a volunteer body of private sector leaders in executive government positions during periods of national emergency to improve industry mobilization and productivity. Executive Order 13603 designated DHS as the administrator of the program.[29] FEMA provided updated guidance to agencies for establishing a reserve unit in 2024.

How have agencies used Title VII authorities since fiscal year 2018?

The selected agencies have used Title VII authorities to assess the industrial base and to establish or maintain voluntary agreements with private industry. No agencies established a national defense executive reserve in fiscal years 2018 to 2024.[30] Figure 7 provides an overview of the agencies' Title VII use.

Figure 7: Selected Agencies' Title VII Usage, Fiscal Years 2018 to 2024

	USDA	DOC	DOD	DOE	DHS	HHS	DOT	Total Usage Fiscal Years 2018–2024
Industrial base assessment	—	✓	✓	—	✓	✓	—	17
Voluntary agreement	—	—	—	—	✓	—	✓	3
National defense executive reserve	—	—	—	—	—	—	—	0

✓ Agency used the authority — Agency did not use the authority

USDA: U.S. Department of Agriculture
DOC: Department of Commerce
DOD: Department of Defense
DOE: Department of Energy
DHS: Department of Homeland Security
HHS: Department of Health and Human Services
DOT: Department of Transportation

Source: GAO analysis of agency provided data. | GAO-25-107688

According to Commerce officials, from fiscal years 2018 to 2024, Commerce has completed or is in the process of completing a total of 17 industrial base assessments for itself, other federal agencies, the Congress, the President, and industry.[31] Completed assessments examined sectors like weapon systems, vaccine ingredients, and microelectronics. They provided information on key challenges facing these sectors and some recommendations for overcoming them.

Two agencies—Transportation and FEMA—have used the voluntary agreement authority from fiscal years 2018 to 2024. Agency officials offered mixed opinions on the usefulness of the agreements:

Transportation has two voluntary agreements with the maritime industry. The purpose of the agreements is to assure access to state-of-the-art cargo transport equipment and refueling vessels in case of mass mobilization for war. The agreements were established in the 1980s and 1990s and have been renewed every 5 years. Transportation officials told us that these agreements have been useful in regularly bringing together representatives from industry, DOD, and Transportation to strategically plan for a mass mobilization event.

FEMA established a voluntary agreement in 2020 to work with industry on manufacturing and distributing selected medical supplies and equipment during COVID-19. FEMA began establishing the agreement in April 2020, but did not hold the first meeting to implement the agreement until October 2020. FEMA officials and industry representatives told us that, while well-intended, this resulted in the voluntary agreement coming too late to have a meaningful impact and duplicating other ongoing efforts.

The other five agencies that we spoke to said they did not use the voluntary agreements authority as they either have other means of coordinating with industry or are still considering the best use of these agreements for preparedness planning.

What challenges did agencies face, and what mitigating actions did they take, when using Title VII authorities?

FEMA identified two challenges in using Title VII authorities and has taken steps to address them. First, FEMA officials stated that agencies' prior use of industrial base assessments were too narrowly focused to understand all shortfalls across the industrial base. As a result, these officials do not believe FEMA has been well positioned to advise the President on national defense resource preparedness or use of DPA authorities as directed in Executive Order 13603.[32] To address this concern, FEMA established a new working group in late 2024. FEMA officials said that one of their goals for the group is for agencies to collaboratively identify areas of shortfall across the industrial base. According to FEMA documentation, the new working group will also help guide the effective application of the DPA authorities, including industrial base assessments, by fostering interagency coordination on its strategic use.

Second, according to FEMA officials, the delays in establishing the voluntary agreement were, in part, because of mandatory waiting periods outlined in the DPA. To make this process easier in the future, FEMA proposed legislative changes to the DPA in November 2024, which would provide flexibility regarding the waiting periods in times of emergency. Congress will determine which, if any, of the proposals to include in its upcoming reauthorization of the DPA, currently set for fall of 2025.

Conclusions

The DPA has helped agencies prepare for and respond to threats to national defense for decades. Over the last 7 years, DOD has been the primary user of the DPA with some civilian agencies also leveraging the authorities. The DPA authorities have helped agencies respond to emergencies and increase the resilience of vital supply chains. FEMA can still do more to help other agencies by collecting and sharing relevant Title III lessons learned to make the use of DPA authorities more effective and efficient moving forward.

Recommendation for Executive Action

The DPA government-wide coordinator, currently FEMA's Administrator, should work with relevant officials from the federal agencies using DPA Title III authorities to collect and periodically share lessons learned from awarding and managing Title III investments. (Recommendation 1)

Agency Comments and Our Evaluation

We provided a draft of this report to Commerce, DOD, DOE, DHS, HHS, Transportation, and USDA for review and comment. DHS concurred with our recommendation and identified actions it intends to take to address it. DHS' response is reproduced in appendix I. Commerce and DOD provided technical comments, which we incorporated into the report as appropriate.

How GAO Did This Study

We selected the seven federal agencies delegated responsibility for implementing the expiring DPA authorities identified in Executive Order 13603—Commerce, DOD, DOE, DHS, HHS, Transportation, and USDA—to include in this review.[33] Across all objectives, the period of review was fiscal year 2018 (the last DPA reauthorization) through fiscal year 2024.

To determine how the selected agencies used DPA authorities, we analyzed agency information on:

the number of priority-rated contracts;

the number and purpose of allocation orders issued;

the number and dollar value of all investments and loans made;

the number and topics of industrial base assessments conducted;

the number, time frame, and details of the voluntary agreements established; and

the number and details of any national defense executive reserves established.

To assess reliability of these data, we incorporated reliability controls into our data collection instrument and interviewed relevant agency officials to ensure our understanding of the information provided. We determined that these data were sufficiently reliable for our purposes.

To understand the outcomes of selected agencies' use of DPA authorities, we collected data from DOD on completed Title III investments and reviewed available agency documentation such as DOD's Title III status reports. We also reviewed the annual Defense Production Act Committee Report and the Defense Production Act Voluntary Agreement Report to Congress. We discussed the effect of DPA's use with relevant officials from each selected agency and representatives from three industrial associations—the National Defense Industrial Association, the Professional Services Council, and the Health Industry Distributors Association—and one private company that received a Title III investment.

To determine challenges agencies experienced, actions taken, and areas for improvement in using the DPA authorities, we reviewed relevant documentation, including transcripts from recent congressional hearings on the DPA, agency proposed changes to DPA language, and meeting notes from DPA interagency working groups. We interviewed relevant officials from each selected agency to discuss identified challenges and areas for improvement. We compared agency actions to relevant criteria from *Standards for Internal Control in the Federal Government*.[34]

We conducted this performance audit from July 2024 to June 2025 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix I: Comments from the U.S. Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

BY ELECTRONIC SUBMISSION

June 4, 2025

William Russell
Director, Contracting and National Security Acquisitions
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-25-107688 "DEFENSE PRODUCTION ACT: Information Sharing Needed to Improve Use of Authorities"

Dear Mr. Russell:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS, or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

DHS leadership is pleased to note GAO's recognition that the Federal Emergency Management Agency (FEMA) identified and mitigated challenges in using Title VII authorities by taking steps to address them, including establishing a new working group for agencies to collaboratively (1) identify areas of shortfall across the industrial base, (2) foster interagency coordination and (3) help guide the effective application of the Defense Production Act (DPA) authorities. FEMA remains committed to using the DPA to enhance the nation's preparedness and response to emergencies, including natural disasters, acts of terrorism and other significant threats, as appropriate, and in accordance with the requirements of Executive Order (E.O.) 13603, "National Defense Resources Preparedness" dated March 16, 2012.[1]

The draft report contained one recommendation, with which the Department concurs. Enclosed find our detailed response to the recommendation. FEMA previously submitted

[1] https://www.federalregister.gov/documents/2012/03/22/2012-7019/national-defense-resources-preparedness

technical comments addressing accuracy, sensitivity, and other issues under a separate cover for GAO's consideration, as appropriate.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H CRUMPACKER Digitally signed by JIM H CRUMPACKER Date: 2025.06.04 14:56:53 -04'00'

JIM H. CRUMPACKER
Director
Departmental GAO-OIG Liaison Office

Enclosure

2

Enclosure: Management Response to Recommendation Contained in GAO-25-107688

GAO recommended that the DPA government-wide coordinator, currently FEMA's Administrator:

Recommendation 1: Work with relevant officials from the federal agencies using DPA Title III authorities to collect and periodically share lessons learned from awarding and managing Title III investments.

Response: Concur. On May 22, 2025, FEMA met with representatives from the U.S. Department of Defense and the U.S. Department of Health and Human Services as part of an interagency discussion on how to most effectively fulfill this responsibility. FEMA intends to establish a Title III Interagency Working Group (IWG) using its authority under E.O. 13603, section 104(b)(2), to "provide for the central coordination of the plans and programs incident to authorities and functions delegated under this order and provide guidance to agencies assigned functions, developed in consultation with such agencies." The FEMA DPA Division will host the IWG meetings and members will be responsible for coordinating consensus IWG views within their agencies.

Planned IWG meetings and broad agenda topics include:

- Discussion and approval of IWG Terms of Reference,
- Presentation of individual agency Title III programs and lessons learned by those agencies,
- Identification and discussion of the need for federal-level Title III policies and practices that would make the use of the authority more consistent, and
- Development of Defense Production Act Guidance that sets standards and procedures for using the Title III authority to promote the national defense.

Estimated Completion Date**:** May 31, 2026.

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Accessible Text for Appendix I: Comments from the U.S. Department of Homeland Security

BY ELECTRONIC SUBMISSION

June 4, 2025

William Russell
Director, Contracting and National Security Acquisitions
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

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JIM H CRUMPACKER

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Date: 2025.06.04 14:56:53 -04'00'

[1] https://www.federalregister.gov/documents/2012/03/22/2012-7019/national-defense-resources-preparedness

JIM H. CRUMPACKER
Director
Departmental GAO-OIG Liaison Office

Enclosure

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- Development of Defense Production Act Guidance that sets standards and procedures for using the Title III authority to promote the national defense.

Estimated Completion Date: May 31, 2026.

List of Addressees

The Honorable French Hill
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

The Honorable Joyce Beatty
Ranking Member
Subcommittee on National Security, Illicit Finance, and International Financial Institutions
House of Representatives

We are sending copies of this report to the appropriate congressional committees; the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Homeland Security, the Secretary of Transportation. In addition, the report is available at no charge on the GAO website at https://www.gao.gov.

GAO Contact Information

For more information, contact: William Russell, Director, Contracting and National Security Acquisitions, RussellW@gao.gov.

Sarah Kaczmarek, Managing Director, Public Affairs, Media@gao.gov.

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Staff Acknowledgments: Cheryl Andrew (Assistant Director), Erin Carr (Analyst in Charge), Wyatt Anderson, Stephanie Gustafson, Kathy Hubbell, Jean McSween, Mark Oppel, Anne Louise Taylor, Alyssa Weir, and Adam Wolfe.

Endnotes

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[1]Defense Production Act of 1950, Pub. L. No. 81-774, (1950) (codified at, 50 U.S.C. §§ 4501–4568). The term national defense is defined in the DPA as programs for military and energy production or construction, military or critical infrastructure assistance to any foreign nation, homeland security, stockpiling, space, and any directly related activity. This includes emergency preparedness activities and critical infrastructure protection and restoration.

[2]In 1953, Congress enacted the Defense Production Act Amendments of 1953, Pub. L. No. 83-95 (1953), which reauthorized certain titles of the Defense Production Act while allowing others to expire. Titles II (Requisition and Condemnation), IV (Price and Wage Stabilization), V (Settlement of Labor Disputes), and VI (Control of Consumer and Real Estate Credit) were terminated.

[3]50 U.S.C. § 4552; Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No.93-288 (1974) (codified at 42 U.S.C. §§ 5121-5207), as amended by Pub. L. No. 100-707 (1988) and Pub. L. No. 117-255 (2022).

[4]Canada was added as a domestic source in 1992 while Australia and the United Kingdom were added in fiscal year 2024. Defense Production Act Amendments of 1992, Pub. L. No. 102-558, § 4198 (1992) and National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, § 1080 (2023).

[5]Section 201 of Exec. Order No. 13,603, 77 Fed. Reg. 16,651.

[6]50 U.S.C.S. § 4511.

[7]Section 201 of Exec. Order No. 13,603 77 Fed. Reg. 16,651 (March 16, 2012).

[8]Five of the agencies have published formal regulations. DOD is in the process of finalizing a memo in place of regulations that clarifies Executive Order 13603 authorities and further delegates responsibility to the U.S. Army Corps of Engineers. Agriculture Priorities and Allocation System Regulation, 7 C.F.R. part 789; Defense Priorities and Allocations System Regulation 15 C.F.R. part 700; Energy Priorities and Allocations System Regulation, 7 C.F.R. part 789; Health Resources Priorities and Allocations System Regulation 43 C.F.R. part 101; and Transportation Priorities and Allocations System Regulation, 49 C.F.R. part 33. DOD has not developed regulations related to its designated resource area.

[9]Section 201 of Exec. Order No. 13,603 77 Fed. Reg. 16,651 allows the agencies that manage a priorities and allocations system to authorize the heads of other agencies, as appropriate, to place priority ratings on contracts and orders for materials, services, and facilities supporting an eligible program.

[10]Other entities such as corporations, state governments, foreign entities or foreign governments may receive rated orders but generally cannot issue them unless specifically authorized.

[11]Ratings are either DX or DO depending on importance. Both ratings take preference over unrated orders. DX ratings take preference over DO.

[12]50 U.S.C. § 4557.

[13]According to Department of Commerce data, Commerce authorized seven other federal entities outside of the scope of our review to place priority ratings from fiscal year 2018 to 2024. These entities were the Architect of the Capitol, Department of the Interior, Department of Justice, Department of State, Department of the Treasury, General Services Administration, and U.S. Agency for International Development.

[14]Presidential Memorandum, *Memorandum on Allocating Certain Scarce or Threatened Health and Medical Resources to Domestic Use*, 85 Fed. Reg. 20,195 (Apr. 10, 2020).

[15]GAO*, COVID-19: Agencies Are Taking Steps to Improve Future Use of Defense Production Act Authorities*, GAO-22-105380 (Washington, D.C. Dec. 16, 2021).

[16]Title III of Defense Production Act of 1950, Pub. L. No. 81-774, (codified at 50 U.S.C. § 4531–4534).

[17]Title III of Defense Production Act of 1950, Pub. L. No. 81-774, (codified at 50 U.S.C. § 4531–4534).

[18]In March 2025, the President rescinded the February 2023 Presidential waiver for Title III on DOD Supply Chains Resilience and issued a waiver to increase American production of minerals. Exec. Order No. 14,241, 90 Fed. Reg. 13673 (Mar. 25, 2025).

[19]A balance limitation refers to the maximum amount of money that can be allocated or spent on a specific program, investment, or initiative within a given timeframe. These limitations are often set by legislation, appropriations acts, or internal budget constraints within DOD. U.S.C.S. § 4534.

[20]Sections 201, 301-303, 801(h) of Exec. Order No. 13,603, 77 Fed. Reg. 16,651 states the agencies authorized to use Title III are the Departments of Agriculture, Defense, Commerce, Energy, Health and Human Services, Transportation, Homeland Security, Interior, Justice, and State, as well as the Office of the Director of National Intelligence, the Central Intelligence Agency, the General Services Administration, and the National Aeronautics and Space Administration.

[21]DOD also invests in the industrial base outside of DPA Title III authorities. For example, in February 2025, we reported that DOD made over $3.7 billion in direct investments outside of the DPA from fiscal years 2014 to 2023 on the shipbuilding industrial base and plans to spend more in the coming years. GAO, *Shipbuilding and Repair: Navy Needs a Strategic Approach for Private Sector Industrial Base Assessments*, GAO-25-106286 (Washington, D.C., Feb. 27, 2025).

[22]According to DOD officials, the six Title III investments were canceled for various reasons including at the companies' request after determining government funding was no longer needed. Additionally, DOE officials said they are assessing the effect of the President's March 2025 rescission of the DPA Presidential Determination for electric heat pumps on its Title III investments.

[23]Details on 11 of DOD's completed Title III investments were not disclosed and therefore not included in this review.

[24]Department of Defense, U.S. International Development Finance Corporation, *Memorandum of Agreement*, June 22, 2020; Exec. Order No. 13922, 85 Fed. Reg. 30,583 (May 14, 2020). This agreement ended in 2022. In March 2025 the President delegated Title III authorities to the head of the U.S. International Development Finance Corporation and directed DOD work with the Corporation to develop a plan for leveraging DPA authorities to increase American production of minerals.

[25]In December 2021, we reported that DOD awarded 54 industrial base expansion projects and six DPA investments on behalf of HHS from March 2020 to September 2021 totaling approximately $3.1 billion. GAO-22-105380.

[26]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C., Sept. 2014).

[27]Title VII of Defense Production Act of 1950, Pub. L. No. 81-774, (codified at 50 U.S.C. § 4551–4568). Title VII includes other authorities outside of the scope of our review such as the Committee on Foreign Investment in the United States.

[28]Sections 401, 501(b), 802 of Exec. Order No. 13,603, 77 Fed. Reg. 16,651.

[29]Section 501(b) of Exec. Order No. 13,603, 77 Fed. Reg. 16,651.

[30]Transportation officials told us that they began to establish an executive reserve in 2022 after the Deputy Secretary of Defense assigned responsibility for all reserve sealift to the Maritime Administration. As of January 2025, the draft order to establish the reserve is under review.

[31]DOD and Commerce each jointly initiated an industrial base assessment with the National Aeronautics and Space Administration to examine the rocket propulsion industrial base and the civil space industrial base, respectively.

[32]Section 104 (b)(1) of Exec. Order No. 13,603, 77 Fed. Reg. 16,651.

[33]Some provisions associated with the DPA, such as the foreign investment review authority under 50 U.S.C. § 4565, do not expire with the rest of the Act.

[34]GAO-14-704G.