Cooley

Trump Invokes Defense Production Act to Surge Industrial Capacity

March 19, 2020

On Wednesday, March 18, 2020, President Trump issued an executive order invoking Section 101 of the Defense Production Act of 1950 in an effort to "surge capacity and capability to respond to the spread of COVID-19."

The DPA – a Korean War-era law – has been invoked dozens of times since its enactment in 1950 and provides the government with special authority during emergencies to control, prioritize and direct production and the provision of services by commercial enterprises. Specifically, the DPA authorizes the president to require companies to enter into government contracts and fulfill purchase orders and to prioritize the production of materials and performance of services necessary for national defense. The DPA also allows the president to use loans and other incentives to increase production of essential products.

Historically used for military production purposes, this authority may be used presently to procure "personal protective equipment and ventilators," and "other health and medical resources needed to respond to the spread of COVID-19 within the United States."

The Cooley government contracts team stands ready to help with any questions or concerns.

Coronavirus resource hub

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our legal notices.

Key Contacts

Christopher Kimball Washington, DC	ckimball@cooley.com +1 202 842 7892

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.