

DFC-DEFENSE PRODUCTION ACT LOAN PROGRAM GUIDE

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DFC-Defense Production Act Loan Program Guide

Agency

U.S. International Development Finance Corporation

Action

Program Guidelines.

Summary

These guidelines announce the implementation of section 302 of the Defense Production Act of 1950, as amended (“DPA” or “the Act”), as delegated to the Chief Executive Officer of the U.S. International Development Finance Corporation (DFC) by Executive Order 13922, 85 FR 30583 (May 19, 2020). Executive Order 19922 delegates to the Chief Executive Officer of DFC authority under Section 302 of the DPA to make loans to create, maintain, protect, expand, and restore the domestic industrial base capabilities, including supply chains within the United States and its territories, needed to respond to the COVID-19 outbreak. These guidelines outline the key provisions of DFC's implementation of section 302 of the Act.

Dates

Effective date: These guidelines are effective immediately.

Applicability date: These guidelines apply to loans approved or obligated under the DFC-DPA Loan Program during the 2-year period in which the requirements described in section 302(c)(1) of the Act (50 U.S.C. 4532(c)(1)) are waived pursuant to title III of division B of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) (Public Law 116-136, 134 Stat. 520).

Supplementary Information

Background Information

In Proclamation Novel Coronavirus Disease (COVID-19) Outbreak), President Trump declared a national emergency recognizing the 9994 of March 13, 2020 (Declaring a National Emergency Concerning the threat that the novel (new) coronavirus known as SARS-CoV-2 poses to our Nation’s healthcare systems. In recognizing the public health risk, the President noted that on March 11, 2020, the World Health Organization announced that the outbreak of COVID-19 (the disease caused by SARS-CoV-2) can be characterized as a pandemic.

On May 14, 2020, the President signed Executive Order 13922, 85 FR 30583 (May 19, 2020), establishing that the policy of the United States was to further expand domestic production of strategic resources needed to respond to the COVID-19 outbreak, including strengthening relevant supply chains within the United States and its territories to ensure that our country has the capacity, capability, and strong and resilient domestic industrial base necessary to respond to the COVID-19 outbreak. Accordingly, in the Executive Order the President delegated to the Chief Executive Officer of DFC authority under title III of the Defense Production Act (“the Act”) to make loans, make provision for purchases and commitments to purchase, and take additional actions to create, maintain, protect, expand, and restore the domestic industrial base capabilities, including supply chains within the United States and its territories (“domestic supply chains”), needed to respond to the COVID-19 outbreak.

Section 302 of the DPA provides for loans to private business enterprises for the creation, maintenance, expansion, protection, or restoration of capacity, the development of technological processes, or the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals. These guidelines outline the key provisions of DFC's implementation of the Executive Order and the DFC-DPA Loan Program.

Immediate Effective Date

The intent of Executive Order 13922 is that DFC respond to the COVID-19 outbreak expeditiously. This intent, along with the need to address the dramatic toll the COVID-19 outbreak has had on the United States economy and critical infrastructure, presents an urgent and compelling circumstance to make these guidelines effective immediately, without advance notice. Specifically, companies need to be informed on how to apply for a loan and the terms of the loan under the DFC-DPA Loan Program, and DFC needs to be able to begin screening and underwriting prospective projects, as soon as possible. As this is a time-limited program and project origination can take months, the ability to implement this program and act in accordance with these guidelines is time sensitive. These guidelines are being issued to allow for immediate implementation of the DFC-DPA

Loan Program during the applicable dates established in the Executive Order as described above.

DFC-DPA Loan Program

Overview

The President signed Executive Order 13922 to ensure the United States could expand domestic production of strategic resources needed to respond to the COVID-19 outbreak, including strengthening relevant domestic supply chains. Through this Executive Order the President authorized the CEO of DFC to make loans to create, maintain, protect, expand, and restore domestic industrial base capabilities to respond to the COVID-19 outbreak.

General

The CEO of the DFC is authorized to commit to or obligate loans through the two-year period during which the requirements described in section 302(c)(1) of the Act (50 U.S.C. 4532(c)(1)) are waived pursuant to title III of division B of the CARES Act, which ends on March 27, 2022. The President's Executive Order delegates DPA loan authority for the domestic production of strategic resources needed to respond to the COVID-19 outbreak, or to strengthen any relevant domestic supply chains.

What do borrowers need to know and do?

Eligible Projects

As listed in Section 2(c) of Executive Order 13922, projects eligible for a DFC-DPA Loan are those that create, maintain, protect, expand, or restore domestic industrial base capabilities supporting:

- The national response and recovery to the COVID-19 outbreak; or
- The resiliency of any relevant domestic supply chains.

Conditions of DFC-DPA Loans

In accordance with 50 U.S.C. § 4532(b), loans made under the DFC-DPA Program may only be extended if financial assistance is not otherwise available from a private source on reasonable terms; and if the Chief Executive Officer of the DFC makes the following determinations:

- the loan supports the production or supply of an industrial resource, critical technology item, or material that is essential to the national defense;
- without the loan, the U.S. industry cannot reasonably be expected to provide the needed capacity, technological processes, or materials in a timely manner;

- the loan is the most cost-effective, expedient, and practical alternative method for meeting the need;
- the prospective earning power of the loan applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan in accordance with the terms of the loan; and
- the loan bears interest at a rate determined by the Secretary of the Treasury to be reasonable, taking into account the then-current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

Maximum Principal

Maximum principal will be determined on a project-by-project basis. Except in limited circumstances, the loan should not exceed 80% of the total cost of the project.

Use of Proceeds

The DFC-DPA Loan Program can be used for: 1) the acquisition, development, construction, ownership, or operation of facilities or equipment; 2) working capital; or 3) other costs associated with an approved project.

Maximum Interest Rate

The interest rate will be determined on a project-by-project basis in accordance with subsection B(v).

Fees

Fees and other charges may be collected in connection with loans made under the DFC-DPA Loan Program.

Maximum Maturity Date

The maturity will be determined on a project-by-project basis taking into account the useful economic life of any assets financed, but no loan will have a maturity greater than 25 years.

Origination Process for Direct Loans

An applicant must submit **DFC Form-014** (DFC-DPA Loan Program Application Form) on-line. Before or after applying, an applicant may request, or DFC may wish to send a letter of interest (LOI). An LOI implies DFC's willingness to continue discussing the (potential) application.

Following an applicant's submission of an application, DFC will decide whether the proposed transaction meets minimum eligibility requirements. During the screening

process, DFC may request additional information from the applicant to help determine the viability of the proposed project.

Following a successful application, the transaction will undergo environmental, credit, and legal due diligence. DFC may request the applicant to retain outside consulting services to assess relevant aspects of the project/transaction. Those costs may be included in the project costs listed in the financial plan.

Following successful completion of due diligence, the project will be submitted to the Chief Executive Officer of the DFC for approval, considering the requirements of subsection B above. If approved, the DFC and borrower may sign a commitment letter based on the approved term sheet.

Following CEO approval, DFC and the borrower will enter into a finance agreement, which will establish the terms relevant to a particular transaction. Once a finance agreement is entered into, the borrower may submit requests for disbursement under the terms of the agreement.

Additional Information

DFC may provide further guidance, if needed, through DFC notices and a program guide which will be posted on DFC's website at www.dfc.gov.

Public Disclosure

Application information provided to DFC will be deemed marked as "confidential commercial information" in accordance with Freedom of Information Act (FOIA) regulations at 22 C.F.R. Part 706 and will be treated as such to the extent permitted by applicable law. DFC will make detailed project-level information publicly available, consistent with applicable law.

Paperwork Reduction Act, 44 U.S.C. Chapter 35

These program guidelines contain the collection of information subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35 (PRA). DFC has obtained emergency approval under OMB Control Number 3015-0013 for the information collection required to implement the program described above.

Based on DFC's experience with similar burdens, DFC estimates that public reporting for this collection of information will be about 90 minutes per response, including the time for reviewing instructions, and completing and reviewing the collection of information. DFC also estimates that applicants will complete Form DFC-014 (DFC-DPA Loan Program Application Form).

Paperwork Reduction Act Data:

- OMB Number: 3015-0013

- Estimated Number of Applicants: 100
- Estimated Time Per Response: 90 minutes
- Estimated Total Annual Burden Hours: 150 hours
- Estimated Total Annual Costs: \$5,813.00

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number.

Authority: 50 U.S.C. § 4532; Executive Order 13922, 85 FR30583 (May 19, 2020).