(A) restricting contract solicitations to reliable sources;

(B) restricting contract solicitations to domestic sources pursuant to—

(i) section 2304(b)(1)(B) or section 2304(c)(3) of title 10, United States Code;

(ii) section 303(b)(1)(B) or section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 [41 U.S.C. 253(b)(1)(B), (c)(3)]; or

(iii) other statutory authority;

(C) stockpiling critical components; and

(D) developing substitutes for a critical component or a critical technology item.

(Sept. 8, 1950, ch. 932, title I, § 107, as added Pub. L. 102–558, title I, § 111, Oct. 28, 1992, 106 Stat. 4201.)

EFFECTIVE DATE

Section deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of the President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to the production, conservation, use, control, distribution, and allocation of energy, delegated to the Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

§ 2078. Modernization of small business suppliers

(a) In general

In providing any assistance under this Act [sections 2061 to 2171 of this Appendix], the President shall accord a strong preference for small business concerns which are subcontractors or suppliers, and, to the maximum extent practicable, to such small business concerns located in areas of high unemployment or areas that have demonstrated a continuing pattern of economic decline, as identified by the Secretary of Labor.

(b) Modernization of equipment

(1) In general

Funds authorized under title III [sections 2091 to 2099a of this Appendix] may be used to guarantee the purchase or lease of advance manufacturing equipment, and any related services with respect to any such equipment for purposes of this Act [sections 2061 to 2171 of this Appendix].

(2) Small business suppliers

In considering proposals for title III [sections 2091 to 2099a of this Appendix] projects under paragraph (1), the President shall provide a strong preference for proposals submitted by a small business supplier or subcontractor whose proposal—

(A) has the support of the department or agency which will provide the guarantee;

(B) reflects that the small business concern has made arrangements to obtain qualified outside assistance to support the effective utilization of the advanced manufacturing equipment being proposed for installation; and

(C) meets the requirements of section 301, 302, or 303 [section 2091, 2092, or 2093 of this Appendix].

(Sept. 8, 1950, ch. 932, title I, § 108, as added Pub. L. 102–558, title I, § 111, Oct. 28, 1992, 106 Stat. 4202.)

EFFECTIVE DATE

Section deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of the President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to the production, conservation, use, control, distribution, and allocation of energy, delegated to the Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

TITLE II—AUTHORITY TO REQUISITION AND CONDEMN

AMENDMENTS

1951—Act July 31, 1951, ch. 275, title I, § 102(a), 65 Stat. 132, in heading inserted ''AND CONDEMN''.

§ 2081. Omitted

CODIFICATION

Section, acts Sept. 8, 1950, ch. 932, title II, § 201, 64 Stat. 799; July 31, 1951, ch. 275, title I, § 102 (b), 65 Stat. 132, which related to requisition of property needed for national defense, terminated at close of June 30, 1953, by the terms of section 2166(a) of this Appendix.

TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in sections 2077, 2078, 2161, 2166 of this Appendix.

§ 2091. Loan guarantees

(a) Purpose of loans; guaranteeing agencies; Presidential determinations

(1) In order to expedite production and deliveries or services under Government contracts, the President may authorize, subject to such regulations as he may prescribe, the Department of Defense, the Department of Energy, the Department of Commerce, and such other agencies of the United States engaged in procurement for the national defense as he may designate (hereinafter referred to as ''guaranteeing agencies''), without regard to provisions of law relating to the making, performance, amendment, or modification of contracts, to guarantee in whole or in part any public or private financing institution (including any Federal Reserve bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or

advance, or on any commitment in connection therewith, which may be made by such financing institution for the purpose of financing any contractor, subcontractor, or other person in connection with the performance of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or critical technology items essential to the national defense, or for the purpose of financing any contractor, subcontractor, or other person in connection with or in contemplation of the termination, in the interest of the United States, of any contract made for the national defense; but no small-business concern (as defined in section 714(a)(1) of this Act [former section 2163a(a)(1) of this Appendix]) shall be held ineligible for the issuance of such a guaranty by reason of alternative sources of supply.

(2) Except as provided in section 305 [section 2095 of this Appendix] and section 306 [section 2096 of this Appendix], no authority contained in sections 301, 302, or 303 [sections 2091, 2092, or 2093 of this Appendix] may be used in any manner—

(A) in the development, production, or distribution of synthetic fuel;

(B) for any synthetic fuel project;

(C) to assist any person for the purpose of providing goods or services to a synthetic fuel project; or

(D) to provide any assistance to any person for the purchase of synthetic fuel.

(3) Except during periods of national emergency declared by the Congress or the President, a guarantee may be entered into under this section only if the President determines that—

(A) the guaranteed contract or activity is for industrial resources or a critical technology item which is essential to the national defense;

(B) without the guarantee, United States industry cannot reasonably be expected to provide the needed industrial resources or critical technology item in a timely manner;

(C) the guarantee is the most cost-effective, expedient, and practical alternative for meeting the need involved; and

(D) the combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the guarantee.

(b) Fiscal agents; accountability; reimbursement

Any Federal agency or any Federal Reserve bank, when designated by the President, is authorized to act, on behalf of any guaranteeing agency, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of this section. All such funds as may be necessary to enable any such fiscal agent to carry out any guarantee made by it on behalf of any guaranteeing agency shall be supplied and disbursed by or under authority from such guaranteeing agency. No such fiscal agent shall have any responsibility or accountability except as agent in taking any action pursuant to or under authority of the provisions of this section. Each such fiscal agent shall be reimbursed by each guaranteeing agency for all expenses and losses incurred by such fiscal agent in acting as agent on behalf of such guaranteeing agency, including among such expenses, notwithstanding any other provision of law, attorneys' fees and expenses of litigation.

(c) Supervision; interest, fees, procedures

All actions and operations of such fiscal agents under authority of or pursuant to this section shall be subject to the supervision of the President, and to such regulations as he may prescribe; and the President is authorized to prescribe, either specifically or by maximum limits or otherwise, rates of interest, guarantee and commitment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through such fiscal agents, and to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

(d) Funds available for guarantees

Each guaranteeing agency is authorized to use for the purposes of this section any funds which have heretofore been appropriated or allocated or which hereafter may be appropriated or allocated to it, or which are or may become available to it, for such purposes or for the purpose of meeting the necessities of the national defense.

(e) Identification of industrial resource shortfall; prevention of personal financial insolvency or bankruptcy

(1)(A) Except as provided in subparagraph (D), a guarantee may be made under this section only if the industrial resource shortfall which such guarantee is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of subsection (a)(3) of this section.

(B) Any such guarantee may be made only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to subparagraph (A).

(C) If the making of any guarantee or guarantees to correct an industrial resource shortfall would cause the aggregate outstanding amount of all guarantees for such industrial resource shortfall to exceed $50,000,000, any such guarantee or guarantees may be made only if specifically authorized by law.

(D) The requirements of subparagraphs (A), (B), and (C) may be waived—

(i) during periods of national emergency declared by the Congress or the President; or

(ii) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.

(2) The authority conferred by this section shall not be used primarily to prevent the finan-

cial insolvency or bankruptcy of any person, unless

(A) the President certifies that the insolvency or bankruptcy would have a direct and substantially adverse effect upon defense production; and

(B) a copy of such certification, together with a detailed justification thereof, is transmitted to the Congress and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives at least ten days prior to the exercise of that authority for such use.

(Sept. 8, 1950, ch. 932, title III, § 301, 64 Stat. 800; June 30, 1953, ch. 171, § 4, 67 Stat. 129; Pub. L. 91–379, title I, § 104, Aug. 15, 1970, 84 Stat. 799; Pub. L. 96–294, title I, § 104(a), (b), June 30, 1980, 94 Stat. 618; Pub. L. 98–265, §§ 3(a), 4(a), Apr. 17, 1984, 98 Stat. 149, 150; Pub. L. 102–558, title I, §§ 121(a), 141, Oct. 28, 1992, 106 Stat. 4203, 4217.)

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–558, § 121(a)(1), substituted ''to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or critical technology items essential to the national defense'' for ''to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense,''.

Subsec. (a)(3)(A). Pub. L. 102–558, § 121(a)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the guaranteed contract or operation is for a material, or the performance of a service, which is essential to the national defense;''.

Subsec. (a)(3)(B). Pub. L. 102–558, § 121(a)(3), substituted ''without'' for ''Without'' and ''the needed industrial resources or critical technology item'' for ''the capability for the needed material or service''.

Subsec. (a)(3)(D). Pub. L. 102–558, § 121(a)(4), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''the United States national defense demand is equal to, or greater than, the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the guarantee.''

Subsec. (e)(1)(A). Pub. L. 102–558, § 121(a)(5), substituted ''Except as provided in subparagraph (D)'' for ''Except during periods of national emergency declared by the Congress or the President''.

Subsec. (e)(1)(C). Pub. L. 102–558, § 121(a)(6), substituted ''$50,000,000'' for ''$25,000,000''.

Subsec. (e)(1)(D). Pub. L. 102–558, § 121(a)(7), added subpar. (D).

Subsec. (e)(2)(B). Pub. L. 102–558, § 141, substituted ''and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives'' for ''and to the Committees on Banking and Currency of the respective Houses''.

1984—Subsec. (a)(3). Pub. L. 98–265, § 3(a), added par. (3).

Subsec. (e)(1). Pub. L. 98–265, § 4(a), substituted provision that a guarantee be made under this section only if the industrial resource shortfall which such guarantee is intended to correct is identified for provision that the maximum obligation under this section not exceed $38,000,000, but if guarantees exceed such amount, Congressional committees be notified and no disapproving resolution be adopted within a 60-day period of continuous session of Congress, with provision for determination of continuity of Congressional session for the purpose of computing such 60-day period.

1980—Subsec. (a). Pub. L. 96–294, § 104(a), designated existing provisions as par. (1), substituted references to Departments of Defense and Energy for references to Departments of Army, Navy, and Air Force, and added par. (2).

Subsec. (e)(1). Pub. L. 96–294, § 104(b), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B)'' for ''Except with the approval of Congress'' and ''$38,000,000'' for ''$20,000,000'', and added subpar. (B).

1970—Subsec. (e). Pub. L. 91–379 added subsec. (e).

1953—Subsec. (a). Act June 30, 1953, made it clear that Government guaranties of credit may be made under this section in connection with the termination of Government contracts, and to provide that no small-business concern shall be denied a guaranty merely because an alternative source of supply exists for the item to be procured on the Government contract involved.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–294 effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

TRANSFER OF FUNCTIONS

Act July 30, 1953, ch. 282, title I, § 107(a)(2), (b), 67 Stat. 273, required President to transfer functions, powers, duties, and authority of Reconstruction Finance Corporation under sections 2091 to 2094 of this Appendix within sixty days after July 30, 1953, and provided that all assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, personnel, and records of Corporation, which Director of Bureau of the Budget [now Office of Management and Budget], determined necessary to performance of such functions were to be transferred to officer or agency of Government to which such functions were transferred.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

EXECUTIVE ORDER NO. 10223

Ex. Ord. No. 10223, Mar. 12, 1951, 16 F.R. 2247, providing for the performance of certain functions under act Sept. 8, 1950, was revoked by section 404 of Ex. Ord. No. 10281, Aug. 28, 1951, 16 F.R. 8789.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2078, 2095, 2096 of this Appendix.

§ 2092. Loans to private business enterprises

(a) Purposes

To expedite production and deliveries or services to aid in carrying out Government contracts for the procurement of industrial resources or a critical technology item for the national defense, the President may make provision for loans (including participations in, or guarantees of, loan) to private business enterprises (including research corporations not organized for profit) for the expansion 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, and manufacture of newsprint.

(b) Terms and conditions; Presidential determinations

Such loans may be made without regard to the limitations of existing law and on such terms and conditions as the President deems necessary, except that—

(1) financial assistance may be extended only to the extent that it is not otherwise available on reasonable terms; and

(2) except during periods of national emergency declared by the Congress or the President, no such loan may be made unless the President determines that—

(A) the loan is for the expansion of capacity, the development of a technological process, or the production of materials essential to the national defense;

(B) without the loan, United States industry cannot reasonably be expected to provide the needed capacity, technological processes, or materials in a timely manner;

(C) the loan is the most cost-effective, expedient, and practical alternative method for meeting the need; and

(D) the combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the loan.

(c) Identification of industrial resource shortfall

(1) Except as provided in paragraph (4), no loans may be made under this section, unless the industrial resource shortfall which such loan is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of subsection (b)(2) of this section.

(2) Any such loan may be made only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to paragraph (1).

(3) If the making of any loan or loans to correct an industrial resource shortfall would cause the aggregate outstanding amount of all loans for such industrial resource shortfall to exceed $50,000,000, any such loan or loans may be made only if specifically authorized by law.

(4) The requirements of paragraphs (1), (2), and (3) may be waived—

(A) during periods of national emergency declared by the Congress or the President; and

(B) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.

(Sept. 8, 1950, ch. 932, title III, § 302, 64 Stat. 801; June 30, 1952, ch. 530, title I, § 104, 66 Stat. 298; Pub. L. 93–155, title VIII, § 807(b), Nov. 16, 1973, 87 Stat. 615; Pub. L. 96–294, title I, § 104(c), June 30, 1980, 94 Stat. 618; Pub. L. 98–265, §§ 3(b), 4(b), Apr. 17, 1984, 98 Stat. 149, 151; Pub. L. 102–558, title I, § 121(b), Oct. 28, 1992, 106 Stat. 4204.)

Amendments

1992—Subsec. (a). Pub. L. 102–558, § 121(b)(1), substituted "for the procurement of industrial resources or a critical technology item for the national defense" for "for the procurement of materials or the performance of services for the national defense".

Subsec. (b)(2)(D). Pub. L. 102–558, § 121(b)(2), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "the United States national defense demand is equal to, or greater than, domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the loan."

Subsec. (c)(1). Pub. L. 102–558, § 121(b)(3), substituted "Except as provided in paragraph (4), no loans may be made under this section" for "No such loan may be made under this section, except during periods of national emergency declared by the Congress or the President".

Subsec. (c)(3). Pub. L. 102–558, § 121(b)(4), substituted "$50,000,000" for "$25,000,000".

Subsec. (c)(4). Pub. L. 102–558, § 121(b)(5), added par. (4).

1984—Subsec. (a). Pub. L. 98–265, § 3(b), designated existing provision as subsec. (a) and struck out provision that loans be made without regard to limitations of existing law on such terms and conditions as the President deems necessary, except that financial assistance be extended only to the extent not available on reasonable terms, and that with respect to loans in excess of $48,000,000, Congressional committees be notified and no disapproving resolution be adopted within a 60-day period of continuous session of Congress, with provision for determining continuity of Congressional session for the purpose of computing such 60-day period. See subsec. (b).

Subsec. (b). Pub. L. 98–265, § 3(b)(2), added subsec. (b).

Subsec. (c). Pub. L. 98–265, § 4(b), added subsec. (c).

1980—Pub. L. 96–294 substituted "$48,000,000" for "$25,000,000".

1973—Pub. L. 93–155 provided for notification of Congressional Committees with respect to certain proposed loans, Congressional resolution of disapproval, continuity of Congressional sessions, and computation of period.

1952—Act June 30, 1952, brought manufacture of newsprint within its provisions.

Effective Date of 1992 Amendment

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

Effective Date of 1980 Amendment

Amendment by Pub. L. 96–294 effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as a note under section 2062 of this Appendix.

Termination Date

Termination of section, see section 2166(a) of this Appendix.