

May 5, 1964

CHAPTER 6. DEFENSE MATERIALS SERVICE

PART 1. DELEGATIONS OF AUTHORITY FROM THE ADMINISTRATOR
TO THE COMMISSIONER, DMS

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1. AUTHORITIES. The Commissioner, DMS, in carrying out his assigned program responsibilities exercises authority, such as but not limited to, the following:

a. Planning. Cooperates with the Director of the Office of Emergency Planning in determining the materials which are strategic and critical and the quantities and qualities of same to be required. (50 U.S.C. 98a)

b. Procurement and Contracting.

(1) Procures and supplies personal property and nonpersonal services for the use of executive agencies and performs functions related to such procurement and supply; and, upon its request, provides these services to any Federal agency, mixed-ownership corporation, or the District of Columbia. Section 201(a)(3), 201(b) (40 U.S.C. 481(a)(3), 481(b)).

(2) The Commissioner, DMS, is designated as an agency head for the purposes of Title III of the Federal Property and Administrative Services Act of 1949, as amended. Sec. 309(a) (41 U.S.C. 259(a))

(3) Negotiates purchases and contracts for property and services without advertising and makes any determinations and decisions required in connection therewith, section 302(c)(1) through (15) (41 U.S.C. 252(c)(1) through (15)). In connection with the negotiation of purchases or contracts which should not be publicly disclosed, section 302(c)(12), and purchases or contracts which are to be negotiated in order to assure standardization of equipment and interchangeability of parts, section 302(c)(13), the authority to make the determinations and decisions specified in sections 302(c)(12) and (13) is not redelegable. In connection with the negotiation of purchases or contracts for experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test, section 302(g)(11), the authority to make the determinations or

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decisions specified in section 302(c)(11) is redelegable only to a chief officer responsible for procurement and only with respect to contracts which will not require the expenditure of more than \$25,000. Secs. 302(c), 307(b) (41 U.S.C. 252(c), 257(b))

(4) Makes purchases and contracts for property and services by advertising, and determines that the rejection of all bids is in the public interest. Secs. 302(c), 303(b) (41 U.S.C. 252(c), 253(b))

(5) Determines the type of negotiated contract which will promote the best interests of the Government and makes the determinations required in connection with cost, cost-plus-a-fixed-fee, and incentive-type contracts. Secs. 304(a), 304(b) (41 U.S.C. 254(a), 254(b))

(6) Makes advance, partial, progress, or other payments under contracts for property or services and makes the determinations and decisions required in connection therewith. Sec. 305(a) (41 U.S.C. 255(a))

(7) Determines that a contract has a direct and immediate connection with the national defense pursuant to the Renegotiation Board Regulations. This authority is not redelegable. (32 CFR 1453.5(c))

(8) Determines whether articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured are mined, produced, or manufactured in the United States in sufficient and reasonable available commercial quantities and of a satisfactory quality, and determines, as a condition precedent to the purchase of materials of foreign origin for public use within the United States, that the price of like materials of domestic origin is unreasonable or that the purchase of like materials of domestic origin is inconsistent with the public interest, under the provisions of 41 U.S.C. 10a and Executive Order No. 10582 of December 17, 1954 as amended, and makes the findings pursuant to 41 U.S.C. 10b. (41 U.S.C. 10a, b)

(9) Enters into contracts or into amendments or modifications of contracts heretofore or hereafter made, and makes advance pay-

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ments thereon, without regard to other provisions of law relating to the making, performance, amendment, or modification of contracts, whenever he determines that any such action would facilitate the national defense, subject to the limitations specified in Public Law 85-804. (50 U.S.C. 1431)

c. Strategic and Other Materials.

(1) Purchases strategic and critical materials. (50 U.S.C. 98b(a))

(2) Disposes of any stockpile materials which are no longer needed because of revised determinations by the Office of Emergency Planning and sells or otherwise disposes of materials released from the stockpile for use, sale, or other disposition for the purposes of common defense, or in time of war or during a national emergency. (50 U.S.C. 98b(e)); (50 U.S.C. 98d); (EO 11051)

(3) Accepts transfers from owning agencies of strategic and critical materials deemed surplus to the needs and responsibilities of said agencies. (50 U.S.C. 98e)

(4) Accepts strategic or critical materials in lieu of cash in connection with the lease, sale, or other disposition of surplus property. Sec. 204(f) (40 U.S.C. 485(f))

(5) Executes the following authorities of the Administrator under section 303 of the Defense Production Act of 1950, as amended, (50 U.S.C. App. 2093), in accordance with programs certified by the Director of the Office of Emergency Planning:

(a) Purchases and makes commitments to purchase metals, minerals, and other materials for Government use or resale. (50 U.S.C. App. 2093(a))

(b) Determines the quantities, terms, and conditions including advance payments, and periods of such purchases, commitments to purchase, and sales. (50 U.S.C. App. 2093(b))

(c) Makes provision for subsidy payments, determines the amounts, manner, terms, and conditions thereof, and makes

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findings required in connection therewith. (50 U.S.C. App. 2093(c))

(d) Encourages the exploration, development, and mining of strategic and critical metals and minerals, in accordance with policy directives issued by the Director of the Office of Emergency Planning, in connection with foreign projects which were under the jurisdiction of the Administrator on November 12, 1954, and in carrying out any program certified to the Administrator by the Director of the Office of Emergency Planning. (50 U.S.C. App. 2093)

(6) Screens and makes recommendations to the Office of Emergency Planning on requests for tax amortization and on procurement contracts with respect to the aspects of production and processing of metals and minerals assigned to the Secretary of the Interior by the Office of Emergency Planning. (32A CFR ch. I)

(7) Purchases or contracts for the purchase, with foreign currencies, of materials for the supplemental stockpile, in accordance with programs certified by the Office of Emergency Planning, pursuant to section 104(b) of the Agricultural Trade Development and Assistance Act of 1954, as amended; Executive Order No. 10900 of January 5, 1961, as amended; and Executive Order No. 11051 of September 27, 1962, and Delegation of Authority from the Director of the Office of Emergency Planning. (7 U.S.C. 1704(b)); DMO 8600.1) (29 F. R. 5076)

(8) Provides for the refining or processing of stockpile materials and, when necessary to prevent deterioration, for the rotation of strategic and critical materials constituting a part of the stockpile. (50 U.S.C. 98b(c), (d))

(9) Processes and refines procured materials, executing the authority of the Administrator under section 303 of the Defense Production Act of 1950, as amended, in accordance with programs certified by the Director of the Office of Emergency Planning. (50 U.S.C. App. 2093(d))

(10) Provides for the storage, security, and maintenance of strategic and critical materials for stockpiling purposes. (50 U.S.C. 98b(b))

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(11) Stores procured materials, executing the authority of the Administrator under section 303 of the Defense Production Act of 1950, as amended, in accordance with programs certified by the Director of the Office of Emergency Planning. (50 U. S. C. App. 2093(d))

(12) Exercises all functions to be performed by GSA pursuant to agreement between Commodity Credit Corporation and GSA relating to the inspection, handling, importation, storage, etc., of strategic and other materials acquired by CCC through barter of surplus agricultural commodities.

(13) Accepts transfers to the supplemental stockpile of strategic and other materials acquired by the Commodity Credit Corporation through barter or exchange of agricultural commodities, as provided by section 206 of the Agricultural Act of 1956, as amended. (7 U. S. C. 1856)

(14) Disposes of materials from the supplemental stockpile in accordance with the provisions of section 104(b) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U. S. C. 1704(b)), and any other statute which authorizes the disposal of materials from the supplemental stockpile.

(15) Performs the following functions with respect to those types of materials which are currently designated as strategic and critical under the Strategic and Critical Materials Stock Piling Act (50 U. S. C. 98-98h) or which are identical or similar to any materials in the national stockpile, the supplemental stockpile, or the Defense Production Act inventory when such materials have been determined surplus by UDS:

(a) Assumes custody and accountability of, performs, provides for the performance of, the care and handling of, and disposes of such property. Secs. 203(a), (b), (c), (e) (40 U. S. C. 484(a), (b), (c), (e))

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(b) Prescribes and utilizes appropriate terms and conditions for disposals of such property and grants credit and takes security in connection with any disposal of such property. Sec 203(c) (40 U. S. C. 484(c))

(c) Makes negotiated sales of such property at fixed prices, either directly or through the use of disposal contractors, and makes the determinations required in connection with such sales. Sec 203(e) (5) (40 U. S. C. 484(e) (5))

d. Industrial Equipment.

(1) Accepts the transfer of and provides for the handling, care, storage, protection, maintenance, utilization, repair, restoration, renovation, lending, leasing, and disposition of excess machine tools and industrial manufacturing equipment, except such tools and equipment as are part of an industrial plant, as directed by the Secretary of Defense. (50 U. S. C. 451-462)

(2) Installs additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and installs Government-owned equipment in plants, factories, and other industrial facilities owned by private persons. (50 U. S. C. App. 2093(e))

(3) Uses proceeds from insurance to repair or restore damaged National Industrial Reserve property, except industrial plants and related personal property, at the direction of the Secretary of Defense. Sec 210(a)(11) (40 U. S. C. 490(a)(11))

e. Nicar Project. Negotiates, executes, administers, amends, and terminates any and all contracts, letters of intent, deeds, and other contractual instruments relating to the liquidation of the Nicar nickel project, and takes such other action in connection therewith as may be necessary and lawful. (50 U. S. C. App. 2093)

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11-12 f. Lead and Zinc Mining Stabilization Program. Pursuant to delegation of authority by the Secretary of the Interior in accordance with the provisions of Public Law 87-347, establishes and maintains a

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