



# Defense Priorities and Allocations System (DPAS)

## Foreword

This Manual is issued pursuant to Federal Emergency Management Agency (FEMA) Directive 211-1, Defense Priorities and Allocations System (DPAS), which directs the Director, Office of Policy and Program Analysis (OPPA), to issue a DPAS manual to provide additional guidance and procedures for use of DPAS priority ratings in support of FEMA programs.

The DPAS implements the priorities authority provided in Section 101 of the Defense Production Act of 1950 (DPA), as amended (Title 50 United States Code (U.S.C.) Appendix Section 2071) with respect to all materials (including construction materials), services, and facilities, except the following: (1) food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer; (2) all forms of energy; (3) health resources; (4) all forms of civil transportation; and (5) water resources. Section 101 authorizes the President to require acceptance and priority performance of contracts or orders to promote the national defense.

The purpose of the DPAS is to: (1) assure timely delivery of materials and services from private industry to meet national defense needs, including procurement needs associated with emergency preparedness, response, and recovery activities conducted pursuant to Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act); and (2) provide an operating system to support rapid industrial response to Government procurement needs in times of emergency. A contract or order containing a DPAS priority rating requires the contractor (and the contractor's supply chain) to provide preferential treatment, if needed, to fulfill the delivery requirements of the rated contract or order. A DPAS priority rating serves as a means to guarantee that the materials or services in a rated contract or order will be delivered on time.

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## CHAPTER 1 – GUIDING INFORMATION

### 1-1. Purpose

This Manual prescribes procedures to be followed by all Federal Emergency Management Agency (FEMA) personnel with responsibilities involving use of priority ratings under the Defense Priorities and Allocations System (DPAS) in support of FEMA and State, local, and tribal government programs.

### 1-2. Applicability and Scope

- I. This Manual applies to all FEMA personnel in Headquarters, Regional offices, and field establishments responsible for actions involving use of DPAS priority ratings.
- II. FEMA is authorized to place priority-rated contracts and orders (rated orders), in accordance with the DPAS, in support of:
  - A. FEMA programs involving: emergency preparedness, response, or recovery activities; homeland security; critical infrastructure protection or restoration; or continuity of government.
  - B. State, local, and tribal government programs involving emergency preparedness activities conducted pursuant to title VI of the Stafford Act.
- III. This Manual provides guidance on:
  - A. Assigned DPAS responsibilities.
  - B. Authority to use priority ratings.
  - C. Use of priority ratings.
  - D. Resolution of issues resulting from use of priority ratings.

### 1-3. Authorities

- I. Defense Production Act of 1950 (DPA), as amended, 50 U.S.C. App. § 2061 et seq. Section 101 (§ 2071) of the DPA provides the statutory authority for the DPAS. It authorizes the President to require acceptance and priority performance of contracts or orders (other than contracts of employment) determined to be necessary or appropriate to promote the national defense. (See the definition of “national defense” in Section 1-5.)
- II. Executive Order 12919 (E.O. 12919), as amended, *National Defense Industrial Resources Preparedness*, dated June 3, 1994. Part II of E.O. 12919 delegates authorities and responsibilities under DPA Section 101 to the heads of several Federal departments. The Secretary of Commerce is delegated the President’s 101 authority with respect to all materials (including construction materials), services, and facilities, except the following: (1) food resources,<sup>1</sup> food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer; (2) all forms of energy; (3) health resources; (4) all forms of civil transportation; and (5) water resources. The Secretary of Commerce is directed to administer the DPAS regulation to implement this authority with respect to these resources.
- III. Department of Commerce DPAS Delegation 4 (DPAS Delegation 4), Delegation of Authority to the Secretary of Homeland Security, dated March 26, 2006. DPAS Delegation 4 authorizes the Secretary of Homeland Security to place DPAS priority ratings on contracts and orders in

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<sup>1</sup> Contact the Lead DPAS Officer for additional or updated information regarding use of DPAS ratings for food resources.

support of (1) Department of Homeland Security (DHS) programs and (2) State, local, and tribal government programs determined by the Secretary to be necessary or appropriate to promote the national defense.

- IV. Department of Homeland Security Delegation Number 9001 (DHS Delegation 9001), Delegation to the Under Secretary for Emergency Preparedness and Response, dated March 3, 2003. DHS Delegation 9001 delegates the DHS Secretary's authorities and functions under E.O. 12919 and DPAS Delegation 4 to the FEMA Administrator.
- V. Delegation to the Director, Office of Policy and Program Analysis (OPPA), dated March 6, 2008. The FEMA Administrator has delegated to the Director, OPPA, the authority to provide oversight and responsibility for the functions and duties assigned to the Administrator pursuant to Part II of E.O. 12919 and DPAS Delegation 4. This includes: (1) determining which government and private sector programs involving civilian needs are eligible for DPAS support (DHS Approved Programs); and (2) authorizing use of DPAS priority ratings in DHS contracts and orders supporting DHS Approved Programs.
- VI. FEMA Delegation of Authority: Defense Priorities and Allocations System, dated January 7, 2010. The FEMA Administrator has delegated authority to place "DO" priority-rated contracts and orders in support of DHS Approved Programs to the heads of various FEMA components, subject to the guidance and direction of the Director of OPPA. (See the DPA Program Division website for further information: <http://www.fema.gov/about/programs/dpa/index.shtm>.)

#### 1-4. References

- I. Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Public Law 93-288, as amended, 42 U.S.C. § 5121 et seq.
- II. Defense Priorities and Allocations System, Title 15 Code of Federal Regulations (CFR), Part 700 (DPAS regulation).
- III. Federal Acquisition Regulation, 48 CFR §§ 52.211-15.

#### 1-5. Definitions

- I. **Common Use Item** - Any material that (A) is commonly available in commercial markets for general consumption; and (B) does not require major modification when purchased for DHS Approved Program use.
- II. **Contractor** - Any prime contractor, subcontractor, or supplier in the supply chain supporting a rated order.
- III. **Critical Infrastructure** - Any systems and assets, whether physical or cyber-based, so vital to the United States that the degradation or destruction of such systems and assets would have a debilitating impact on national security, including, but not limited to, national economic security and national public health or safety.
- IV. **DHS Approved Program** - A program involving civilian needs determined, in accordance with subsection 202(c) of E.O. 12919, to be necessary or appropriate to promote the national defense. (The list of DHS Approved Programs is included in Attachment II.)
- V. **DPAS Officer** - A FEMA employee who has been appointed by the head of a FEMA component to address DPAS issues and has completed training in DPAS policy and procedures. The functions of a DPAS officer may be performed as collateral duties.
- VI. **Emergency Preparedness** - All those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the

immediate emergency conditions that would be created by the hazard, and to effect emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Emergency preparedness includes the following:

- A. Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements; the recruitment and training of personnel; the conduct of research; the procurement and stockpiling of necessary materials and supplies; the provision of suitable warning systems; the construction or preparation of shelters, shelter areas, and control centers; and, when appropriate, the non-military evacuation of civil population).
- B. Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).
- C. Measures to be undertaken following a hazard (including firefighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).

- VII. **Hazard** - An emergency or disaster resulting from (A) a natural disaster, or (B) an accidental or man-caused event.
- VIII. **Homeland Security** - Efforts (A) to prevent terrorist attacks within the United States; (B) to reduce the vulnerability of the United States to terrorism; (C) to minimize damage from a terrorist attack in the United States; and (D) to recover from a terrorist attack in the United States.
- IX. **Materials** - Include: (A) any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and (B) any technical information or services ancillary to the use of any such materials, commodities, articles, components, products, or items.
- X. **National Defense** - 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. National defense includes emergency preparedness activities as defined in and conducted pursuant to Title VI of the Stafford Act and critical infrastructure protection and restoration. National defense also includes civil defense and continuity of government and directly related activities.
- XI. **Program Official** - A FEMA employee who is authorized to direct placement of contracts and orders in support of FEMA programs.
- XII. **Rated Order** - A contract or order containing a priority rating, in accordance with the DPAS.

## 1-6. Responsibilities

- I. The Administrator, FEMA, shall:
  - A. Provide direction and oversight for FEMA implementation of the DPAS.
  - B. Delegate DPAS authority, as necessary and appropriate, to subordinate FEMA officials.
- II. The Director, Office of Policy and Program Analysis (OPPA), shall:

- A. Provide policy and procedures for implementation of priorities and allocations authorities and responsibilities assigned to the Administrator pursuant to Section 101 of the DPA, Parts 1 and 2 of E.O. 12919, and DPAS Delegation 4.
  - B. Determine, in writing, which programs involving civilian needs are eligible to be supported using the priorities and allocations authority, in accordance with Section 202(c) of E.O. 12919.
  - C. Authorize, as necessary and appropriate, use of DPAS priority ratings in support of FEMA programs.
  - D. Designate the Lead DPAS Officer.
- III. The Lead DPAS Officer, OPPA, shall:
- A. Provide direction and support for FEMA use of DPAS priority ratings.
  - B. Develop and implement DPAS training for FEMA personnel involved in DPAS activities.
  - C. Attempt to resolve DPAS issues and requests for special priorities assistance (SPA) that cannot be resolved at the program level and validate and forward unresolved requests for SPA to the Department of Commerce (DOC).
  - D. Monitor FEMA use of DPAS priority ratings and notify the DOC of any alleged violations of the priorities and allocations provisions of the DPA or the DPAS.
  - E. Resolve any conflicts among FEMA programs involving use of DPAS priority ratings and support resolution of any conflict involving use of DPAS priority ratings by a FEMA program and other entities, in accordance with conflict resolution procedures.
- IV. The Heads of FEMA Components shall:
- A. Delegate DPAS authority to or authorize use of DPAS authority by subordinates, as necessary and appropriate.
  - B. Ensure that subordinates responsible for DPAS actions are thoroughly familiar with the provisions of FEMA Directive 211-1, the DPAS regulation, this Manual, and any other published guidance relating to use of DPAS priority ratings in support of FEMA programs.
  - C. Designate DPAS officers, as needed, to support use of DPAS priority ratings by their components.
- V. Authorized Program Officials shall:
- A. Direct use of DPAS priority ratings, as necessary and appropriate, to ensure timely delivery of materials and services for program requirements.
  - B. Monitor the use of DPAS priority ratings in support of their programs to ensure compliance with the provisions of this Manual, the DPAS regulation, and any other published guidance relating to use of DPAS priority ratings in support of FEMA programs.
- VI. DPAS Officers shall:
- A. Assist program officials; representatives of State, local, and tribal governments; and representatives of critical infrastructure operations in developing and submitting requests for DPAS priority-rating authority to support DHS Approved Programs.
  - B. Provide information and training for FEMA, other government, and private sector personnel involved in use of DPAS priority ratings in support of FEMA programs.

- C. Review and validate requests for SPA to determine whether they comply with DPAS criteria, whether appropriate actions have been attempted to resolve problems, and the need for further actions to resolve problems.
  - D. Determine if DPAS problems can be resolved at the program level and attempt to resolve such problems, when appropriate.
  - E. When unable to resolve DPAS problems, document actions to resolve these problems in requests for SPA and forward such requests to the Lead DPAS Officer for action.
  - F. Document the use of DPA authority and forward this documentation to the Lead DPAS Officer.
  - G. Complete DPAS training, as specified in DPAS guidance issued by OPPA.
- VII. The Associate Administrator, Mission Support Bureau, shall ensure that Contracting Officers have the appropriate authority and training to include DPAS priority ratings in contracts and orders supporting FEMA programs.

**1-7. Policy**

It is FEMA policy to use DPAS priority-rating authority to ensure timely delivery of critical materials and services for emergency preparedness, response, and recovery; protection and restoration of critical infrastructure; homeland security; and continuity of government.

**1-8. Questions**

Address any questions or concerns regarding this Manual to the Lead DPAS Officer, Office of Policy and Program Analysis.

**1-9. Attachments**

- I. DPAS Regulation, 15 CFR Part 700. (<http://www.fema.gov/about/programs/dpa/dpas.shtm>)
- II. Homeland Security Approved Programs Under the Defense Priorities and Allocations System.
- III. Form BIS-999 – Request for Special Priorities Assistance.

## CHAPTER 2 – DPAS RATING AUTHORITY AND FINDINGS

### 2-1. General

- I. This chapter provides guidance and procedures for:
  - A. Obtaining authority to use DPAS priority ratings in support of DHS Approved Programs.
  - B. Making the finding regarding use of DPAS Delegation 4 authority in support of Stafford Act emergency preparedness activities.
- II. The Director of FEMA's Office of Policy and Program Analysis is responsible for handling requests for DPAS rating authority in support of:
  - A. State, local, and tribal government emergency preparedness activities conducted pursuant to title VI of the Stafford Act.
  - B. Critical infrastructure protection and restoration activities by non-DHS organizations.
- III. The Director of OPPA is also responsible for making the finding required in Section C of DPAS Delegation 4 regarding DPAS use in support of emergency preparedness activities conducted pursuant to Title VI of the Stafford Act.

### 2-2. Requests for Rating Authority and Findings

- I. Any request for DPAS rating authority or a DPAS Delegation 4 finding regarding use of DPAS to support emergency preparedness activities should:
  - A. Describe the program that would be supported using rated orders in sufficient detail to enable a determination by the Director, OPPA, that the program is eligible for DPAS support.
  - B. Provide a general description of procurement requirements that could be rated and note significant known or potential procurement issues that could delay delivery, if any.
  - C. Provide a point of contact for requests from OPPA for additional information.
- II. The Director, OPPA:
  - A. Reviews each request to determine if a program is eligible for DPAS support and if use of DPAS priority ratings to support the program is necessary and appropriate.
  - B. For emergency preparedness activities conducted pursuant to Title VI of the Stafford Act, makes the finding described in Section C of DPAS Delegation 4, if required.

### 2-3. State, Local, and Tribal Government Emergency Preparedness Activities Conducted Pursuant to Title VI of the Stafford Act

- I. FEMA contracting on behalf of State, local, and tribal governments
  - A. FEMA may place rated orders on behalf of State, local, and tribal governments to support their emergency preparedness activities.
  - B. For the purposes of DPAS Delegation 4 authority and requirements, such contracting is treated as a FEMA program. Any FEMA official authorized to direct placement of rated orders in support of FEMA programs may direct placement of rated FEMA contracts or orders on behalf of State, local, and tribal government emergency preparedness activities.
- II. Authorization for State, local, and tribal governments to use DPAS priority ratings

- A. Authority for State, local, and tribal governments to use a DPAS priority rating in their own procurement activities is provided by the Department of Commerce, subject to a determination by the Director, OPPA, that the proposed use of a priority rating is necessary and appropriate.
- B. Requests by State, local, and tribal governments for priority-rating authority should be submitted to the Director, OPPA, and should include the information listed in Section 2-2 above.
- C. The Director, OPPA, determines if the requested use of a priority rating is necessary and appropriate and endorses eligible requests to the Department of Commerce for action.

#### **2-4. Critical Infrastructure Protection and Restoration**

- I. Authority for owners and operators of critical infrastructure to use a DPAS priority rating is provided by the Department of Commerce, subject to a determination by the Director, OPPA, that the proposed use of a priority rating is necessary and appropriate.
- II. Requests by owners and operators of critical infrastructure for priority-rating authority should be submitted to the Director, OPPA, and should include the information listed in Section 2-2 above.
- III. The Director, OPPA, determines if the requested use of a priority rating is necessary and appropriate and endorses eligible requests to the Department of Commerce for action.

#### **2-5. Finding Required by DPAS Delegation 4**

- I. The use of DPAS authority to support emergency preparedness activities requires a finding that the activities are in response to, or in anticipation of, a hazard as defined in Section 602(a)(1) of the Stafford Act.
- II. Anyone planning to use DPAS authority to support emergency preparedness activities shall ensure that a DPAS Delegation 4 finding has been made with regard to these activities or shall submit a request to the Director, OPPA, for such a finding. The request should include the information listed in Section 2-2 of this Manual.
- III. The Director, OPPA, makes the finding, if necessary and appropriate.

## CHAPTER 3 – USE OF PRIORITY RATINGS

### 3-1. General

- I. Contractors are required to provide priority performance for rated orders, when preferential treatment is needed to meet specified order delivery dates.
- II. Contracting Officers place rated orders at the direction of program officials, who have been authorized to use DPAS priority ratings in support of their programs.
- III. Rated orders must include:
  - A. An appropriate priority rating. The priority rating for all FEMA rated orders begins with a “DO” priority identifier followed by an appropriate Program Identification Symbol (PIS). There are currently eight PISs for DHS Approved Programs under the DPAS. (See Attachment II.) A FEMA rated order must include one of the following eight priority ratings: DO-N1, DO-N2, DO-N3, DO-N4, DO-N5, DO-N6, DO-N7, and DO-N8. In most cases, the appropriate rating for a FEMA program will be “DO-N1,” which identifies a Federal program involving emergency preparedness, or response activities conducted pursuant to Title VI of the Stafford Act.
  - B. A specified delivery date or dates.
  - C. The statement found in Section 700.12(d) of the DPAS regulation that reads, “This is a rated order certified for national defense use, and you are required to follow all the provisions of the Defense Priorities and Allocations Systems regulation (15 CFR 700).”
  - D. The signature (electronic or written) of the Contracting Officer.
- IV. See the DPAS regulation for requirements and procedures on the following subjects:
  - A. Acceptance or rejection of rated orders. In general, a person must accept a rated order for items or services normally provided by that person. (See 15 CFR § 700.13 for additional information.)
  - B. Preferential scheduling. In general, a person must schedule operations in a timely manner to satisfy the delivery requirements of a rated order. (See 15 CFR § 700.14 for additional information.)
  - C. Extension of priority ratings. Rated orders must be placed with suppliers down through the supply chain to obtain items needed to fill a rated order. (See 15 CFR § 700.15 for additional information.)
  - D. Changes or cancellations of priority ratings and rated orders. A priority rating on an order may be changed or canceled by the person who placed the order or by the Department of Commerce. (See 15 CFR § 700.16 for additional information.)
  - E. Use of rated orders. A person must use rated orders to obtain items and services required to fill rated orders. (See 15 CFR § 700.17 for additional information.)

### 3-2. Determining if a Contract May be Rated

- I. When authorized to use a priority rating, a program official may direct Contracting Officers to place rated orders in support of tactical, logistical, or operational program requirements.
- II. Limitation on placing rated orders

A. Common use items:

1. Section G of DPAS Delegation 4 prohibits use of a rated order for an item that: (a) is commonly available in commercial markets for general consumption; and (b) does not require major modification when purchased for approved program use, unless it is determined that the item cannot be procured in sufficient quantity without using a rated contract or order to avoid a delay in meeting program requirements.
2. Prior to placing a rated contract or order for a common use item, a Contracting Officer should document in the contract file the efforts to determine that the item is not available in sufficient quantity from various providers to meet the Government's delivery requirements.
3. In the event of a declared emergency or disaster under the Stafford Act, it may be assumed that common use items needed for emergency preparedness activities cannot be procured in sufficient quantity to meet delivery requirements without using a rated contract or order. In such cases, a Contracting Officer should note in the contract file the declared emergency or disaster that is being addressed in the procurement action.

B. Items used primarily for administrative purposes. Section G of DPAS Delegation 4 also prohibits use of rated orders for any items to be used primarily for administrative purposes, such as for personnel or financial management.

C. Contracts of employment. The DPA does not authorize use of priority ratings in contracts of employment.

D. Other limitations on placing rated orders are provided in 15 CFR § 700.18. In general, DPAS rated orders may not be used for:

1. Food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer.
2. All forms of energy.
3. Health resources.
4. All forms of civil transportation.
5. Water resources.
6. Communications services.

E. Unless specifically provided in the terms of a rated order, a contractor may not use a rated order for:

1. Plant improvement, expansion, or construction, unless physically incorporated into a construction project covered by a rating authorization.
2. Production or construction equipment or items to be used for the manufacture of production equipment.

### **3-3. Obtaining Rating Authority for Uses Limited by the DPAS Regulation**

- I. Under special circumstances, it may be possible to use a rated order for materials or services that are not normally eligible for priority treatment under DPAS. Any questions regarding such special circumstances should be directed to a FEMA DPAS Officer.
- II. Requests for priority rating authority by persons before receipt of a rated order.

- A. Section 700.51(c) of the DPAS regulation authorizes a person to request rating authority to ensure timely delivery of critical supply items required to support an anticipated rated order.
- B. The person wishing to obtain such rating authority in support of an anticipated rated order from FEMA may submit the request to the Director, OPPA, using Form BIS-999. The request must also include the statement required under Section 700.51(c)(2) of the DPAS regulation.
- C. The Director, OPPA, will review the request and forward it to the Department of Commerce for action, if the request is determined by the Director to be necessary and appropriate.

## CHAPTER 4 – Resolution of issues resulting from use of PRIORITY RATINGS

### 4-1. Special Priorities Assistance (SPA)

#### I. General

FEMA components and contractors may need assistance in obtaining timely delivery of needed items or authority to use a priority rating on orders for items not normally eligible for priority rating. Sections 700.50 through 700.55 of the DPAS regulation provide for Special Priorities Assistance.

#### II. Requesting SPA

- A. Any contractor, program official, Contracting Officer, or DPAS officer may request SPA for a variety of reasons. (See 15 CFR § 700.52 for examples and 15 CFR § 700.54 for instances where assistance may not be provided.)
- B. Requests for SPA should be made as soon as the affected person has made a reasonable effort to resolve the problem but has failed to do so.
- C. In general, a SPA request should be submitted to a DPAS officer within the FEMA component responsible for the impacted program. If a DPAS officer has not been designated for the component, a request may be submitted to the Lead DPAS Officer, OPPA.
- D. DPAS officers may prepare a request for SPA or may assist a contractor in preparing a request.
- E. Requests for SPA shall be submitted using Form BIS-999, which is available electronically at [www.bis.doc.gov](http://www.bis.doc.gov) or in hard copy. (See Attachment III.)
  1. The Contractor or DPAS officer must complete blocks 1 through 7 on Form BIS-999 and have an authorized official sign the certificate in block 8.
  2. All information provided as part of a request for SPA should be unclassified. If classified information must be included, such material must be transmitted and handled according to appropriate security procedures.

#### III. Assistance Rendered by DPAS Officers

- A. The cognizant DPAS officer should attempt to resolve a SPA request. If unable to do so, the DPAS officer should forward the request to the Lead DPAS Officer, OPPA. All requests for SPA must be fully documented to demonstrate a need for the requested assistance.
- B. Prior to forwarding SPA requests to the Lead DPAS Officer, DPAS officers shall:
  1. Ensure that reasonable efforts to resolve the problem(s) have been made by the involved contractor and program official(s).
  2. Confirm that the contractor is unable to obtain the required item(s) in a timely fashion to meet program requirements.
  3. Document on Form BIS-999, or on an attachment thereto, all actions taken at every level to process and resolve the SPA request.
- C. Confirm that the required documentation and information is complete, accurate, and valid. SPA requests must:

4. Provide evidence that there is an urgent need for the item(s) addressed in the request to meet program requirements.
5. State the consequences of failure to obtain timely delivery of the item(s).
6. Demonstrate that the required item(s) cannot be replaced by other item(s) that could serve the same purpose effectively.
7. Demonstrate that the contractor cannot sustain the necessary production without timely delivery of the needed item(s).
8. Document all problems for which SPA is being requested.
9. Confirm, when applicable, that provisions for mandatory or optional rejection of a rated order as set forth in Section 700.13(b) and (c) of the DPAS regulation do not apply and that assistance is not prohibited. (See Section 700.54 of the DPAS regulation.)

#### **4-2. Conflicts Involving Rated Orders**

- I. Conflicts for resources within or between FEMA programs that cannot be resolved by the programs may be referred to the Lead DPAS Officer, OPPA, using Form BIS-999 with supporting documentation.
- II. If DOC advises FEMA/OPPA of a conflict at the contractor level, the Lead DPAS Officer, OPPA, shall consult with the appropriate FEMA program official(s) to verify the required delivery date(s), to determine the relative urgency of the affected item(s), and to develop a recommendation for action(s) by DOC to resolve the conflict.

#### **4-3. Records and Reports**

Program officials authorized to use DPAS priority ratings shall make and preserve accurate and complete records of any transaction covered by the DPAS regulation, in accordance with Section 700.91 of the regulation.

#### **4-4. Rescheduling Deliveries Under Rated Orders**

- I. It may sometimes be necessary to divert deliveries from one customer to another or rearrange delivery schedules among several customers in order to support urgent program requirements.
- II. Delivery dates for rated orders may be rescheduled only when it is determined that urgently required items cannot be delivered unless they are rescheduled. However, delivery dates may not be rescheduled, if such action would adversely affect the delivery schedule of a rated order placed for another program.
- III. The decision to reschedule deliveries under rated orders should be based on all available information, including the effect a delivery delay may have on other customers.
- IV. To reschedule deliveries, the responsible program official directs the responsible Contracting Officer to issue a contract modification. If the contractor refuses to accept the modification, a SPA request may be made. The SPA request should include information regarding the impact(s) of the modification on the contractor's performance pursuant to other rated orders.