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**DEPARTMENT OF DEFENSE
COVID-19 RESPONSE TO DEFENSE
INDUSTRIAL BASE CHALLENGES**

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

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**DEPARTMENT OF DEFENSE COVID-19 RESPONSE TO
DEFENSE INDUSTRIAL BASE CHALLENGES**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, DC, Wednesday, June 10, 2020.

The committee met, pursuant to call, at 2:00 p.m., in room 1100, Longworth House Office Building, Hon. Adam Smith (chairman of the committee) presiding.

OPENING STATEMENT OF HON. ADAM SMITH, A REPRESENTATIVE FROM WASHINGTON, CHAIRMAN, COMMITTEE ON ARMED SERVICES

The CHAIRMAN. I believe we are ready to go. A unique setting. And I want to welcome our witness, even though at my advanced age, as Rick was saying earlier, we think you are there. We can almost see you in the distance. We appreciate you wearing the bright color to help us with that.

So, this is our first hybrid hearing. I am quite confident this will work out just fine. I appreciate the members who are here. We have members who are participating remotely as well. I have a statement up front that will explain the process, and then we will proceed with a normal hearing.

So, I would like to welcome members who are joining today's proceeding remotely. Those members are reminded that they must be visible on screen within the software platform for the purposes of identity verification when joining the proceeding, establishing and maintaining a quorum, participating in the proceeding, and, if necessary, voting, which will not be necessary today.

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When recognized, the video of a remotely attending member's participation will be broadcast in the room and via the television/internet feeds. Members participating remotely are asked to mute their microphone when they are not speaking. Doing so will help to ensure that the remote technology works properly.

Members participating remotely will be recognized normally for asking questions, but if they want to speak at another time, they must seek recognition verbally. In all cases, members are reminded to unmute their microphone prior to speaking.

Members should be aware that there is a slight lag of a few seconds between the time you start speaking and the camera shot switching to you. To account for this, please do a brief preamble in your remarks or you can just pause and wait for a second. You don't actually have to prepare a preamble, I don't believe.

Members are also advised that I have designated a committee staff member to, if necessary, mute unrecognized members' microphones to cancel any inadvertent background noise that may disrupt the proceeding. Members may use the software platform's chat feature to communicate with staff regarding technical or logistical support issues only.

Finally, remotely participating members should see a 5-minute countdown clock on the software platform's display, but, if necessary, I will gently remind members when their time is up.

Thank you very much.

I appreciate, as I said, folks being here. I certainly appreciate Under Secretary Lord appearing, as all of us have tried to figure out across the country what can we do, what can't we do, what can we do safely, how do we do it in a way that respects the very real public health crisis that we are facing, but still enables us to do our job. And I will say the Department of Defense has been very cooperative in that. We have done a number of remote informal committee events during the course of this pandemic. Under Secretary Lord has participated in, I think, at least one of those, if not more, and that has been very helpful. And it is good to have witnesses here in person.

The subject of today's hearing is to discuss the Department's response to the pandemic, and specifically, the efforts—and as the Under Secretary for Acquisition, you are in the middle of this—the efforts to ramp up production necessary to meet that aspect of the public health challenge. And very early on, it was obvious that, when we were going to have such a massive increase in public health demands surrounding COVID-19 [Coronavirus Disease 2019], one of the things that was going to be required was to mass produce far greater quantities of certain key public health needs than we would normally have.

We have a global supply chain. That presented enormous challenges. There are many examples of that. For instance, for the testing capacity, swabs are enormously important. A good chunk of those happened to be made in northern Italy, which created a significant challenge. So, we had to adjust.

And I will say it is awkward because we have a witness here who I know has worked very hard on this issue. I have been in communication with her going back months now, and she understood this right up front, the importance of it. I do think, overall, the administration and DOD [Department of Defense] was slow to respond and there are still challenges going forward.

We needed to figure out how to produce things more quickly. And from the very start—and the Under Secretary and I spoke about this—nobody understands how to do that better than the Depart-

ment of Defense. In the United States of America, certainly in the public sector, nobody procures more equipment of a varied kind and has a deeper industrial base than the Department of Defense. And I felt very strongly that early on they should get involved. I realize that, as a public health crisis, the lead agencies were HHS [U.S. Department of Health and Human Services] and FEMA [Federal Emergency Management Agency], but they clearly did not have the capacity that DOD did. DOD has gotten involved through the Defense Production Act and other ways, and that is a positive. I hope in the future we will understand that that needs to happen as soon as possible, and we saw this coming in the January-February timeframe.

Now, with that said, we have learned a lot as we have gone forward. I mean, early on, there was a huge focus on producing more bed capacity. We set up a number of field hospitals in a number of places. In a lot of cases, it didn't turn out that a lot of those were needed. So, we learned as we went.

But the two big areas that have been a challenge are, one, testing. And in that area, belatedly, we have started to have some successes. I believe the President was just up in Maine visiting a production facility there which, if I have my numbers correct, is cranking out 40 million swabs a month, and that is a remarkable increase and absolutely necessary to the challenge in front of us.

The one big area where we still have a significant gap, believe it or not, is in personal protective equipment [PPE]. And the response to that has been very frustrating. We have now sort of created this sort of global competition where States and localities and everybody is competing to track down PPE in the global marketplace. We have 50 States competing against each other, the Federal Government competing with them, all manner of different nations and other folks competing against each other, and that has made it difficult.

My own State is an example. We very early on recognized this and we have managed, frankly, to leverage some relationships with companies in the area. Microsoft, Amazon have been helpful to reach out to partners around the world to get some of that product, but it still does not appear to be very coordinated.

In fact, I received a letter just this week from our Governor about a lot of the equipment that has come in from different places—oh, sorry—a lot of the PPE that has come in doesn't work. It has not panned out the way we expected it to. And I am still concerned that we do not have the domestic production capacity necessary to meet the need.

As we saw with the example of the swabs, we can crank up production. And that was the conversation that I was having in early March. They were, "Well, you know, look, we don't do that. We only produce this many." And that is true, all right, but we are pretty big, pretty powerful, have a lot of money. We can change. Okay? You can say, well, gosh, it is impossible; there's no way we can produce 100 million masks a month. Well, what if we did this? Okay? What if the full force of the Federal Government came in and said, "This is what you're going to build." If we need this machine, if we need this material, we will find it and we will make it happen.

That took too long, in my view, and I still am worried on the PPE side that we are not producing sufficient number of masks to meet the needs and demand, I mean, even as a basic point. What we are struggling with in our State is nursing homes, as every place is, just to get there and make sure that they have a dependable source of masks. And I am not sure of the statistic, but I believe at one point it was between a third and 40 percent of the people who have died in this country from COVID-19 were in nursing homes. It is clearly the vulnerability. Now exactly what type of mask we need, depending on the setting, we can have that debate. But what I want to see is us ramp up our production capacity.

The last thing, quickly—I apologize, I haven’t done this in a while, so I have got a lot to say—is, as we are trying to figure out how these contracts went out, there have been a number of disturbing stories about business people coming along and saying, “Hey, I can get you 30 million masks.” So, they get a contract and produce nothing. That money seemed to go out in a very confusing way.

And even within, there is \$1 billion that was specifically given to DOD to manage Defense Production Act steps. I am curious how that money is being spent. One thing that really stood out for me was, apparently, \$100 million has gone to the foreign direct investment, which is something I have worked on with Congressman Yoho. We just expanded their ability to take equity stakes, but it is for international development. They provide loans to developing countries. What are they doing with \$100 million of DPC [Defense Pricing and Contracting] money to send out loans to domestic companies? It didn’t really make any sense.

So, I am still worried about whether or not we are using the full force and power of the Federal Government to meet this crisis, particularly when it comes to producing PPE, and to make sure that we bring the competence to the problem that is necessary. No doubt, this is a huge, complicated, difficult problem that would have been really hard to anticipate in all of its varied forms. The idea that we could have a pandemic certainly was out there. The specifics of it, that is difficult, but we are supposed to be the best. We are supposed to be able to do difficult things. And it is still very important. The disease has not gone away and there is a lot more work to be done.

With that, I will yield to Ranking Member Thornberry for his opening statement.

STATEMENT OF HON. WILLIAM M. “MAC” THORNBERRY, A REPRESENTATIVE FROM TEXAS, RANKING MEMBER, COMMITTEE ON ARMED SERVICES

Mr. THORNBERRY. Thank you, Mr. Chairman.

And I join in welcoming Under Secretary Lord and thanking her for participating in today’s hearing. Not only is the substance of what we have before us today important, this is an important trial run because this is the same room we will use to have our full committee markup in just a few weeks’ time. So, I appreciate her being here.

And I would have to say, from my perception, well, two things. One is Under Secretary Lord has had a lot on her plate. The chair-

man just described a whole range of things related to medical equipment, and so forth, the Defense Production Act, DOD's role in that, as well as the supply chain for everything that DOD has to have to support our men and women of the military at a time when a pandemic has basically shut down most all of the economy, and at a time when we are much more sensitive to foreign sources that may be a part of our supply chain.

And I would say, from my standpoint looking at it, I think certainly Under Secretary Lord and much of the Department has done a pretty good job in dealing with unprecedented circumstances—with technology that makes lots of noises, just like we have just been hearing.

I think there is no question we still have challenges to work our way through. We will talk about some of those today. But I really appreciate the effort and the success in dealing with all of those issues, the medical stuff, the Defense Production Act, the whole supply chain for everything that DOD, actually the men and women who serve require.

I hope, on the other side of this, what we can also do is step back and look at changes that we can make or that the Department can make to procure things faster. There are some lessons, not just with pandemics and medical-related things, but the world is changing quickly. Technology changes quickly. We have to be faster. And I think some of the challenges related to COVID should help inform us as far as acquisition, sustainment, and things moving forward. And it may be challenges of a completely different kind, but we need to learn those lessons and institute them.

So, again, I appreciate you being here and look forward to your testimony and the questions beyond.

The CHAIRMAN. Thank you.

Under Secretary Lord.

STATEMENT OF HON. ELLEN M. LORD, UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND SUSTAINMENT, DEPARTMENT OF DEFENSE

Secretary LORD. Chairman Smith, Ranking Member Thornberry, and distinguished members of the committee, thank you for the opportunity to testify today on matters related to the Department's response to the COVID-19 pandemic.

While COVID-19 has had an unprecedented impact on the Nation, under Secretary Esper's leadership, the Department of Defense has contributed immensely to the administration's whole-of-government response. Today, I will describe key elements of how the acquisition enterprise has supported other Federal agencies and the defense industrial base, or DIB.

The COVID-19 pandemic highlighted critical shortfalls in the medical supplies and personal protective equipment supply chain. On March 18, President Trump invoked the Defense Production Act [DPA]. In doing so, he delegated authority to the Secretary of Health and Human Services to determine nationwide priorities and allocation of health and medical resources for responding to the spread of COVID-19. Accordingly, the DOD has been supporting HHS to execute DPA authorities.

On March 27th, the President signed the CARES [Coronavirus Aid, Relief, and Economic Security] Act. It includes language and resources to mitigate critical shortfalls and to create and expand domestic industrial base capabilities. The DOD, in support of HHS and FEMA, initiated several projects to support approximately \$210 million worth of medical equipment investment.

The CARES Act also provides authorities and resources to HHS to invest in industrial expansion. DOD has been providing acquisition assistance to HHS to acquire medical resources and expand industrial capacity and manufacturing throughput.

Our collaboration also supports the HHS strategy to replenish and modernize the Strategic National Stockpile. To ensure the Department was postured to leverage all of its resources, I created the COVID-19 Joint Acquisition Task Force, or JATF. The JATF team has created processes to enable HHS and FEMA to quickly and effectively access the DOD acquisition workforce, its expertise, and authorities. The JATF's work with HHS has evolved to its current support to HHS in expanding and replenishing the Stockpile as well as expanding the domestic manufacturing base for some of those items.

In order to decrease our dependence on foreign suppliers for medical resources, DOD has focused on increasing domestic industrial capacity and capabilities. To that end, we executed some \$284 million in industrial expansion efforts during the first 2 weeks of May 2020. The JATF is in close coordination with HHS regarding replenishment of the Stockpile. Reconstituting domestic production or creating new production that shifted offshore years ago often requires capital expenditure, capital equipment expenditures, retooling, and retraining of the workforce.

While the JATF is focused on sharing the DOD's acquisition expertise with HHS and FEMA, the Defense Logistics Agency [DLA] has supplied badly needed medical supplies. DLA has obligated over \$752 million through the end of May to provide lifesaving medical supplies. I would like to highlight that this support includes an ongoing effort to supply nearly 15,000 nursing homes with a 2-week supply of PPE.

I would now like to turn to issues surrounding the DIB, including actions we have and are taking to ensure DIB viability. We are using \$688 million of CARES Act funding to address impacts to the DIB by directly offsetting financial distress and providing investments to regions most severely impacted. These investments will sustain essential domestic industrial base capabilities and spur local job creation. The Industrial Base Council [IBC] has prioritized risks to address use of this funding. Newly identified issues are continually coming in and the IBC will continue to prioritize efforts for execution.

Another area where we will be supporting the DIB is by making Defense Production Act loans through the U.S. International Development Finance Corporation, or DFC.

Mr. Chairman, I just have a few more minutes. I notice I am at 5 minutes. May I take 2 or 3 more minutes?

The CHAIRMAN. Yes.

Secretary LORD. Thank you.

Funds will support HHS Strategic National Stockpile priority areas: specifically, N95 respirators, other personal protective equipment, pharmaceuticals, ventilators, airway management consumables, and testing supplies.

We have also taken more immediate and direct action to support the DIB by implementing congressional direction, empowering the contracting workforce, and ensuring a healthy DIB through continued guidance and direction. We have taken steps to ensure the widest dissemination of guidance to the contracting community. These policy documents focus on allowing companies to continue to work while maintaining workforce safety, providing liquidity, implementing legislation beneficial to industry, improving speed of contracting, and providing spending transparency.

In the early stages of the pandemic, the Department increased the progress payment rate from 80 to 90 percent for large businesses and from 90 to 95 percent for small businesses. This change will infuse an estimated \$3 billion in cash to all levels of the DIB. Further, the Department has partnered with the major primes [prime contractors] to ensure this increase in cash makes its way throughout the supply chain.

As you know, section 3610 of the CARES Act allows agencies to reimburse contractors for payment associated with the preservation of workforces prevented from working due to COVID-19 facility closures or other restrictions. Our implementation guidance provides a framework for contracting officers to assess any claimed allowable paid leave, including sick leave, that a contractor or their subcontractors provide to keep their employees in a ready state.

It is important to note that section 3610 authorized, but did not appropriate, the funds needed to make these reimbursements. While the Department may be able to use other appropriated funds to reimburse contractors, the cost for 3610 is likely well beyond the Department's resource stability to do so without significantly jeopardizing modernization or readiness. For example, just one of our major primes estimates that 3610 impacts could be up to \$1.5 billion for their company and their associated suppliers.

Section 3610 leave costs are just one category of COVID-19-related costs being experienced by the DIB. Others include those associated with contracting officer direction, such as stop work, the purchasing of PPE, cleaning and sterilization costs, impacts related to implementing Centers for Disease Control guidance, such as spacing out factory floor activity, and the cost associated with schedule delays emanating from the supply chain. As with section 3610, the Department does not have the funding to cover these costs. The same prime contractor noted earlier estimates these non-3610 COVID-19-related costs to be in excess of \$1.5 billion—correction—to be in excess of \$1 billion.

The Department's response to COVID-19 addresses a full spectrum of needs. I am incredibly proud of the Department's response to this national emergency and to our dedicated individuals who have worked so diligently on behalf of the American people.

With that, I look forward to answering your questions, and many, Mr. Chairman, that you mentioned in your opening, I am very interested in discussing. Thank you.

[The prepared statement of Secretary Lord can be found in the Appendix on page 47.]

The CHAIRMAN. Certainly. Thank you very much.

I guess as a starting point, on the swabs, one of the very reassuring things is to hear that they are producing 40 million a month. We have a quantifiable figure, and that is not far off from what we need if there is more, obviously. I don't have a similar number on N95 masks. I have asked this question before and don't have an answer. How many N95 masks are we now producing a week, a month, however you want to categorize it, in this country? Where did we come from and where do we want to get to? And I will get to sort of the international piece in a second, but domestic U.S. production.

Secretary LORD. So, one of our challenges has been aggregating the demand signal, first, for the medical community, and then, for getting back to work; then looking at reconstituting our Strategic National Stockpile, and then, looking for ongoing activities. So, we have had the Supply Chain Task Force, under Admiral Polowczyk's guidance at the NRCC [National Response Coordination Center], looking at aggregating that demand signal.

While that is going on, and we are taking part in that, what we have done is taken DPA Title III money, and then, in order to do even more industrial expansion, we worked with lawyers to be able to use the Economy Act to move money from HHS for industrial expansion to be executed—

The CHAIRMAN. I am sorry, that is not actually what I asked.

Secretary LORD. Okay. What is the demand signal?

The CHAIRMAN. So, I understand how many. That is a separate question. But how many are we—and if you don't know, that is fine.

Secretary LORD. Yes, I was about to say I do not have that. I can take that for the record. But I might call on our JATF Director, Ms. Stacy Cummings, to begin to address that.

[The information referred to can be found in the Appendix on page 71.]

The CHAIRMAN. And as you are looking at the demand signal, I hear that. When I told our Governor that a couple of months ago, he about pulled his hair out, "I'll give you a demand signal. It's very large." And so, what have we learned at this point? I will ask the question in a different way. What is the demand signal for N95 masks?

Ms. CUMMINGS. Based on our projections, prior to the COVID response, we were nationally using about 50 million N95 respirators in a year. I will tell you that that demand went up to about 140 million over the 90 days of peak demand. And so, what we are looking at from a demand signal is a significant increase in the use of N95 masks, which is why we made the significant investment that Ms. Lord mentioned earlier. I can tell you that, based on the investments that we have made, by October of 2020 we will be seeing an increase of 450 million masks a year, and by January of 2021 an increase in total, including that 450, up to over 800 million masks—

The CHAIRMAN. And that is domestic production?

Ms. CUMMINGS. And that is domestic production, correct.

The CHAIRMAN. I am sorry, so you are producing 450 million a year, and your estimate is, at this point what is our need, the demand signal, if you will?

Ms. CUMMINGS. So, based on having 90 days of stock, we are looking at that number being about 300 million to be used in 90 days of peak use.

The CHAIRMAN. So, 300 million is like 100 million a month, roughly?

Ms. CUMMINGS. About 100 million a month during peak use is on the high end of demand that we want to be able to have access to, again, during that peak.

The CHAIRMAN. Yes, right. And now, we are getting somewhere. So, 100 million a month and we are set to produce by the end of October 450 million a year?

Ms. CUMMINGS. 450 additional million a year. By January, our annual production—

The CHAIRMAN. I am sorry, additional to what?

Ms. CUMMINGS. Additional to our base.

The CHAIRMAN. Okay. And our base was?

Ms. CUMMINGS. I can't tell you the proprietary information of the base that was being produced on individual companies.

The CHAIRMAN. I am sorry—

Ms. CUMMINGS. But what I can tell you is that, starting in 2021, we anticipate our total domestic production to be in excess of a billion per year. So, we are getting very close to being able to meet that demand domestically, but we are not quite there yet.

The CHAIRMAN. Okay. And I do understand. I don't have any problem with supplementing it internationally, but we want to try to get that number up as high as possible.

Ms. CUMMINGS. Absolutely.

The CHAIRMAN. Thank you.

So, I want to yield at this point to Mr. Thornberry for any questions he has.

Mr. THORNBERRY. Thank you, Mr. Chairman.

And, Under Secretary Lord, I just wanted to clarify part of what you talked about in your testimony. Section 3610 of the CARES Act says that contractors can be reimbursed for sick leave, paid leave, other things they have done to try to keep their folks employed. But you are telling us today that there is not the money to do that. So, if that is going to happen—and it would run into the billions—so, if that is going to happen, there would have to be some sort of supplemental funding?

Secretary LORD. Correct.

Mr. THORNBERRY. And otherwise, these contractors are going to have to eat several billions of dollars, which could well come at their employees' expense, which is what this was supposed to help to begin with.

Secretary LORD. Well, there is a choice there, whether or not we want to eat into readiness and modernization and slow down readiness and modernization on an ongoing basis or whether we want to remedy the situation in the next 6 months or so, and then, be able to continue on to make sure that we have the ready forces that we need to have for national security.

Mr. THORNBERRY. Okay. I want to ask a broader question about the defense industrial base. And that is, do you feel like you have good visibility in what the defense industrial base is? And just as one example of that, so if we wanted a list of parts where we were down to a single supplier, can you do that? Give us some sense for how much you know about this very complex community, I guess, that supplies our men and women in uniform.

Secretary LORD. We have been gaining in our knowledge, which I would say is still insufficient. But it started out with the report we did as a result of the Executive Order 13806, the report we put out about 2 years ago. We segmented the defense industrial base. We all began to have a common lexicon, and we identified fragilities in that base, whether it be sole-source suppliers or whether it be the dependence on overseas sources of supplies. That highlighted work we started doing using the Defense Production Act and other mechanisms to begin to bolster our capability.

Fast forward to COVID. COVID exacerbated that fragility that we had identified through the report, and we found that we could not onshore the materials that were produced offshore and that we might not be able to for quite some time.

So, what this required us to do was really accelerate our illumination of our supply base, and we have had a number of our individuals out of our acquisition group, our industrial policy group work with specific tools to illuminate the supply chain, not only to understand who was in there, and then, identify what the weaknesses were, but where we had actually, what I will call, adversaries as one of our key suppliers.

So, part of our effort here is not only to identify where we are sole-sourced, but where we actually need to reshore a lot of that capability. In fact, we mentioned the \$100 million of DPA Title III being used with the Development Finance Corporation. The idea is that we are taking an existing infrastructure in the government, working closely with DOD to use all the knowledge that we have gained in terms of medical resource fragility, as well as defense industrial base fragility, and we are going to use a modest amount of our DPA Title III money as collateral to go and do Treasury loans to reshore businesses, so that we have the domestic capability.

Mr. THORNBERRY. Okay. And so, just briefly, I take by your answer, we are working on that, single-sourced, foreign-sourced, et cetera, but we don't quite know the full extent of it yet?

Secretary LORD. We know a large amount of it. We do not know the full extent, and that is a key focus of ours and we need to continue—

Mr. THORNBERRY. Well, it is important and a number of members are interested in that as well. So, we look forward to working with you.

Thank you, Chairman. I yield back.

The CHAIRMAN. Thank you.

And now, we have reached the exciting moment of the hearing when we call on our first member who is participating remotely. And that would be Susan Davis, who is recognized for 5 minutes. So, it will probably take a second—

Mrs. DAVIS. Thank you, Mr. Chairman.

The CHAIRMAN. There we go. Susan, you are up for 5 minutes.

Mrs. DAVIS. Thank you very much to have this experiment at this time.

I want to thank you, Madam Under Secretary Lord, very much because I know that you have been working 24/7 at this, and we all greatly appreciate that.

There was an article in The Atlantic recently, "How to Actually Use the Defense Production Act." In the summary, it mentions, "Using the statute does not mean giving up on American ingenuity in an emergency but competently maximizing it—and recognizing that the energy must come from the top." Would you say that that is generally your position?

Secretary LORD. I believe that is directionally correct. What we are trying to do is send a strong demand signal that we want domestic production. So, what we are doing is saying we will take papers on what level of investment could generate what increased capacity and throughput over what specific period of time, and rack and stack those applications against our requirements that are prioritized, and then, begin to address them.

Mrs. DAVIS. And would you say that those working with you are all pretty much on the same page on that?

Secretary LORD. Yes, I believe so.

Mrs. DAVIS. Okay. I wonder if you can talk, then, about how the Department is planning to use the DPA for vaccine production/distribution. Are you making those plans now? And what are the known shortcomings in vaccine distribution that the DPA would prove most useful to address?

Secretary LORD. Yes. So, about 3 weeks ago or so, we bifurcated our Supply Chain Task Force efforts into Project Warp Speed, and then, the Strategic National Stockpile. Operation Warp Speed has two leaders, Dr. Slaoui and General Perna, who report directly to Secretaries Esper and Azar. They are working first on vaccines, then on therapeutics, and then, on diagnostics. So, they have picked up a lot of the work, obviously, being done by HHS and DHA [Defense Health Agency]. Right now, what they are doing is prioritizing who they are funding for vaccines and, then, how they will be distributed. We stand ready to support them, but right now they are finalizing all of their investment plans and they are reporting out directly on that.

Mrs. DAVIS. From lessons learned that we have gone through now, what is going to be a hard stumbling block? Is it competition for the vaccine? What is it that you think is going to get in the way?

Secretary LORD. I think, first of all, we have to make data-driven decisions. There are a lot of anecdotes. I think we all have to have the same fact set, and then, prioritize and move forward. Additionally, our adversaries are watching what we are doing very closely. So, the security around all of these efforts is paramount. We have to also come up with a scheme, to your earlier point, as to how we prioritize distribution. We also have to deal with the risk scenario of how do you quickly get FDA [Food and Drug Administration] approval for a vaccine in a smart way where you are balancing risk and reward.

Mrs. DAVIS. You have put a great deal of energy and thought into this, but I am wondering, are there some areas that you have not been able to bring about some of the changes that you would like to see perhaps with the interagency? What are you not doing that you are hoping down the line?

Secretary LORD. I think, initially, it was a bit frustrating to go through the legal issues around moving money between agencies. We have kind of cracked the code on the Economy Act and how to have the correct documentation move quickly. That is what I would term a non-recurring engineering event that I hope we do not have to go through again, and we need to memorialize that to make sure we can activate it quickly.

I think at this point we are pretty well aligned with communications up through all of the different organizations, but I think we have to remain very disciplined about communications, so that we are all putting our efforts towards key objectives and not getting distracted by things that look interesting. We have to be very, very disciplined.

Mrs. DAVIS. Could I ask you, then, did you have any involvement with Project Airbridge?

[The information referred to can be found in the Appendix on page 71.]

The CHAIRMAN. I am sorry, the gentlelady's time has expired. This is the awkward part here.

Mrs. DAVIS. Okay.

The CHAIRMAN. But 5 minutes are up.

Mrs. DAVIS. All right.

The CHAIRMAN. So, I do want to move on to other members.

And we have Mr. Turner up next, who is recognized for 5 minutes.

Mr. TURNER. Thank you, Mr. Chairman. I want to thank you for your executing this very unique structure for us to try this. I can't think of anyone more capable than Secretary Lord—hopefully, you are hearing me—in order to try this.

Mr. Chairman, you spoke of how busy Secretary Lord was with the Defense Production Act and, of course, on the defense industrial base issues.

Secretary Lord, I would like to ask you for a moment if you could give us some additional fidelity on your work on the defense industrial base. I was very impressed in the phone conference that we had with you and in the written communications that you have given us in responding to the needs of the defense industrial base. You mentioned some of those issues.

In your testimony, you talked about increased costs as associated with teleworking, leave, sanitizing workspaces, and, of course, work disruption. We also know that some of our defense industrial base lost some of their liquidity due to commercial interruptions and some of their supply chain interruptions.

So, you did this very quickly. So, if you could give us some additional fidelity as to how did you come about with this bushel basket of things that you needed to do, knowing that we had defense contractors, defense workers, suppliers, subcontractors?

But, then, the next step that I am really interested in is, once you go through this, once you have provided this additional assist-

ance, this additional help to try to get the defense industrial base over this period, what type of assessment, information back, are you going to be receiving as to how has this left them? What condition are they in? What has been more effective or less effective? And what new things should we be doing?

And that is my only question. So, after your answer, Mr. Chairman, I will be yielding back.

Secretary LORD. Very good. So, I had started, when I first took this position, meeting with industry on a quarterly basis along with 15 or so of my colleagues at the Department of Defense. I leveraged three industry associations that I thought really caught everything from small business to large primes, so that we got a good cross-section. We used those quarterly meetings with CEOs [chief executive officers] to both push information that we thought that was useful, but, probably more importantly, to listen to industry about what their concerns and issues were.

When the pandemic hit and we saw how catastrophic it could be to our defense industrial base, what we did was just really amp up those engagements. So, starting on March 17th, we had our first telecon [teleconference] with industry and we broadened beyond just the three industry associations that we worked with to really start including non-traditionals and others. And for multiple weeks, we had calls three times a week. One of those calls per week was focused on small business. And we listened to what the problems were.

As a result of that, the team sitting behind me, a lot of the leadership of A&S [Acquisition and Sustainment], listened to what the issues were and we tried to start taking the first small steps. We realized liquidity was really the most key issue. So, what we did is we started trying to simplify how to do business. We raised micro-threshold levels. We changed progress payments. In fact, there is a whole binder I have right here that has over 30 different memos from Defense Pricing and Contracting to ease how to do business. What we did is we got real-time feedback three times a week on what the biggest pain points were, so that we could prioritize all of those memos to provide some relief.

On the other side, what we did is we started more regular convening of what we call our Industrial Base Council. I look at OSD [Office of the Secretary of Defense] as kind of a corporate function with my customers being the operating units which are the services. We had the service acquisition executives [SAEs], logisticians, others together, and we have worked every week for the last 2 months to rack and stack what the SAEs were seeing for critical issues, so that we could focus our Defense Production Act Title III investments as well as start putting programs on contracts faster. Each of the services has dozens more contracts that have been awarded this time of the year than they did last year.

So, again, it was listening to industry, constantly getting feedback, and then, moving forward.

The CHAIRMAN. Thank you, Madam Secretary. We have to move on to the next questioner.

And that is Mr. Langevin, who is recognized for 5 minutes.

Mr. LANGEVIN. Very good. Thank you, Mr. Chairman.

And, Madam Secretary Lord, I want to thank you for attending today's hearing and for accommodating to the new format of these hearings.

I have got a couple of COVID-related questions, but before I get to that, I just wanted to call your attention to section 1648 of last year's NDAA [National Defense Authorization Act], which called for a comprehensive framework to strengthen the cybersecurity of the defense industrial base. And we made an important first step with the Cybersecurity Maturity Model Certification Program.

But I have to tell you, what we received from the Department was really wholly unacceptable. The first update that the Department provided to Congress really appeared to show that the Department has not really made a good-faith effort to deconflict, synchronize, and harmonize the various programs that we depend on to keep the industrial base safe.

So, what I wanted to ask you, I hope that you will commit to providing the committee with all the specific factors described in the legislation.

Secretary LORD. Absolutely. In fact, we have taken one of our key leaders, Katie Arrington, she is very, very focused on this area. We work closely with NSA [National Security Agency], as well as the services, because we understand the vulnerabilities and we need to commit the funds to make sure that we have a secure and resilient set of warfighting tools.

Mr. LANGEVIN. Okay. Thank you. It is something my subcommittee is going to be following closely. I look forward to working with you. I appreciate the work that Ms. Arrington is doing and look forward to getting a more comprehensive update from the Department in the very near future in that case.

Let me turn to a COVID-related question. Last week we heard from the Defense Logistics Agency that they are working to give defense companies and the defense industrial base potentially testing equipment to allow them to do testing themselves. Electric Boat, just by way of example, in my district has been calling for the capability for quite some time. They have taken some steps on their own. Given their medical facilities that they have onsite, it makes it possible for them to do that. But can you please update us on what the DOD is doing to disseminate testing equipment to defense-critical infrastructure?

Secretary LORD. What we are doing is reaching out beyond just our government contracting employees and we are now reaching out to small businesses and making our FedMall available. So, what this is is going online, searching just like you would at home for a variety of things, so that you can go and compare and contrast different PPE and other materials. We are trying to make that much more accessible to small businesses and we are working to see how that can be legally accessed by States as well.

Mr. LANGEVIN. So, using the purchasing power and the logistic capability of the DOD to help both acquire, and then, also, disseminate the equipment? Did I understand that correctly?

Secretary LORD. Correct. And so, one of the challenges which was highlighted in an earlier question is aggregating a demand signal. If we can have a more focused location to aggregate that demand signal, that gives us better leverage, better price capability, and so

forth, and frankly, eases the ability to come in and get PPE. And we plan to grow that capability into other things as well.

Mr. LANGEVIN. Okay. So, I know that wave one of the coronavirus appears to be receding, but listening to medical health officials at what is happening around the country, scientists have sounded the alarm of future waves. You have touched on some of this already, but, Ms. Lord, what groundwork are you laying to ensure now that the DOD can quickly amass and distribute resources, just in case another wave does occur in the fall? And are you prepared for that?

Secretary LORD. Yes. What we are doing is not only modernizing the Strategic National Stockpile for the Nation, meaning that we will have IT [information technology] systems that will easily let us know what we have and where it is, but we are doing the same thing with our DOD stockpile. That means looking at what is in it, what the levels should be, and making sure we reconstitute it very quickly, so that we not only have the capability to deliver it day by day, but that we have a ready reserve.

The CHAIRMAN. Thank you very much.

Mr. LANGEVIN. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you. The gentleman's time has expired.

Mr. Rogers is recognized for 5 minutes.

Mr. ROGERS. Thank you, Mr. Chairman.

And, Ms. Lord, thank you for being with us today and thank you for your service to our country.

Early in this pandemic we were having some troubles, our contractors, our defense contractors were having some troubles obtaining parts from Mexico because of the different way that they were handling the pandemic from us. And I understand you were working on that. Can you tell us the status of that situation now?

Secretary LORD. Absolutely. My latest DCMA [Defense Contract Management Agency] reports say that everything is open in Mexico. What we did to support that effort was what we did with Governors here domestically. When local and State regulations are put out, sometimes there is a disparity in terms of how they are interpreted. So, what I did in terms of Mexico was to call our embassy, talk to all of the U.S. officials there, give them a prioritized list of companies that were critical links in our supply chain, and called back every day giving data until they were able to open them up. So, the Mexican government was very, very responsive once they had the facts and figures.

So, the second area we have had issues there is India, which we are working through most of those, and then, a variety of other small ones.

Mr. ROGERS. Great. Thank you.

I want to follow up on the line of questioning from Mr. Thornberry where he talked to you about the consequences of the COVID impact on your budget, and then, the impact that that has had on our defense contractors and their employees. There seems to be a genuine consensus that there is going to be a fourth iteration of relief by Congress to the CARES Act sometime in July. Do you anticipate offering the number to the administration of funding that you need to backfill, to replace the funds that you had to use to deal with COVID?

Secretary LORD. You broke up a little bit there, but I think the question was, do we have a number to make up for what I will call the COVID penalty to contractors on their existing contracts, and so forth?

Mr. ROGERS. Correct.

Secretary LORD. Yes, we have rough numbers on that. We have submitted them. They are at OMB [Office of Management and Budget] right now.

Mr. ROGERS. Great. Thank you, ma'am. I yield back.

Mr. LARSEN [presiding]. All right. Chair Smith is out for a bit. And so, I will take over the chair. As it happens, I am also next in line.

So, first off, I will recognize myself for 5 minutes and ask unanimous consent to include in the record a letter from Governor Jay Inslee to Vice President Mike Pence, which Chair Smith mentioned earlier, regarding Washington State's experience with PPE and the need for the DPA implementation.

[The information referred to can be found in the Appendix on page 63.]

Mr. LARSEN. Second, I want to follow up on what Mr. Rogers was discussing as well. You mentioned that there is a number, an estimate I guess. Can you share that estimate with the committee today, about what, I guess, the COVID penalty costs are?

Secretary LORD. It would be in the double digit of billions of dollars.

Mr. LARSEN. So, it's somewhere between \$10 billion and \$99 billion?

Secretary LORD. On the lower end of that, yes.

Mr. LARSEN. Thank you. All right. Thanks.

Second, other than that, though, do you have guidance for allowable costs, specific guidance for allowable costs under section 3610? My recollection from your testimony is that it will arrive shortly.

Secretary LORD. We have put out an enormous amount of guidance on this. It is a dialogue with industry, again, to make sure we understand what the needs are. We are committing to within 30 days, I think less than that, to put out final guidance.

But just for your reference, we are working through looking at confirmed cases or quarantines, government facility closures or stand-downs, test delays. This is really a key item if you couldn't get out to a range, and so forth, because of research and development center inefficiencies. Telework, closures due to travel restrictions, logistic implications caused by travel restrictions requiring commercial flight, availability of parts and supplies, high absentee rates, local and State lockdowns, foreign government lockdowns, company and supplier shutdowns—

Mr. LARSEN. Thank you. So, I understand it is fairly broad and fairly specific. And you mentioned 30 days. Is that 30 days from today or 30 days from a day before this?

Secretary LORD. Thirty days from today—

Mr. LARSEN. Okay.

Secretary LORD [continuing]. We will have it done.

Mr. LARSEN. Okay. Thanks.

The next question I have for you is still on the supply chain, but I think I mentioned this when we had the briefing call a few

months back, whenever that was, a few weeks back. It had to do with the use of the DPA beyond COVID-19, the flexibility the Department has. There was a particular instance with aluminum use in defense manufacturing, which has an impact on Washington State. There is an aluminum plant there that is curtailed 100 percent for other reasons, but still the need for aluminum. Can you speak at all to how you are thinking about using the DPA for either commodity purchase or purchases otherwise? And are you contemplating that?

Secretary LORD. We are contemplating anything that is a constraint at this point. The way we have broken down looking at the DIB has typically been aircraft, shipbuilding, space, soldier systems. At this point, I am unaware of a cross-cutting commodity, but I think I am going to ask Kevin Fahey to come up and address this. Kevin, as you know, is ASD [Assistant Secretary of Defense] for Acquisition, and he is the one that is closest to the actual programs and goes to all of the industrial base meetings.

Mr. LARSEN. I would note I have 1 minute and 15 seconds.

Secretary FAHEY. Yes, sir. Just really quick, what we do is all the program officers bring in their issues, where they see the supply chain. We also have industry that comes in and talks to us. That specific issue has not been brought to us about the aluminum in Washington. If it came in, we'd prioritize it.

Basically, the first priority is things that were specifically impacted by COVID, and most of that, as you can imagine, is driven by the financial situation, the supply chain, and those kinds of things.

Mr. LARSEN. Yes. Okay. Yes. Thanks.

Secretary LORD. But there is the opportunity. If there is a need, we want to hear that. So, I would say that Kevin is the person to reach out to for those who have issues.

Mr. LARSEN. So, I will just conclude by saying what I heard you say is: one, you have the flexibility to address that. Second, you have financial authority to address that.

Secretary LORD. Correct.

Mr. LARSEN. All right. Thank you. I yield back.

The CHAIRMAN [presiding]. Thank you.

Just one quick note on the remotely participating members. If you are, in fact, sitting there, it is good to leave the video on. Now, just like in a regular hearing, members come and go, and if you happen to be eating lunch or something, we don't have to view that. So, you can turn it off. But if you are sitting there like you would normally be there, it is good to leave the video on, just so we can know who is there. But if you have got to move around, moving around is fine.

Next up is Mr. Conaway, recognized for 5 minutes.

Mr. CONAWAY. Thank you, Mr. Chairman.

And, Ms. Lord, thank you for being here.

What I heard in the conversation about PPE particularly was that you are trying something on the order of pandemic peak supply capacity from domestic production, which would be great if the peak lasts a long time. Most of us think it will ebb at some point in time. But you look like you put in place a significant amount of capacity that might not be needed when the pandemic ends. Can

you talk to us a bit about what is in the contracts that will allow companies to unwind that capacity, or is it in the contract that they have to maintain it while they do some other things? And what is the cost going to be to the taxpayer to maintain what at some point in time will be excess capacity for PPE? Again, will we know what those costs are on a running rate?

Secretary LORD. So, two separate issues in my mind. The DPA Title III provides funds through contracts to companies for facilities, equipment, tooling, training, flowing down funds through the supply chain. The idea is either to preserve capacity or to increase it.

Separate and distinct issue of letting contracts for a certain number of items over a certain amount of time. What we are doing is carefully looking at what we think demand signals are. And there is, again, a diversity of thought about that. And we will not over-invest in an area where we do not need more capacity or believe we will have excess capacity. So, those are the trades that are being done because, obviously, we don't have an infinite amount of money and we have to prioritize what we are doing.

Mr. CONAWAY. Well, let's use your N95 masks as an example. You said, by January, we will have the capacity to do 80 million a month. Peak demand was, what I heard is 100 million a month. We are not at peak demand now. So, is that 80 million a month paid for or is that capacity that would be—I mean, you don't need to keep making these masks, just stacking them up in a warehouse anywhere beyond a certain point. What will happen to those, to that 80 million a month under this scenario?

Secretary LORD. So, again, the capacity is there. We let contracts that are separate and distinct—

Mr. CONAWAY. Okay. Yes, ma'am, but capacity has a cost. Will you maintain the capacity? And how much will that maintaining the capacity cost, is really the issue.

Secretary LORD. Yes, correct. In terms of maintaining capacity, that would typically be captured in overhead rates and so forth. And if we get to the point where we have built up the Strategic National Stockpile, and the monthly utilization no longer requires the entire capacity that we have in the Nation, then, typically, what businesses would do would be to repurpose or idle certain lines, so they are not paying to keep something operational if there is not a demand signal. But, again, we are trying to be smart about that, so that we are not going to find ourselves in a huge over-capacity situation.

Mr. CONAWAY. Okay. I understand how a private company would react on its own nickel. I just want to make sure that you have got the authorities to react in that exact same manner when it is clear that capacity is no longer and the taxpayers no longer have to pay folks for idle capacity. Did I hear you say that?

Secretary LORD. Absolutely correct. And again, when we write contracts, if they are long-term contracts, they typically have a base, and then, option years that can be executed. So, we typically are incredibly reticent about committing to long-term contracts where the demand signal is unclear.

Mr. CONAWAY. Okay. Well, I think that has been my concern, and I appreciate your testimony today.

With that, Mr. Chairman, I will yield back.

The CHAIRMAN. Thank you.

Mr. Courtney is recognized for 5 minutes.

Mr. COURTNEY. Great. Thank you, Adam.

And thank you, Secretary Lord, for being here. I also want to thank you for the quick follow-up after the April 16th teleconference call regarding CARES Act section 3610. Again, you followed up in terms of some of your comments about the sort of scope of the paid leave in terms of the Department's interpretation of the CARES Act. And as you point out, the sort of Q&A [question and answer]/FAQ [frequently asked questions] guidance that the Department has been putting out has also been helpful in terms of putting some precision around the scope of the reimbursable paid leave.

But, as you point out, an unfunded authorization kind of leaves us frustrated in terms of being able to convert that into reality for a lot of these workers, some of whom have contracted coronavirus. And obviously, the intent of Congress needs to be followed up on with an appropriation.

But you indicated to Mr. Larsen that the Department, I guess, is putting its arms around a figure. Are you doing that based on claims that are being submitted by contractors regarding specific workers who have been out for 2 weeks, 3 weeks, 4 weeks, in the hospital? I mean, is there something that we are going to really see that is very clear-cut, so that we can help with the appropriators, if, again, there is going to be another COVID bill at the end of July.

Secretary LORD. The figure that we arrived at is data-driven. We have not yet had any contractors actually submit claims because they are aware that there is not an appropriation yet, and I believe that they are concerned they might get a one-time shot and want to make sure what the entire situation is.

That being said, our DPC group, as well as Acquisition, have spent an enormous amount of time talking with contractors and understanding the range of challenges that they see. Our Defense Contract Management Agency has individuals embedded in all of the major primes and visiting the smaller ones. So, we have eyes on every day. In fact, I get data every morning that we share at our startup in terms of the 20,000, roughly, companies that we track, the number of closures, the days average that they are closed, the number of openings, what level of workforce they have. So, we can do some rough calculations ourselves, but our boots on the ground, so to speak, are collecting their own information and talking with management teams.

So, we believe that we understand the lower end of the number. I believe there will be some delayed issues because, again, our primes are trying to look down through their supply chains. But, as you get lower in the supply chain, typically, some of the tier 2s or 3s are not sharing with the tier 1s all of their issues because they don't want to reveal a lot of what they think is proprietary data, and so forth. So, I think it will be a while to unravel.

We just actually had another teleconference, actually, a video teleconference, that we set up this morning for Secretary Esper

with a lot of the large primes where we talked about this very issue.

Mr. COURTNEY. So, again, the fact that Congress already took at least half a step with an authorization shows that I think there is support for making sure that we finish the job and really compensate people, particularly for their sick leave. So, the extent that you can incorporate us in terms of that data-driven analysis, so that we can help, I would encourage—

Secretary LORD. Yes.

Mr. COURTNEY [continuing]. The Department to do that.

Secretary LORD. Thank you. Once the figures are released, I will commit to coming back and doing that, because that is in our mutual best interest. Because, again, I am very concerned. The defense industrial base I believe is the nexus of economic security and national security, and it is vitally important to make sure they remain as healthy as possible.

Mr. COURTNEY. Great. Thank you.

I yield back, Adam.

The CHAIRMAN. Thanks, Joe.

Up next is Mr. Wittman, recognized for 5 minutes.

Mr. WITTMAN. Thank you, Mr. Chairman.

And, Secretary Lord, thanks for joining us.

I want to talk about the ship repair, maintenance, and overhaul industry. As you know, there have been some challenges there prior to COVID-19. The requirement up to COVID-19 on payments to the industry was 90 percent payment, or 10 percent retainage, what they call progress payments, up to 90 percent, and then, 95 percent for small businesses.

And as we have seen those yards now have to accommodate more ships, so more maintenance availabilities, longer duration, there is more and more of those dollars that are being held up. In fact, it is right now over \$100 million is in retainage for those yards. Those dollars are needed for those yards to reinvest, to get the capacity necessary to keep the throughput going, to repair the ships not only that are there now, but the ships that are to come to those yards. And we all know the longer the ship is in the yard, the less available it is, and availability has become a big issue these days, as we make sure that we are meeting readiness needs.

To give Assistant Secretary of the Navy Geurts credit, he said, okay, we are going to change that; because of COVID-19, we are going to drop that down to 1 percent retainage, so they get 99 percent of those dollars, which has been a tremendous help.

The question is, that is a temporary measure. Would the Pentagon consider making that a permanent measure to help the cash flow for our ship maintenance, repair, and overhaul industry?

Secretary LORD. I know that Secretary Geurts is spending an enormous amount of time on this and talking with CEOs and a number of individuals on a weekly basis. I think at this point we are letting the data drive us and we are not drawing any hard lines. We want to be flexible. I think there are a lot of things that we have learned during this pandemic that we don't want to unlearn, but we have to look at the value equation, obviously, for the taxpayer and what we are getting for deliveries as well. But,

again, we will remain open and flexible to what makes the best sense for all of this.

Mr. WITTMAN. So, if the data indicates things are going well, the contractors are performing, with this 1 percent retainage going forward, would the Pentagon make it permanent?

Secretary LORD. I don't want to speak for the Navy right now, but I will tell you, I think it would get serious consideration.

Mr. WITTMAN. Okay. Very good.

Let me ask you, too, our committee is very focused, obviously, on resources. As you talked about earlier, maintaining readiness is incredibly important. We know the challenges that we face now with COVID-19-related costs. We want to make sure we are getting money to restoring readiness, to modernization.

But last week a major industry partner—that is Ken Possenriede from Lockheed, who is the CFO [chief financial officer]—raised the idea of the benefit of a global settlement; that is, a macro-adjustment on equitable adjustment on costs related to COVID-19. So, instead of going contract-by-contract to look at it and say, how do we come up with a way to make sure that everybody is justly compensated for the costs associated with COVID-19, it would make it much faster; make it much less complicated, and make it much less likely that that there are going to be protests to say, well, you did this for this contractor, but you didn't do it for this contractor.

What processes or mechanisms are you considering to efficiently manage the coming wave of what we know are going to be COVID-19 adjustments to make sure that they are fair and equitable, and to make sure there is an opportunity to make things right? And is there an opportunity for a global settlement of some kind?

Secretary LORD. I am going to ask Mr. Kim Herrington, who runs Defense Pricing and Contracting, to address that because he is spending an enormous amount of his time on 3610 and equitable adjustment.

Mr. HERRINGTON. Yes, sir. So, when Ms. Lord referenced that final guidance would be coming out within a month's time period, that is, in fact, what we are working on right now. And as she noted about our industry engagement discussions, that has been one of the primary topics. We gave industry an opportunity to provide input to us. We got about 100 pages of input. And so, that is, in fact, what we are working on right now, is to come up with the most efficient way to resolve those reimbursements. And you are right that global settlements would make a lot of sense in many cases; not all, but many.

Mr. WITTMAN. Okay. Very good.

Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you.

Mr. Norcross.

Mr. NORCROSS. Thank you. I appreciate it. Can you hear me?

The CHAIRMAN. We got you. It is all working quite well, actually.

Mr. NORCROSS. Great.

Ms. Lord, it is great to see you again. I look forward to when we can get together.

A number of issues jump up to us right away, but I want to stay on the REAs, the requests for equitable adjustments. Is that the

only method that is available to contractors to look to the government to absorb their COVID costs?

Secretary LORD. No, I think 3610 is separate and distinct from equitable adjustments.

And again, I will ask Kim Herrington to differentiate between the two and perhaps comment on anything else.

Mr. HERRINGTON. Yes. So, what I would say, sir, is there is sort of three buckets that we think about in terms of these costs, where these would fall. The request for equitable adjustment is codified in regulation around specific actions that the government takes to drive. So, in cases where maybe we issued a stop work or maybe where a facility was closed, a government facility was closed, that would be a case for a traditional REA.

As Ms. Lord noted, 3610 was authorized by Congress. And so, that is sort of a separate bucket. And then, you have got everything else from PPE cost to facility rearrangement to social distance, and things of that nature.

Mr. NORCROSS. I understand. That is the point we are trying to make. I am pressed for time.

Mr. HERRINGTON. Right.

Mr. NORCROSS. It is that there is more than one area. The REA is something that has been set up and they can do it. We spoke with Dr. Jette during a briefing yesterday, and he had indicated few, if any, REAs have come through. So, there is more than one bite at the apple, and we want to make sure because not all companies are created equal in terms of how this affected them. But the number we were told was \$4 to \$6 billion. So, hearing a double-digit figure, Ms. Lord, is something that is a bit of a surprise to us.

Let me ask you, in looking at the budget and what has been spent this year, are we spending everything that has been given to us or are there some savings across the entire DOD that we might tap into before we start looking for us to give additional monies?

Secretary LORD. Well, I think you are aware that the CMO [Chief Management Officer], at the request of Secretary Esper, has been working on defense-wide reviews and we have swept up, if you will, a lot of funds that we are refocusing on modernization. So, it is all a matter of priorities. Right now, we don't see the flexibility except out of programs themselves, if, again, we wanted to effect what could be delivered out of programs to address this cost.

Mr. NORCROSS. We saw in the past where a reprogram has taken place to fund the wall. So, we didn't like it then. So, I don't think we like it any more now.

I just want to follow up on a quote that you made earlier: we want domestic production. And certainly, we do, too. During yesterday's briefing, we got a list of the nations that we are working with. Would you be supportive of bringing up the domestic content to close to 100 percent? And if you wouldn't, why wouldn't you? And this is outside of the F-35 program.

Secretary LORD. I understand. Both for medical resources as well as the defense industrial base, we would like to have as much domestic production as possible. Obviously, competition is always our friend. So, we like to have two sources of supply wherever. But we are actively looking at reshoring a number of critical items, for all

of the reasons that we have cited during this hearing and all of the challenges we have faced getting critical equipment to the assembly lines.

Mr. NORCROSS. So, obviously, people are now understanding at a different level why being made in America is important. But, again, would you be supportive of bringing that rate up to closer to a high percent, incrementally? We can't do this overnight. But what we heard time after time is, We want predictability. You can't change it in one year. Would you be in favor of predictable ways of bringing up that percentage?

Secretary LORD. Absolutely.

Mr. NORCROSS. Thank you. I yield back.

The CHAIRMAN. Thank you.

I have Mr. DesJarlais next, recognized for 5 minutes. Is he still with us?

[No response.]

It does not sound like it. So, the next I have is Mr. Kelly.

Mr. KELLY. Thank you, Mr. Chairman.

And thank you, Secretary Lord, for being here. It is very important.

I think one of the things that I want to concentrate on—and it kind of goes to what Mr. Conaway from Texas said—is, initially, number one, we had some stockpiles. And then, we started production. But, within just the production, then you also have the distribution and who is prioritizing where those distributions go. And that priority is both by location and by need; i.e., do nurses need it? Do grocery stores need it? Does New York City need it? Or does Mississippi need it? Who is responsible for coordinating, number one, the production, which is you? But, then, the distribution and the prioritization of where that distribution goes for PPE, for example, whether it is masks or hand sanitizer, or those things?

Secretary LORD. That has come out of the Supply Chain Task Force, working at the NRCC, between FEMA and HHS with strong support from DOD, with Admiral Polowczyk leading that, and then, reporting up through the UCG [Unified Coordination Group] up to the White House Task Force.

Mr. KELLY. And I am a little different than everyone else. We kind of got caught unexpectedly with all these things that we didn't know that we would need, but I thought we did a phenomenal job, DOD specifically, in helping with that distribution. I can tell you in my home State of Mississippi we had our MEMA, our Mississippi Emergency Management [Agency], which didn't have the number of personnel nor the logistics experience, which the Mississippi National Guard just sent a few planners over there, which helped them with distribution and supply points and, also, in those priorities.

What are we doing, Secretary Lord, to make sure that we capture our lessons learned? Who is conducting an interagency and an interdepartment AAR [after action review] and lessons learned? So that, when we face the next pandemic or the next big event in the United States, that we capture these lessons learned and take them forward?

Secretary LORD. The individual agencies are, and I know the White House Task Force is looking at that. I will tell you, in terms

of distribution of PPE and medical resources, one of the highest priority items right now is to have a modern IT system that we would typically have in some other industries, so that the government can track where all of this is and, also, ensure that they only use carriers that they can track, so they know where everything is all of the time. That was a huge lesson learned early on in the pandemic, as was the entire acquisition process, because we were asking a group at HHS that typically does only about \$5 billion of acquisitions a year to look at this huge tidal wave. And that is why DOD has come in to really set up processes and help out in an emergency situation. But we want to make sure we get irreversible momentum, so that we leave behind a sustainable acquisition and distribution system that could be utilized in the future.

Mr. KELLY. And then, the final thing that I think we need to capture out of this, initially, hand sanitizer was a big deal. I had a meadery that turned into immediately processing hand sanitizer, which now is no longer needed. So, you know, they have to look at getting back.

The same with like stockpiles of N95 masks or ventilators or all these other things, some of those things go out with dates. So, you have a strategic stockpile, but it has to be rotated. But, at some point, the rotational value of maintaining that stockpile will be less than the production required to keep that stockpile rotated. Who is responsible for managing that going forward into the future? Is that the Defense Production Act? Is that you, Secretary Lord? Or who is that?

Secretary LORD. Well, for the Strategic National Stockpile, HHS has responsibility for that. I will tell you, at DOD we have our Warstopper Stockpile, and we do that, I think, in a relatively innovative way where we are paying manufacturers to keep stock in hand, but it is rotated, so it is not aging. We always have to have a certain amount available. But I think it is kind of a win-win situation. We are trying to share all of those techniques with HHS to, again, just not only reconstitute the Strategic National Stockpile, but to modernize it.

Mr. KELLY. Very good. And I knew that was the answer. And thank you all for what you have done in assisting other organizations.

With that, Mr. Chairman, I yield back.

The CHAIRMAN. Thank you.

Mr. Gallego.

Mr. GALLEGO. Thank you, Mr. Chairman. I yield my time to Representative Slotkin.

The CHAIRMAN. To whom? Ms. Slotkin?

A generous offer by Mr. Gallego. Ms. Slotkin, are you available? I think you may have to unmute yourself. We cannot hear you at the moment.

Yes, we can't hear you. I don't know why we can't hear you. I see you are talking. I see your hands moving. But if you can hear me—oh, it had to happen at some point.

[Laughter.]

But we do not have Ms. Slotkin. So, for now, Mr. Gallego, if you—

Mr. GALLEGO. Mr. Chairman, who is next after me?

The CHAIRMAN. Mrs. Trahan is the next Democrat. Sorry. Mr. Brindisi. Mr. Brindisi is next after you.

Mr. GALLEG0. I yield my time to that person.

The CHAIRMAN. Okay. That doesn't work great because he is going to have his own time here in just a couple of minutes.

Why don't we try to figure out the technical problem with Ms. Slotkin. I will reserve Mr. Gallego's 5 minutes, and once we figure out the technical problem with Ms. Slotkin, I will go back to Mr. Gallego, who can then give his time to Slotkin, and we will call her up.

But, for now, we will give Mr. Brindisi a shot. Mr. Brindisi, are you on the line?

[No response.]

Do you know what is funny about this? When I said things were going so well, Rick Larsen looked at me and said, you know you just screwed the whole thing up? And he was right.

[Laughter.]

Okay. So, we don't have Mr. Brindisi. And Ms. Slotkin is still, for some reason, not able to communicate.

Wait a second. I hear a voice. No.

All right. I will give Mrs. Trahan a shot.

Mrs. TRAHAN. Thank you, Mr. Chairman.

The CHAIRMAN. All right. You are recognized for 5 minutes.

Mrs. TRAHAN. And thank you, Congressman.

Secretary Lord, thank you so much for coming before the committee. I think the entire committee is grateful that DLA stepped in and played such a major logistical role at a time when there was no blueprint and I am sure a fair amount of silo-busting that you had to make happen.

As I walk through the timeline between a national emergency being declared on March 13th and, then, the White House issuing an Executive order to compel GM [General Motors] to accept, perform, and prioritize Federal contracts for ventilators, I am just trying to diagnose the primary source of delay or friction. Was it lack of authorities? Was it interagency logistics? Was it the realization that our supply chain was largely overseas? I am wondering if you could just speak to that.

Secretary LORD. Are you asking in general or specifically about GM?

Mrs. TRAHAN. No, just in general.

Secretary LORD. In general? I think, again, that this was a gargantuan task that first had to be analyzed: what were the issues; what was needed? And we had individuals at FEMA who are very good at reacting to specific events, like a hurricane or a forest fire. We had people at HHS who were brilliant medical individuals and research individuals, and so forth. But there wasn't the combination of expertise in terms of operational and programmatic knowledge to go and procure complex systems that perhaps had different training needs, had different parts that had to be purchased, consumables, to keep them going. There was not the experience with complex distribution systems, with evolving demand signals that had to be reprioritized. So, I think it was an issue of both scale and scope very quickly.

Mrs. TRAHAN. Yes.

Secretary LORD. And I believe that the Department of Defense, by the nature of what we do, is better equipped to deal with those very abrupt, very large, very complex dilemmas. And it took a bit to really sort through the authorities and how to make sure we were legally helping out on both the acquisition and distribution side. So, there was a bit of learning, non-recurring engineering, I would say, that had to happen, but we have captured that now. And I believe we have the mechanisms. So, we have learned from that and we should not see that in the future. And we plan on leaving a very sustainable system that can be handled, so that we don't see this again.

Mrs. TRAHAN. I appreciate all of that. And in a perfect world, I mean, if we were going to build a system to respond with agility and speed to a pandemic, one that might be right around the corner, should this continue to be an interagency response? I mean, organizationally, we don't exactly get the economies of scale through a shared services model, and you have a pretty demanding day job. Should that rest with, you know, HHS? Should they have a medical industrial base?

I have heard you say bringing that supply chain home is an important priority. There is no question. There is a huge [inaudible] to bring those manufacturing jobs home. But would it take some of the friction out of the system if that rested with HHS and they had their own MLA and authorities that they sort of had singularly?

Secretary LORD. I think that remains to be seen. We are just now getting to somewhat of a steady state with these systems. There is a lot of support planned through September for HHS. FEMA is stepping back a little bit now that we are getting into hurricane and forest fire season. And we have a team that will remain with HHS through September. We will see at that point whether or not that is sustainable.

And I think that we at DOD can always provide a surge capacity, an assistance system capacity. I don't believe that, generally, it is a good idea to duplicate capabilities at scale around the government.

The CHAIRMAN. I am sorry, the gentlelady's time has expired. If you had a closing thought there? Did you want to wrap up?

Secretary LORD. Certainly. Yes. I was just going to say, I don't think they need something right now. Hopefully, we can leave them with a system and we could augment as needed.

The CHAIRMAN. Thank you very much.

So, just an update here. Next up, we are going to go Mrs. Hartzler, followed by Brindisi and Bacon. We are still trying to resolve the issue with Ms. Slotkin to try to make sure if we can get her mic to work. And when we do, we will come back to Mr. Gallego for the yielding of that time.

But for now, Mrs. Hartzler is recognized for 5 minutes.

Mrs. HARTZLER. Thank you, Mr. Chairman.

And thank you, Secretary Lord, for the great job that you have done in a very difficult time in our Nation to stand up and keep our industrial base strong and to make sure Americans have the supplies that they need.

I have a few different questions. The first one is about section 889 of the fiscal year 2019 National Defense Authorization Act, which prohibits Federal agencies from contracting with companies that use any equipment, a system, or service from certain Chinese telecommunication companies like ZTE [Zhongxing Telecommunications Equipment] and Huawei. And I am a very strong supporter of this provision and offered an amendment to expand the prohibition to Chinese video surveillance equipment from Hikvision, Hytera, and Dahua. And I don't believe that this video surveillance equipment should be on any of our critical Federal property as well.

But I understand that the contractors who are supposed to remove this equipment are having some difficulty due to COVID, and the administration has not released the rules yet for what they need to do specifically. And the deadline is August 13th. So, do you feel like the deadline needs to be extended for them to be able to comply? Or do you have an update for us on when these rules will be released and if this equipment will be reviewed?

Secretary LORD. Absolutely. Section 889 I believe is of critical importance. As you know, section A has been released and complied with. Part B of that, we are 100 percent behind the intent of that. We at DOD are a bit concerned about the 2-year deadline, not for our own facilities quite as much as that of the industrial base.

While what we find is, if you look all the way down the supply chain, it is a heavy lift to find all of this equipment everywhere. And the thought that somebody six or seven levels down in the supply chain could have one camera in a parking lot, and that would invalidate one of our major primes being able to do business with us, gives us a bit of pause. So, we are very supportive of it, but I believe we need to extend it in terms of the time for compliance, so that we don't have unintended consequences.

Mrs. HARTZLER. Okay. Thank you. I will be working with you guys on that to see what we can do and appreciate your support of it. We want it to be workable, but we certainly appreciate your support in getting that implemented.

I want to switch gears. As you know, there has been a lot of discussion about our dependence on China for our critical pharmaceuticals—

Secretary LORD. Absolutely.

Mrs. HARTZLER [continuing]. And our medicines for our military. And as we discussed in the April 21st hearing, my colleague John Garamendi, who is on this call, as well as myself introduced a bill, the Pharmaceutical Independent Long-Term Readiness Reform Act, which seeks to take the first step in tackling this issue by ensuring that America produces the medicines, the vaccines, the vitamins, and the antibiotics for our military.

Can you share with us what the Department of Defense is doing currently with the Defense Production Act to help stand up pharmaceuticals? Are you already taking steps to go down this road in health? Or what do we need to do to get that back here on our shores?

Secretary LORD. We very much are focused on that. I am going to ask Stacy Cummings to come up and speak to some of the specifics.

One point is, early on, we worked with lawyers, so that we could tap into the \$17 billion of the CARES Act that went to HHS for some of this industry expansion. So, APIs, advanced pharmaceutical ingredients, are an area that we are spending a lot of time on now reshoring, using the industry expansion dollars through the CARES Act. And Stacy has some of those specifics.

Ms. CUMMINGS. Thank you.

Yes. So, what we did when we stood up the JATF is we set up some product leads across different functional areas. And pharmaceuticals and APIs was one of those areas that we saw as a direction that we needed to look into.

So, when we look at the Strategic National Stockpile, our first focus has been partnering with HHS on PPE. Our next area of focus is critical care medications/pharmaceuticals. And we have, through our industrial portal, been capturing proposals and ideas from industry, as well as from government, on where we can make the next investment dollar to look at those most critical pharmaceuticals and APIs and those most valuable next investments to be able to onshore and create domestic production.

The CHAIRMAN. Thank you. I am sorry, the gentlelady's time has expired.

So, we are going to give Mr. Gallego another shot here. I believe we have Ms. Slotkin queued up.

Mr. Gallego, of course, I said it would be hysterical at this point if you declined to yield. It is your time. Mr. Gallego, you are recognized for 5 minutes.

Mr. GALLEGO. Thank you, Chairman. I yield to Representative Slotkin.

The CHAIRMAN. All right.

Ms. SLOTKIN. Thank you, Representative Gallego.

Sorry about that. Apologies for the hiccup.

And thank you, Under Secretary Lord, for being here, and your whole approach to the committee during COVID has been really commendable. I really appreciate the communication.

I feel like I have rarely seen an issue where so many people agree that we, just after the experience of COVID, learned in real time that certain supplies, certain issues, certain medical supplies and pharmaceuticals, at least a portion of them should be produced here, should be able to surge here.

And I guess my first question is, we have talked a lot of what you have done with the Defense Production Act, which is great, but if you were looking around the future, what are the two or three things that this committee could do to help enshrine in law some things that incentivize even more production onshore? What are the two or three things you would recommend?

Secretary LORD. Well, obviously, money solves some problems, but it usually has to be accompanied by policy. So, I think if there was a preference for onshore supplies, that would be useful, but we have to think about the cost of doing business with this. So, providing the money to reshore, set up factories, and so forth, is one step. But I believe we need to recognize that a lot of business went offshore because of a lot of bureaucratic hurdles and cost.

One of those is tax incentives. So, this committee might think about what tax incentives could be provided in order to make it

more attractive to produce here domestically. And those taxes could take a lot of different forms in different portions, whether it be real estate or workforce or training, or whatever it might be, different relief.

Ms. SLOTKIN. Thank you for that.

I think we have a lot of folks who feel very strongly about this issue. So, we would love to work with you, even if there are small issues that we can do through the NDAA.

The other question I have is looking forward. You know, we learned through this process that there are a lot of things we don't have on the shelves that we needed. And my question is, going forward, how will you manage requirements? Who is going to keep the list of stuff that we want to have in supply? Who is going to refresh that list? What does your requirements list look like and who owns that list?

Secretary LORD. From a DOD perspective we are saying?

Ms. SLOTKIN. Yes. Yes, ma'am.

Secretary LORD. Yes. So, what we realized was there were critical items that we never thought about before, most of this PPE, for instance. So, Acquisition and Sustainment has partnered very, very closely with the Joint Staff. The Joint Staff typically develops requirements, and then we work on the acquisition and distribution portion of this.

There has been quite a robust discussion within DOD about this. We have a DOD task force that is chaired by the Deputy Secretary of Defense Norquist as well as the Vice Chairman, Joint Chiefs of Staff, General Hyten. And we, many of us, meet with them three times a week or so, and these are the very items that we are grappling with.

We have been working on a demand signal for PPE, all kinds of medical resources, on an ongoing basis, first, looking at medical facility requirements, which was the first demand signal, and then, for the Nation to get back to work. Then, for a Strategic Stockpile, and then, what is the ongoing need, especially if we have another spike here sometime this fall?

So, that is a work in progress, but I will tell you enormous progress has been made. The Joint Staff is the group within the Department of Defense who owns requirements.

Ms. SLOTKIN. We are looking at some possible NDAA language that we would love to work with you on, just to maintain after this COVID experience is over, first wave and second wave, just making sure we have a more regular process to update those requirements and refresh those requirements.

I don't want to go over time since I am already on borrowed time. But thanks very much for being here, and thanks to Representative Gallego.

Mr. CISNEROS [presiding]. The lady yields back.

The chairman had to step out.

So, Representative Bacon is recognized for 5 minutes.

Mr. BACON. Thank you very much, Secretary Lord. I appreciate you being here today. You do a great job here, just as you do all the other times you have come in. So, I really appreciate you.

I want to talk to you a little bit about what we did in the fiscal year 2019 NDAA concerning the supply chain with the involvement

of certain Chinese companies like ZTE and Huawei. We put some restrictions in there, and the administration is supposed to get back to us and report.

Are you concerned about the Department's ability to implement subsection 889 on the current timeline, especially with the COVID crisis? And what do you recommend? The reason I ask that, with less than 2 months to implement, the administration has not yet released additional guidance. And so, I am just curious about where we are at with that. Are we able to comply with the supply chain restrictions in regards to Huawei and ZTE?

Thank you.

Secretary LORD. So, very, very supportive of section 889. Obviously, we have implemented Part A. Part B, I am 100 percent behind the intent. I am very concerned about being able to implement it in August, as well as totally comply within 2 years. I think the majority of it can be done, but we have very complex supply chains, and we are just now getting better at illuminating the third, fourth, fifth, sixth levels. And I am concerned that we might have some unintended consequences with shutting down major portions of our defense industrial base because of one infraction of a Hikvision camera in a parking lot somewhere at a level 4 supplier.

So, we, again, are very, very supportive of the intent. I am concerned about unintended consequences. I believe we need more time.

Mr. BACON. Okay. I appreciate that. I think that is an outstanding answer. That is my question. I yield back. But I appreciate your insight on that. Thank you.

The CHAIRMAN [presiding]. Thank you.

Mr. Cisneros.

Mr. CISNEROS. Thank you, Mr. Chairman.

And, Secretary Lord, thank you for being here, you and your staff.

I led on a bipartisan letter, along with my colleague Congressman Bacon on this committee, addressed to Secretary Esper and Secretary Azar, about support for small businesses that have stepped up to manufacture critical supplies in this time of need. We have small business owners in our district that are concerned about the future viability of producing such critical supplies without certainty. I appreciate what the Department is doing to support the defense industrial base writ large, but what is the Department doing, including in support to HHS, to support small businesses?

Now we have small businesses that have switched their production to start making PPE, and they are kind of worried about the uncertainty. They don't know how much material that they need to buy because they are not sure how long this is going to continue. So, how do we give them that certainty?

Secretary LORD. Understood. In fact, we have had many, many VTCs [video teleconferences] with small business. And last week we had Secretary Esper do a VTC with many small business associations.

What we are doing just now is getting ready to have a series of industry days in the next 30 days outlining many of our requirements for the Strategic National Stockpile. During those industry days, we will lay out what the demand signal looks like. That

should provide certainty. We did not have this coalesced in order to have a large demand signal all at once previously, but I think that is one of the keys.

Secondly, we have portals where they can go. They can always call our industrial policy team at A&S. We have gone to great lengths—and we will provide your office with this—to provide what we call a placement with all kinds of links into the Department. Small business is where most of our innovation in this country comes from. Obviously, liquidity is critical to them at this point in time. And we want to be there to support them. We would like to have as much small business involvement as possible.

So, I think in these industry days—and again, we can provide your office with information—they will get a lot more detail about opportunities coming up in the very near term that will be very significant in terms of volume and duration.

[The information referred to can be found in the Appendix on page 71.]

Mr. CISNEROS. All right. Well, thank you for that.

So, as we move forward and we look at lessons learned, what other items are we looking at that DOD procures that primarily depend on overseas procurement? Are we creating a list? And like, hey, we depend a lot on overseas procurement for this; maybe we need to kind of start thinking about manufacturing some of these items in CONUS [continental United States].

Secretary LORD. Absolutely.

Mr. CISNEROS. Have you taken a look at that?

Secretary LORD. Absolutely. We started with the 13806 defense industrial base report that, again, highlighted fragility, and we are working down that list. I will tell you two things that I am particularly concerned about.

One is processing of rare earth minerals that affects us in so many different ways. We need to have a domestic capability for that. That is on one end.

The other area that I am extremely concerned about that we are working to come up with a variety of I think innovative solutions is the whole microelectronics supply base. This is an area where we have a lot of foreign dependency, and I think we have the entire supply chain thinking differently over the last year, and especially over the last 3 months. And I think they are willing to be far more creative in terms of looking at public-private partnerships and a number of other things.

So, many items that we have prioritized. We can share the list with you. But I will say, top of mind right now are rare earth mineral processing and the entire microelectronics supply chain, including foundries.

Mr. CISNEROS. And as we move to some in-CONUS production, whether it be for swabs, PPE, face masks, face covers, as we started to do that, how do we ensure this industrial base doesn't go away? I mean, there are going to be times where it is going to be, just like it has happened before, you know, it is cheaper to make it overseas; why don't we just buy it from there? But how are we going to ensure that production continues, so in this time of need we can make sure that we have the capability to ramp up and make those productions in CONUS when we need them?

Secretary LORD. First of all, I think we have to have a business environment that encourages business domestically. I mentioned taxes a while ago. I also talked about, when we were addressing vaccines, what we have for FDA procedures, and so forth. We need to be safe. We need to manage risk. But we need to be efficient and effective. And I think, frankly, we have lost a lot of business because we have become too bureaucratic, too expensive to do business here.

Getting back to the point of how do we not let these lines go dry, we are being very careful to make sure that we are spreading our industry expansion dollars many places, so that we are not overbuilding capacity in one particular area.

The CHAIRMAN. Thank you.

Secretary LORD. And at this point, I don't think we are close to that.

Mr. CISNEROS. Thank you.

The CHAIRMAN. I have Ms. Cheney next. I know she was here in person. I don't know if she is now remote or she is not here. Okay.

Then, Mr. Gallagher is the next Republican on the list. Mr. Gallagher, are you still with us?

[No response.]

Ms. Stefanik.

[No response.]

That is the last Republican member that I had on the list. So, I will go to Mr. Crow. If there are Republican members, if you could let staff know, we will get you re-added to the list.

Mr. Crow is recognized for 5 minutes.

Mr. CROW. Thank you, Mr. Chairman.

Thank you, Secretary Lord, for coming in and for the hard work that you and your team have put in under very significantly challenging circumstances.

I wanted to just pull on the thread a little bit more of this issue of our ability or the challenges in aggregating demand signals. So, to start that, can you just describe for me, how do you define a demand signal? Is that just how much PPE that we need in any given week?

Secretary LORD. Correct. And so, you need to segment who is generating the demand. So, obviously, at the beginning of the pandemic, the focus was on healthcare facilities, and then we shifted to nursing homes, and so forth. So, there is all of the medical care, critical care, long-term care is one segment of the demand signal.

Then, obviously, we have forces from a DOD perspective that we look at. But, then, we look at the rest of the Nation. And if we are going to comply with CDC [Centers for Disease Control and Prevention] guidelines and get the Nation back to work, that is going to require a certain amount of PPE. So, we are working—

Mr. CROW. If I could just interject for a moment here. Do those signals come from States, municipalities, private industry, other government agencies? Is that all of the kind of places where those signals come from?

Secretary LORD. Correct. Correct.

Mr. CROW. Okay.

Secretary LORD. And, in fact, HHS and FEMA have retained some outside organizations as well, subject matter experts. And

again, there is a diversity of thought on this. So, one has to rationalize it.

Mr. CROW. So, if they are coming from all these different locations, something that you said earlier kind of stuck out to me. You said that we are having a really hard time still aggregating that demand signal, and that you saw a present need to create a centralized location to assess all of those signals and to figure out what the need is, which obviously begs the question for me, if we don't have that centralized location and ability to sort through all of that, how do we even, sitting here today, have our arms around or know what it is we need?

Secretary LORD. What I was trying to convey is that is happening now with HHS and FEMA with the Supply Chain Task Force. So, that is one of the critical tasks, if you will, that Admiral Polowczyk is undertaking and reporting back to the White House Task Force.

Mr. CROW. So, this task force, in your estimation, is it successfully aggregating those demand signals, to the extent that, sitting here right now, the U.S. Government knows what is needed and where it is needed?

Secretary LORD. I believe they do, and that has been a process, not an event. It has resulted, the information has come from many places. There has been a large level of interaction with a lot of State governments. There also has been a lot of work with distributors of medical equipment, for instance, to understand what their total demand signal was prior to the pandemic. And it has come from teams, independent teams, looking at it.

Mr. CROW. And in your estimation, HHS, FEMA, the Supply Chain Task Force, is that the appropriate place, given your very important role and DOD's really important role in managing the defense supply chain? Is it appropriately located within HHS and FEMA?

Secretary LORD. I think it is because it has been augmented with many people from DOD. And we in A&S talk very frequently—we have people embedded over at the NRCC, where most of this has been happening. For instance, I talk probably three times a week with Admiral Polowczyk. Stacy Cummings goes to meetings several times a week. So, this is sorted through, so that we have what I would call a cadence of communications.

Now this was not the case on March 15th. But, since about April 15th, we have started to work into this rhythm. So, it has been a process, not an event, to aggregate this demand signal. But because we believe we understand it at this point, to the degree you can, that is why we can move forward and modernize the Strategic National Stockpile and know what to—

Mr. CROW. And do you believe that you need any additional authorities or are you confident that you have both the authorities and an adequate kind of operational picture of the need at this point?

Secretary LORD. At this point, I believe we do. What we want to make sure that we continue to test is that we have the authorities to work between agencies very quickly using the Economy Act to move money around. So, we can go and use the expertise where it is and bring it back to the point of need.

Mr. CROW. Thank you, Secretary Lord.

I yield back, Chairman.

The CHAIRMAN. Thank you.

Ms. Torres Small, you are recognized for 5 minutes.

Ms. TORRES SMALL. Thank you, Mr. Chair and Ranking Member.

Thank you, Under Secretary Lord. I appreciate the chance to touch base with you today. I want to follow up—

The CHAIRMAN. I don't know that your microphone is on there. The button isn't on.

Ms. TORRES SMALL. There we go.

The CHAIRMAN. There we go.

Ms. TORRES SMALL. I wanted to follow up on the conversation that you were having with Congresswoman Davis about vaccine production and distribution. So, I understand the vaccine development is being addressed by Operation Warp Speed. However, I have some real concerns that, if we wait until the vaccine is developed before we start thinking about the mechanisms to produce and distribute it, we will lose precious time.

Secretary LORD. No, that is not the case. That is not the case.

Ms. TORRES SMALL. And so, I am just about to ask—

Secretary LORD. It all works in parallel.

Ms. TORRES SMALL. Wonderful. I am so pleased to hear that you are working in parallel. I recognize your comment about the need to have a plan to increase the speed of distribution. So, can you tell me what the timeline is for that plan?

Secretary LORD. That is being worked in Operation Warp Speed right now, and General Perna is probably better to answer that. But I will tell you there has been an enormous amount of work done up to this time. What is being rationalized right now is where the vaccine goes first. And once the prioritized list of who receives it is determined, then that determines where it will go, and then the details can be worked out.

Ms. TORRES SMALL. Okay. So, to fully understand that, Operation Warp Speed is not only managing the development of the vaccine, but also where it will be delivered. Who is managing the plan for what needs to be manufactured in an effort to distribute the vaccine as quickly as possible?

Secretary LORD. So, it is a combination of Dr. Slaoui and General Perna. They are leading it. And what is happening is a series of vaccine companies are being funded to manufacture, and then, do the finish and fill. And then, they are looking at the distribution as well.

Ms. TORRES SMALL. So, I want to make sure I fully understand that. They are working with individual companies for the manufacturing of the specific things that will be needed for the distribution? So, I am not thinking just the vaccine, but the vials and the needles and the swabs.

Secretary LORD. Correct. Correct. Correct.

Ms. TORRES SMALL. Okay. And so, is DOD, through the Defense Production Act, already starting to identify how to make sure that there aren't those same hiccups in the supply chain that we have seen in testing, for example?

Secretary LORD. Absolutely. However, what we have done is we have moved away from the Defense Production Act for the health

resources because we have found a way to tap into a larger pool of money that HHS has through the CARES Act to do the exact same investment in industry to get that increased capacity and throughput. So, yes, that is being worked. That is primarily within Warp Speed right now, working with the Joint PEO [Program Executive Office] under the Army, and they leverage the Joint Acquisition Task Force as well. So, yes, there is a large DOD portion of that.

Ms. TORRES SMALL. Okay. And can you explain just a little bit more what the value is of going through the CARES Act process as opposed to the Defense Production Act?

Secretary LORD. Absolutely. Right now, we had \$1 billion appropriated through DPA Title III in the CARES Act. We used about \$200 million of that for HHS-type things, if you will. And then, we were able to work with HHS lawyers and DOD lawyers and come up with a mechanism to use the Economy Act to tap into \$17 billion that HHS has. So, it expands the pool and allows us to use even more money while taking the balance of the billion dollars that came through for DPA Title III and use a portion of that for the defense industrial base.

Ms. TORRES SMALL. I appreciate your comments there and I am pleased to hear that you are working with Operation Warp Speed to utilize that.

Secretary LORD. Yes.

Ms. TORRES SMALL. And can you explain a little bit more about your role? In conjunction, as you mentioned, you are working with them?

Secretary LORD. They look back to us for acquisition assistance as needed. But what we did was really bifurcate all of our effort about 3 or 4 weeks ago, from what we were doing in terms of just the Supply Chain Task Force, into one effort looking at the Strategic National Stockpile and another effort being Operation Warp Speed, which is the vaccines, therapeutics, and diagnostics. So, some of the people that were working in JATF on everything went over and were dedicated to Warp Speed.

That being said, General Perna and I have regular conversations. Stacy's team and the JATF supports them. So, it is a very fluid organization in terms of, if there is a need, we will support that instantaneously.

Ms. TORRES SMALL. My time has expired.

The CHAIRMAN. Thank you.

Next up, we have Mr. Brindisi.

Mr. BRINDISI. Thank you, Chairman.

And thank you to our witnesses for being here. I appreciate the Department's assistance in helping our communities respond to this pandemic.

However, this unprecedented coronavirus pandemic has made it clear that our country's supply chains for critical supplies and materials have vulnerabilities that must be addressed, and we have a lot of work to do to make sure our domestic industrial base is more prepared for situations that might happen in the future.

Secretary Lord, I wanted to ask you about domestic non-availability waivers. As you know, under the Buy America Act and the Berry Amendment, the law requires for agencies to buy certain

products domestically, and when domestic items are not available at a reasonable cost or quantity, the Department can waive these requirements with the domestic non-availability waivers. Under Secretary Lord, could you briefly describe how frequently the Department of Defense uses domestic non-availability waivers for requirements mandated by the Buy America Act or the Berry Amendment?

Secretary LORD. I will have to take that for the record and give you actual details on that.

I will tell you, during this pandemic, one of the biggest challenges we have had in terms of domestic production are textiles. And we have worked on a little bit of policy that allows us, if we cannot produce domestically, to prioritize partial domestic production of it. But we are working with several industry associations to make sure that we ramp up domestic production to the greatest degree possible. We were working early on with Puerto Rico because they had many local shutdowns and they were critical to us for textile production and, in fact, converted over some items. But this is an area of focus for us, and I will get back to you with the numbers.

[The information referred to can be found in the Appendix on page 71.]

Mr. BRINDISI. Okay. So, you can get back to us as to how many waivers are typically granted in a year. You could provide that information for maybe the last few years?

Secretary LORD. Yes.

Mr. BRINDISI. Okay. All right. And I want to follow up. I appreciate you talking about the concerns regarding rare earth materials and microelectronics. The COVID-19 pandemic has raised many supply chain issues and questions for the future. And I am also particularly concerned about the lack of domestic production of rare earth elements, including indium, germanium, and tin. As you know, the United States was once self-reliant in domestically produced rare earth elements, but over the past 20 years has become 100 percent reliant on imports, primarily from China. There are important defense and non-defense applications for rare earth elements, including fighter jet engines, guided missile systems, space-based satellites, communication systems, and touch screens.

I appreciate you mentioning that this is a concern. I am working on some language for the NDAA regarding this. But can you go into more detail? Do you have a plan to decrease DOD's reliance on China for things like rare earth elements or microelectronics?

Secretary LORD. Absolutely. From the rare earths, the issue is not so much getting them out of the ground or where they are; it is the processing of them. So, we are looking at a variety of options to do this domestically. We are also talking with some of our close partners and allies about having backups of that as well.

So, this is an area that we are focused on relative to perhaps the reshoring, using the Development Finance Corporation. I just had a meeting on that earlier this week. But we have been looking at this for about 2 years. We have a number of ideas.

From the microelectronics point of view, I am very concerned at the lack of domestic foundries. We in DOD only use about 1 to 2 percent of the entire production there. However, having trusted

parts is very important to us, and I believe we have the ability to relook at how we work all the way up through the different levels of the supply chain to have more onshore capability. Until we can really identify the technology for zero trust in microelectronics, we need to have some trusted sources. And we actually have quite a bit of activity going on right now to come up with a number of scenarios that we will be bringing forward in the next couple of months of how to do that.

Mr. BRINDISI. I will stop there, but I would like to follow up with you offline on the trusted foundry issue. We have some interesting things happening here in New York State and some new semiconductor facilities that are going up. And I would love to follow up with you more on that.

Secretary LORD. Absolutely.

The CHAIRMAN. Thank you.

I had Mr. Brown. I am not sure if he is still on the call. Mr. Brown, are you there?

[No response.]

I take that as a no.

Mr. Garamendi.

Mr. GARAMENDI. Thank you, Mr. Chairman.

Secretary Lord, thank you very much and for your team. Stacy, a terrific job on the briefing a few days back and, obviously, again today. So, compliments to you as well as to your team.

Secretary LORD. Thank you.

Mr. GARAMENDI. Beyond that, the issue of the pharmaceuticals has been raised by several of my colleagues. We continue to pursue that along the way.

Also, I want to just ask the question: the \$750 million of the billion dollars that was allocated was originally going to be for medical issues. It has now been transferred over to the International Development Finance Corporation to respond to the COVID-19 outbreak. What is that? Apparently, it was established in December of 2019. They got three-quarters of a billion dollars to do something. Is that your responsibility or is that somewhere else?

Secretary LORD. A couple of different things.

Mr. GARAMENDI. And do you know what they are doing?

Secretary LORD. I believe I can explain this. We, through the CARES Act, received a billion dollars for DPA Title III. We began executing on that for medical industry expansion. What we found was we had a number of defense industrial base critical needs as well and worked with our legal teams to find a way to be able to have DOD execute industry expansion for medical resources utilizing the HHS \$17 billion appropriation from the CARES Act. So, we switched over to start using the other pool of money to continue to fund industrial expansion of medical resources, which we continue to do today.

We also, then, started working on defense industrial base industry expansion using DPA Title III. There, then, was an Executive order about 3 weeks ago that enabled the Development Finance Corporation, which typically does international investment for the benefit of our national security, to broaden what they do and use their infrastructure to actually do loans to reshore critical capability for the U.S. as a result of COVID.

So, what we are doing is taking up to \$100 million to provide collateral for the Development Finance Corporation, or DFC, to reshore either health resource types of companies or other national security critical companies. However, that is not being done in isolation. I meet with Adam Bohler, the CEO of DFC, once a week. We sit down and talk about our priorities that we have generated along with HHS and FEMA, as well as our Industrial Base Council priorities. And we are generating a demand signal to DFC to allow them to use their back office, so to speak, to look at potential loans to reshore capability to the U.S. to create jobs and a supply chain here. The DPA Title III money is collateral only that is being used for that.

Mr. GARAMENDI. Okay. Well, thank you for that explanation, most of which is not understandable because I don't, and perhaps none of us, really understand who those organizations are. We are talking about a vast amount of money that is flying back and forth around here, all for the good purpose of reshoring.

I suspect the Auditor General is going to be very, very busy trying to keep track of all of this. And certainly we need to know where all of this money is going and whether it is going to a successful outcome or not.

I don't want you to stop attempting to reshore, but it is imperative that we have documentation of where the money is going and for what purpose and for what success, if any. So, please keep that in mind, and as you develop that information, please forward it on to our committees.

And with that, I yield back.

The CHAIRMAN. Thank you.

Secretary LORD. Absolutely. I commit to doing that. I am more than happy to come with Adam Bohler and talk about DFC specifically, if needed.

The CHAIRMAN. Thank you.

Mr. GARAMENDI. Thank you.

The CHAIRMAN. All right. Now I am not sure who is still here. So, I am just going through the list. If you are not here, you don't have to speak up.

Mr. Keating I have next.

[No response.]

He is not here.

Mr. Vela.

[No response.]

Ms. Sherrill.

[No response.]

Mrs. Luria.

Mrs. LURIA. Hi. This is Elaine Luria.

The CHAIRMAN. You are recognized for 5 minutes.

Mrs. LURIA. Well, thank you, Mr. Chairman.

Thank you, Ms. Lord, for being here again to talk to us today and for your updates.

I had an issue that was brought to my attention by several small businesses here in our community. A lot of them support the Department of Defense. And they brought to my attention that, in November of last year, the DLA moved away from the practice of accelerated payments to small business suppliers and they went from

a net 15 to a net 30, and cited shortages in the working capital fund. Under the best of circumstances, these small businesses work on a continuous cash flow. Having payments tied up for an additional 2 weeks is putting an additional strain on them, and especially during the financial burden that they are experiencing during the COVID crisis, this has been exacerbated even more.

So, my question is, basically, is the Department taking any steps to return to the accelerated timeline payments of net 15 for small businesses?

Secretary LORD. Yes. In fact, although we did move from net 15 to net 30, we are closer usually to the 15 than the 30. However, when we submit our request for the next tranche of funding, if there is tranche 4 here, we have included in that funding to move back to net 15. And that is a need to have a working capital fund funding.

Mrs. LURIA. Okay. Thank you. And that was going to be my question: what additionally did you need from Congress to move back to the net 15?

My second question is relative to the CARES Act, and specifically, section 3610, which provides much-needed relief to the national security contractor workforce. But it is set to expire on September 30th. And I am skeptical that our national security facilities will be back to their full pre-COVID level by September 30th. And I was curious, could you quantify how you foresee this back in readiness as of October 1st when this runs out, and if we allow that to expire?

Secretary LORD. We are monitoring to see the health of the defense industrial base. In fact, I get numbers every day through DCMA and DLA. So, for instance, we follow 20,000 companies. To date, due to COVID, we have had 960 cumulative closures. We have had 859 cumulative reopenings. So, that leaves us with about 101 companies currently closed. And that's about 57 average days closed. So, that would be part of what 3610 would look at, is the impact to the employees, and so forth, as a result of that.

We also, as you know, have issues around sickness and not being able to get into facilities, the government facilities, and so forth. We are writing guidance right now to have claims submitted against that. Although we do have the authorization for 3610, we do not have an appropriation for 3610. So, one of the items that we will be submitting in our tranche 4 are funds to help us reimburse the defense industrial base.

We continue to monitor on a daily basis to see about the health of the companies. We are optimistic that we see a trend improving in terms of efficiency and ability to operate. Obviously, we have to continue to use all the CDC-recommended practices, and we hope we can mitigate any impact due to a second spike of COVID, if we do see that in the fall.

Mrs. LURIA. Well, thank you, and thanks for quantifying your base on the metrics of the number of companies impacted. I guess, just any specific areas, weapon systems, impacted operationally that come from the specific key companies that may be sole-source suppliers of any material that is necessary that rises to your level of being a high concern?

Secretary LORD. Two answers to the question. One, there are three basic areas that have had the most significant impacts. One of them is aviation, particularly aviation propulsion, and that in large part, as you well know, is due to the implosion of the commercial aviation industry. Secondly, we have seen shipyard impacts for a variety of reasons, although that is coming back pretty well right now. And thirdly, we have seen satellite launch impact, again, because of the commercial dependence there.

Now we also have seen some critical companies that really were not on our radar screens, so to speak, previously that had a couple of cases, and in one case particularly, a fatality. And there was a very significant impact in shutting down that facility.

The CHAIRMAN. I apologize, Madam Secretary. The gentlelady's time has expired. We have other people to get to. So, we will have to move on.

Mrs. LURIA. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

I know Ms. Houlahan is on the line. Ms. Houlahan, you are up now.

Ms. HOULAHAN. Thank you, Chairman.

And thank you so much for coming today. I want to echo my colleagues' appreciation for your participation in today's hearing.

The CHAIRMAN. I think we lost you there.

Ms. HOULAHAN. I also want to thank you for your—can you hear me?

The CHAIRMAN. We can. You are breaking up a little.

Ms. HOULAHAN. Can you hear me?

The CHAIRMAN. Yes, we got you. You are breaking up a little bit, but I think we have got you clear.

Ms. HOULAHAN. All right.

The CHAIRMAN. Go ahead.

Ms. HOULAHAN. I want to thank you for speaking on rare earth elements [inaudible] NDAA with you all and the briefing that you had in Puerto Rico, which has a heritage and history of textile manufacturing, as you mentioned, of pharmaceutical manufacturing. To what degree can you talk about the ability that we might have to be able to incentivize bringing or reshoring manufacturing and production of PPE and pharmaceuticals back to Puerto Rico, if you wouldn't mind talking about that?

Secretary LORD. We have an effort to reshore both PPE as well as pharmaceuticals, and it comes down to the capability of the companies in Puerto Rico or anywhere else in the U.S. So, if there is an interest in doing some of that, as we have already seen from some companies in Puerto Rico relative to making some N95 masks, for instance, they can reach out to our portal. I will make sure that your office gets all of the information. And we are looking at all kinds of proposals. So, we are very interested in speaking with any company anywhere in the U.S. that has an interest and a capability in participating.

[The information referred to can be found in the Appendix on page 72.]

Ms. HOULAHAN. We also talk about how to utilize those dollars. How can we maybe, in the case of an island like Puerto Rico that has been under such duress for so many years at this point in time

and it is such an obvious solution for our reshoring needs, how can we be more aggressive in our outreach to that island?

Secretary LORD. What I would suggest is, number one, that the individuals, the companies on that island that want to participate, reach out to industry organizations. One of the most effective ways that we deal with industry is through industry associations because it allows the member company's needs to sort of be echoed and amplified, and it is easier for us to respond to a common reachout from an industry association. So, I would really encourage Puerto Rican companies to think about what they have for facilities, equipment, people in terms of skill sets, and reach out to industry associations to understand everything we have available. And we want to hear from them. Likewise, I will make sure your office has all the information on how to reach out to portals that DOD has.

[The information referred to can be found in the Appendix on page 72.]

Ms. HOULAHAN. Thanks. And I just want to [inaudible] companies, but a lot of mainland [inaudible] and domestic manufacturers of [inaudible] work with factories on [inaudible].

With the remaining minute of my time, I want to go back to something that Representative Crow talked briefly about, which is, you know, is there one central place where we can look around and find all of our supplies—

Secretary LORD. I am sorry, I couldn't—

The CHAIRMAN. I think she was asking if there is one central place we can look to find supplies.

But I am sorry, Chrissy, you are breaking up.

Ms. HOULAHAN. Sure. I apologize. I am asking whether there is an information [inaudible] of the IT systems to be able to monitor and track all of the supplies that we are talking about, a modern IT system such as Amazon would have.

The CHAIRMAN. Distribution.

Secretary LORD. Yes. So, a couple of different things. One, we have a modern system to sell through DLA. In terms of distribution of PPE, and so forth, there is a modern system that is being put in by HHS and FEMA for distribution of same.

Ms. HOULAHAN. Thank you. I look forward to learning more about that. And I yield back the balance of my time. Thank you, sir.

The CHAIRMAN. Thank you.

I believe that is all the people that we had who had questions. My staff can let me know if that is not, in fact, the case.

I did just have one follow-up to where I started. I know we talked about you are going to get to being able to potentially produce almost a billion masks a year by January, and I think I forget the number—where are we at right now in terms of the number of masks that we are producing each month? You may have answered that and I may have missed it.

Secretary LORD. I don't have that specific, but Stacy may well.

Ms. CUMMINGS. We are going to have to take that for the record to give you specifics. We have them, but I can't give them to you right now.

[The information referred to can be found in the Appendix on page 71.]

The CHAIRMAN. Yes. Because, as Mr. Conaway was pointing out, we don't know if we are going to need a billion a year, come January. I think we have our need right now. So, how that ramp looks would be helpful. It is good to know that by January, we are going to be there. Where are we going to be in September, for instance?

Ms. CUMMINGS. And I can absolutely provide that to you.

The CHAIRMAN. Okay.

Ms. CUMMINGS. The one thing I do want to point out is that one of Ms. Lord's comments about how the demand signal is complicated is that there is a medical demand signal, and then, there is a non-medical demand signal.

The CHAIRMAN. Absolutely.

Ms. CUMMINGS. And so, I feel very confident that the investments that we have made across the Federal Government in masks is well worth it and will be used domestically. And I think it is a matter of understanding how they are used now and in the future and when they are used for medical purposes and non-medical purposes.

The CHAIRMAN. Yes, and that is a very good point. There has been a lot of sort of back and forth about the utility of masks and what type are necessary. But in close working environments—we are not in a close working environment here, we have distance—but if you are in with a group of people in meatpacking plants and other places, I mean, you can wear one of these masks, but they are not as useful as an N95 mask. So, even if we have got the healthcare professionals covered, if you don't have an N95 mask, you do the best you can in a meatpacking plant or in a manufacturing place where you are close to each other. But if they are available, I think there is going to be a pretty big demand signal for those for some time to come.

Other than to say thank you—you have been here for almost 2½ hours now, and I appreciate that.

And also, to thank the staff. What you see here was not easily put together. We show up and participate, but the technology that had to be wired in, the room that had to be found, all the decisions that were made, the HASC [House Armed Services Committee] staff set all of this up. And this is also very helpful practice for us for when we come in here and try to mark up our bill. So, staff did incredible work on this, and I want to publicly thank them for that work.

With that, I will yield to Mr. Thornberry for any closing remarks he might have.

Mr. THORNBERRY. Mr. Chairman, I would just echo those comments and, again, thank Under Secretary Lord for being here.

The CHAIRMAN. Thank you, and with that, we are adjourned.

[Whereupon, at 4:22 p.m., the committee was adjourned.]

A P P E N D I X

JUNE 10, 2020

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

JUNE 10, 2020

UNCLASSIFIED

STATEMENT BY

ELLEN M. LORD

UNDER SECRETARY OF DEFENSE FOR ACQUISITION &
SUSTAINMENT

BEFORE THE HOUSE

COMMITTEE ON ARMED SERVICES

ON

DEPARTMENT OF DEFENSE COVID-19 RESPONSE TO
INDUSTRIAL BASE CHALLENGES

JUNE 10, 2020

EMBARGOED UNTIL RELEASE BY
THE HOUSE COMMITTEE ON ARMED SERVICES

Chairman Smith, Ranking Member Thornberry, and distinguished Members of the House Committee on Armed Services, thank you for the opportunity to testify today on matters related to the Department's response to the COVID-19 pandemic. While COVID-19 has had an unprecedented impact on the Nation, under Secretary Esper's leadership the Department of Defense (DoD) has contributed immensely to the Administration's Whole of Government response. Today I will describe key elements of how the acquisition enterprise under my direction has used authorities available to it and new authorities provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act in support of other Federal agencies and the Defense Industrial Base (DIB). I also appreciate the opportunity to speak today on matters related to the Defense Logistics Agency's response to the COVID-19 pandemic. Through the Under Secretary for Acquisition and Sustainment, DLA supported the Department's response and the Administration's Whole of Government approach.

Use of the Defense Production Act

The 1950 Defense Production Act (DPA) grants the President a broad set of authorities to influence domestic industry in the interest of national defense. The authorities can be used across the federal government to shape the domestic industrial base so that, when called upon, it is capable of providing the essential materials and goods needed for the national defense. There are three active titles in use today within the DPA.

DPA Title I includes the priorities and allocation system, of which Defense Priorities and Allocation System (DPAS) is one of the regulations. DPAS, a regulation administered by the Department of Commerce (DOC), allows the President to require persons (including businesses and corporations) to prioritize contracts and orders for materials and services that are industrial resources. DoD has authority under the DPAS to place priority ratings on DoD contracts and orders; DoD uses two types of ratings: a "DO" and "DX", a higher priority used on a very small number of DoD programs.

The Department of Health and Human Services (HHS) has Title I authority for health resources, including Personal Protective Equipment (PPE) used in response to the COVID-19. This was reaffirmed when the President issued Executive Order 13909 on March 18, 2020.

Title III of the DPA authorizes the use of direct purchases, purchase commitments,

guarantees of purchases or leases of advanced manufacturing equipment, and loans or loan guarantees in order to “develop, maintain, modernize, restore, and expand the productive capacities of domestic sources for critical components, critical technology items, materials, and industrial resources essential for the execution of the national security strategy of the United States.”

Title III authorities can be used to increase domestic production capacity for suppliers of medical resources used in response to COVID-19. The Department’s DPA Title III investment in response to COVID-19 remains on increasing manufacturing capacity and throughput. DoD continues to use the DPA Title III for two lines of effort: DIB resiliency and security; and industrial expansion for Medical and Healthcare resources, with HHS and Federal Emergency Management Agency (FEMA) coordination.

Title VII of the DPA provides an array of authorities including hiring subject matter experts and civilian executives for Federal Government service, review of foreign investment in the United States, and providing for voluntary agreements among industry with protection from criminal or civil antitrust proceedings.

Industrial Expansion

The COVID-19 pandemic identified critical shortfalls in the personal protective equipment (PPE) and medical supplies supply chain. On March 18, President Trump issued Executive Order 13909 invoking the Defense Production Act (DPA) delegating authority to the Secretary of Health and Human Services (HHS) to determine the proper nationwide priorities and allocation of all health and medical resources, including controlling the distribution of such materials (including applicable services) in the civilian market, for responding to the spread of COVID-19 within the United States. Under this Executive Order, and EO 13911 dated March 27, 2020, the DoD has been supporting HHS in execution of DPA authorities, both Title I and Title III, to prioritize and/or increase the production capacity of much-needed medical equipment and supplies to combat the novel coronavirus.

On March 27, 2020 the CARES Act was signed including language authorizing and providing resources for DPA projects to mitigate critical shortfalls that aligned with the traditional DoD DPA Title III scope and mission to create and expand domestic industrial base capabilities in response to COVID-19. The DoD, in support of HHS and FEMA, initiated several projects utilizing the DPA Title III authorities and funding to procure medical equipment for COVID-19 response (approximately \$210M).

The CARES Act also provides authorities and resources to HHS to invest in industrial expansion. As a result, the policy decision was made to leverage CARES Act funding appropriated to HHS to support pandemic response requirements and that the remaining DoD DPA Title III funding would be allocated to the DIB impacted by the COVID-19 pandemic in support of national security requirements.

Under the Economy Act, which authorizes federal agencies to order goods and services from other federal agencies, DoD has been providing acquisition assistance to HHS in acquiring critical medical resources and expanding industrial capacity and manufacturing throughput for medical resources to address the critical shortfalls identified during this public health emergency. Our collaboration supports accelerating COVID-19 response and recovery and the HHS strategy to replenish and modernize the Strategic National Stockpile (SNS).

To ensure the Department was postured to leverage all its resources, I created the COVID-19 Joint Acquisition Task Force (JATF) on March 25, 2020. Led by the Principal Deputy Assistant Secretary for Acquisition, Stacy Cummings, the JATF has been the single-entry point to the DoD acquisition enterprise throughout this crisis. The JATF team has created processes to enable HHS and FEMA to quickly and effectively access DoD acquisition workforce, expertise, and authorities in support of the COVID response. The JATF's work with HHS has evolved from an initial focus on supporting the immediate response to the national health crisis to its current support to HHS in expanding and replenishing the SNS (known as SNS 2.0). This line of effort includes procuring critical medical supplies and PPE for the SNS and, where determined appropriate by HHS, expanding the domestic manufacturing base for some of those items.

It's worth noting here that the JATF is not directly involved in Operation Warp Speed (OWS). OWS is being executed by a full-time dedicated interagency team that includes our most talented subject matter experts from around DoD. General Gustav Perna has been selected to be the Chief Operating officer for OWS and he reports directly to Secretaries Azar and Esper.

The JATF's goals are to:

- Bring analytic, program management, and contracting expertise from the Services and DoD Agencies to quickly respond to demand from FEMA and HHS;
- Utilize DoD's supply chain expertise to forecast gaps and identify opportunities for the industrial base expansion; and

- Prioritize solutions from industry to connect suppliers to FEMA or HHS, including industrial base expansion efforts.

The JATF is organized into six product lines, led by subject matter experts (SMEs) from the Services:

- Ventilators
- N95 respirators and surgical masks
- Screening and diagnostics
- PPE
- Pharmaceuticals
- Critical Care Drugs

The product lines are in turn supported by three functional teams:

- Supply chain
- Industry portal
- Additive manufacturing

The functional teams provide expertise and analytic support to the product lines, and have enabled the interagency to understand the complexities of our domestic and foreign sources of medical supplies.

In order to decrease our dependence on foreign suppliers for medical resources, DoD has focused on increasing domestic industrial capacity and capabilities as well as procuring end-items. To that end, we executed \$284.1 million in industrial expansion efforts during the first two weeks of May 2020:

- \$138 million awarded to Apillect on May 8, 2020 increasing its capacity for injection technology by 45 million per month;
- \$126 million awarded to 3M on May 1, 2020 increasing its capacity for N95 respirator masks by 26 million per month;
- \$20.1 million awarded to Moldex on May 8, 2020 increasing its capacity for N95 respirator masks by 5 million per month.

The JATF is actively working with HHS to identify additional industrial base expansion efforts for medical resources as well as sub-tier suppliers of critical components. The results of these efforts to increase domestic capacity will be accomplished with new machinery, tooling, and personnel, and these efforts will have long term economic and national security impacts, enabling

HHS to replenish the stockpile and ensure the country is prepared for future pandemics as they arise.

The JATF is in close coordination with HHS regarding replenishment of the SNS. JATF and HHS leadership meet weekly to discuss proposed industrial expansion projects and determine prioritization of resources. Leveraging an interagency steering committee, critical medical resources are prioritized based on actual use during the pandemic, PPE, critical care drugs, ventilators and airway management supplies and other products necessary to prevent and treat COVID-19. Reconstituting domestic production or creating new production that shifted offshore years ago often requires capital equipment expenditures, retooling, and re-training of the workforce. It can be months before a supplier is fully capable of producing components or end-items at scale, and these timelines are taken into account when reviewing projects to ensure production increases align to prospective needs of medical items.

On May 15, 2020, the President announced the initiation of Operation Warp Speed (OWS). OWS is a joint HHS and DoD effort to achieve the priority goal of accelerating development, testing, supply, production, and distribution of effective diagnostics, therapeutics and vaccines to counter COVID-19. General Gustave F. Perna, as the Chief Operating Officer, is establishing a team of DoD experts. I have directed the JATF to share lessons learned and to provide any policy guidance and oversight to assist him in achieving our National goals, while divesting JATF functions that would be duplicative or redundant to OWS functions.

DPA Purchases for National Security and Pandemic Recovery

Medical Response

DoD, in coordination with HHS and FEMA, is executing \$312 million of CARES Act funding to implement a combination of capital investment and purchases focused on increasing the bandwidth of the industrial base equipment, tooling and related services (e.g., construction and training) for companies that manufacture masks, ventilators, and coronavirus test kits. Projects include:

- \$133.4 million for scale-up production capacity for respirator (N95 Mask) production capacity to meet HHS/FEMA procurement and total U.S. consumption. This funding is fully committed in support of contracting actions to expand domestic productive capacity for N-95 masks with 3M, Honeywell, and O&M Halyard. These agreements will be

negotiated and finalized in the coming weeks.

- \$76.0 million to increase domestic manufacturing capacity for swab production - a key constraint in scaling COVID-19 testing.
 - This funding is fully committed in support of a project with Puritan Medical Products to expand domestic productive capacity for testing swabs.
- \$2.2 million to increase sub-tier suppliers to ensure materials are made available to support final product production. Hollingsworth and Vose was awarded this funding to increase production of filter media for N95 masks.

Defense Industrial Base Issues Directly Impacted by COVID-19 Effects

The DPA Title III program will use the remaining \$688 million of CARES Act funding to address impacts to the DIB caused by COVID-19 by directly offsetting financial distress in the DIB and providing investments to regions most severely impacted to sustain essential domestic industrial base capabilities and spur local job creation. The Industrial Base Council (IBC) has identified prioritized risks to address utilizing this funding. Newly identified issues are continually coming in and the IBC will continue to prioritize efforts for execution. At present, planned investments include:

- \$150.0 million for shipbuilding industrial base in areas such as castings and forgings and submarine launch equipment, including funding to support continuous production of essential components such as launch tubes.
- \$171.0 million to sustain and preserve the aircraft propulsion industrial base including:
 - Funding to preserve essential workforce through support to sustained operations at key repair facility and stabilizing sub-vendors essential to a healthy propulsion industrial base.
 - Funding to support initiatives to certify and approve new parts sources for needed TF33 parts essential to multiple programs. Initiatives will catalyze sub-tier vendor base and mitigate risk of sub-tier vendors exiting the propulsion business.
 - Funding to sustain operations for essential suppliers, maintenance and repair operations, and essential suppliers for Navy aircraft programs and mitigate negative financial impacts resulting from COVID-19.
- \$150.0 million to support and maintain a competitive space launch industrial base.
- \$80.0 million to support and maintain a competitive microelectronics industrial base

including maintaining several critical suppliers and protect the domestic capacity to ensure radiation hardened microelectronics testing capability, and key subcompacts such as substrates and wafer are available for DoD weapon systems.

- \$35.0 million to preserve at-risk essential materials suppliers. This will:
 - Maintain and sustain lithium ion batteries industrial base to prevent vulnerabilities and potential shortfalls.
 - Maintain capacity and development timelines on advance fiber materials for next generation soldier textiles.
- \$62.0 million to support body armor, force protection, survivability equipment, increasing soldier survivability industrial base including support of critical carrier manufacturers producing of the modular survival vest equipment and blast pelvic protector for all Army contracts.
- \$40.0 million to support and maintain the hypersonics industrial base including the support of several key suppliers to protect high-temperature material industry partners. An expanded, sustainable domestic production capability for hypersonic systems is essential to the Department achieving its modernization priorities.

The Department is expeditiously executing the spend plan I have outlined to support the DIB during the COVID-19 pandemic. To date, the Department has obligated \$26.1 million of CARES Act funding to support essential DIB partners in the shipbuilding and space industrial base with several pending contracting actions across the critical defense covered by our spend plan. Current investments in the DIB include:

- \$11.5 million to support essential suppliers in the space industrial base for microelectronics materials and space qualified solar cells.
- \$14.6 million to support the shipbuilding industrial base.

DPA Title III Loans through the U.S. International Development Finance Corporation

“\$100.0 million to provide a subsidy for multiple federal loans to create, maintain, protect, expand, or restore domestic industrial base capabilities to support national COVID-19 response and the execution of authorities provided under Executive Order 13922 in collaboration with the U.S. International Development Finance Corporation (DFC). Under the President’s delegated authority,

the U.S. International Development Finance Corporation (DFC) is authorized to make loans under the Defense Production Act, something DoD has not historically done. This authority was delegated to DFC for two years in conjunction with DPA loan-related waivers provided by Congress in the CARES Act. We are working with the DFC to create an arrangement in which DoD can leverage this expertise and support from a DPA loan program because DFC will be able to leverage a smaller amount of DPA funds to go further than contracting or purchase commitments can.

DFC is synchronized with DOD, among other federal agencies, to ensure our approach and response to COVID-19 is completely coordinated. Funds will support the following HHS SNS priorities areas: (1) N95 respirators, (2) other Personal Protective Equipment, (3) pharmaceuticals, (4) ventilators, (5) airway management consumables, and (6) testing supplies.

OSD Guidance and CARES Act Implementation

Since early March, we have taken proactive measures in response to the COVID-19 crisis by implementing Congressional direction, empowering the contracting workforce, and ensuring a healthy DIB through continued guidance and direction. We established a COVID-19 specific webpage to ensure the widest dissemination of COVID-19 related guidance to the contracting community. This site is regularly updated and currently contains OSD guidance documents, Military Component memorandums, and a variety of acquisition related resources pertaining to COVID-19. These COVID-19 related policy documents focus on allowing companies to continue to work (while maintaining workforce safety), providing liquidity to the industrial base, implementing legislation beneficial to industry, improving speed of contracting activity, and providing spending transparency.

Today I will focus on two key areas where we have provided guidance: section 3610 of the CARES Act and industrial base viability and health.

As you know, section 3610 of the CARES Act allows agencies to reimburse contractors for payment associated with the preservation of workforces prevented from working due to COVID-19 facility closures or other restrictions. The Department moved out swiftly to provide the contracting community the ability to implement this legislation. On April 8, 2020, my Defense Pricing and Contracting (DPC) office issued a class deviation to the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS)

entitled, “CARES Act Section 3610 Implementation.” The next day, DPC issued implementation guidance to include various frequently asked questions (FAQs) providing additional detail concerning 3610 relief. DoD’s deviation and implementation guidance provides a framework for contracting officers to assess any claimed allowable paid leave, including sick leave, a contractor or subcontractors provide to keep their employees in a ready state associated with the declared public health emergency. This effort recognizes the importance of supporting affected contractors to ensure that, together, we remain a healthy, resilient, and responsive total force.

It is important to note that section 3610 authorized, but did not appropriate, the funds needed to make these reimbursements. While the Department may be able to use other appropriated funds to reimburse contractors, the cost for 3610 is likely well beyond the Department’s resourced ability to do so without significantly jeopardizing modernization or readiness efforts. For example, just one of our major primes estimates that 3610 impacts could be up to \$1.5 billion for their company and their associated suppliers.

Despite the funding uncertainty, the Department provided industry an early engagement opportunity to submit comments on additional draft guidance, namely a checklist for information required to process 3610 payments, and mechanisms to efficiently process the reimbursements, whether at the contract level or company level. We are taking the time to carefully consider each of the industry inputs and expect to have that additional guidance published in the next few weeks.

Section 3610 leave costs are just one category of COVID-19 related costs being experienced by the DIB. Other COVID-19 related costs include costs associated with contracting officer direction such as a stop work, the purchasing of PPE, cleaning and sterilization costs, impacts related to implementing Centers for Disease Control guidance such as spacing out factory floor activity, and the costs associated with schedule delays emanating from the supply chain. Where these costs are allowable they can be recoverable on cost-reimbursement and incentive contracts. Additionally, where actions were directed by the Government, like the issuance of a stop work, contractors may also seek reimbursement through defined regulatory means as a request for equitable adjustment. However, outside Government direction under fixed price contracts, there is no clear regulatory authority to adjust contract price. The Department is working this issue and will be issuing guidance on it shortly, however, as with section 3610, the Department does not have the funding to cover these costs. The same prime contractor noted

earlier estimates these non-3610 COVID-19 related costs to be in excess of \$1 billion.

The Committee is aware that in the early stages of the pandemic, the Department increased the progress payment rate from 80% to 90% for large businesses, and from 90% to 95% for small businesses, to address what industry identified as the number one issue it was facing due to COVID-19, namely liquidity or cash flow issues, specifically within the supply chain and with small businesses. This change will infuse an estimated \$3 billion in cash to all levels of the DIB. As of the end of May 2020, over \$2 billion has already been paid out. Further, the Department partnered with the major primes to ensure this increase in cash was quickly making its way throughout the supply chain. As was stated in one of our calls with the industrial associations, “the flow down of cash from DoD and the prime contractors has been the key to many small businesses surviving or not.”

Additionally, while not a preferred approach, DPC has issued two separate class deviations (one for the Air Force and one for the Navy) allowing for advanced payments for a company especially hard hit by the impacts to the aviation industry—a business sector that has been severely impacted by the pandemic. This company does not have any contracts with progress payments and so it was appropriate and necessary to provide this cash infusion through advanced payments.

In addition to providing much needed increased cash flow, the Department has endeavored to accelerate awards in order to keep the DIB working. The Navy has increased new award activity such that it is 36 percent ahead of their prior year obligation rate through May 2020. Likewise the Army and Air Force have accelerated dozens of awards, often leveraging Undefined Contract Actions (UCAs) to speed the awards. The Department’s COVID-19 related contracts have utilized UCAs significantly, approximately \$1 billion to date, allowing for rapid contract awards for medical items and hospital construction. In all, the Department is making COVID-19 related awards through contracts and other transactions at the speed of relevance during this crisis. The data we carefully examine and share weekly with Congressional staff includes procurement administrative lead time (PALT) as one of the metrics. That data set depicts PALT on COVID items, plotted against the average for all FY2019 awards in the same dollar range. Consequently, the Department’s efforts to accelerate awards in response to COVID-19 have resulted in an average PALT of roughly one week, compared to three months or more for awards analyzed in FY2019. I’m proud of the Department’s ability to meet these needs

smartly and swiftly.

Additional Contracting Considerations

The Small Business Innovation Research (SBIR) program helps domestic small businesses to engage in research and development to explore their technological potential and stimulate high-tech innovation. The Department continues to leverage this important program during the pandemic. For example, the Navy awarded more than \$51 million in additional SBIR awards from January to May 2020, an increase of 12 percent when compared to the same timeframe in 2019. Navy SBIR awards to small businesses across the U.S. have totaled approximately \$495 million in this fiscal year.

As with the rest of the country, the Department's acquisition professionals pivoted to a teleworking environment and most have been operating this way for almost 3 months. We have not seen a significant degradation to the critical tasks of awarding contracts, getting invoices paid, or inspecting and accepting products and services. While early on we encountered some significant challenges in connection speeds, ability to teleconference, and not having all the equipment needed for the workforce, many of those issues have been resolved or have improved. The primary request I would make in order to continue to respond to the impacts of the pandemic would be the funding discussed earlier related to the COVID-19 cost impacts being experienced by the DIB.

Impact of Efforts

While the JATF has focused on sharing the DoD's acquisition expertise with HHS and FEMA, DLA has played a critical role supporting the White House Supply Chain Task Force since its creation and supplying badly needed medical supplies. In addition to supporting our Military Services and Combatant Commands, DLA routinely supports over 40 Federal agencies and Whole of Government partners. Our existing relationships and agreements with FEMA and HHS were vital to the success of initial operations, enabling a rapid transition to full integration with FEMA, HHS and the Supply Chain Task Force. These arrangements facilitated swift augmentation of 20 DLA personnel to FEMA, HHS, the White House Supply Chain Task Force, the Joint Acquisition Task Force, and provided critical reach-back to the resources of the entire Defense Logistics Agency. Additionally, DLA provided 18 personnel to support U.S. Northern Command and DoD

operations.

Under the leadership of LTG Darrell K. Williams, DLA has executed over 8,000 contract actions, obligating over \$752 million through the end of May, to provide critical lifesaving medical supplies including test kits, ventilators, pharmaceutical drugs, and Personal Protective Equipment (PPE) such as masks, gloves, and gowns. Additionally, DLA has supplied food, clothing, fuel, construction materials, and repair parts to DoD and Whole of Government partners. This \$752 million support includes DLA's execution of nine FEMA mission assignments and three HHS interagency agreements, valued at over \$630 million.

This support is comprised of numerous notable initiatives, including the on-going effort to supply nearly 15 thousand nursing homes across our Nation with a two-week supply of PPE. DLA also supplied critical PPE items to the Javits Center in New York City (\$107 million), Hospital Ships USNS Comfort and Mercy (\$14.4 million), as well as the United States Coast Guard (\$1.1 million).

Conclusion

The Department's response to COVID-19 addresses a full spectrum of needs. This includes contributing acquisition expertise and personnel to HHS and FEMA; expeditiously yet appropriately using all available authorities including the Defense Production Act; taking actions to expand industrial capacity; supporting the Defense Industrial Base through CARES Act guidance and increased cash flow mechanisms; and also through direct purchases of medical equipment and services. I am incredibly proud of the Department's response to this national emergency and to our dedicated individuals who have worked so diligently on behalf of the American people. I look forward to answering your questions.

Ellen M. Lord
Under Secretary of Defense for Acquisition and Sustainment

Senate Confirmed in August 2017, the Honorable Ellen M. Lord currently serves as the Under Secretary of Defense for Acquisition and Sustainment (A&S). In this capacity, she is responsible to the Secretary of Defense for all matters pertaining to acquisition; developmental testing; contract administration; logistics and materiel readiness; installations and environment; operational energy; chemical, biological, and nuclear weapons; the acquisition workforce; and the defense industrial base.

Prior to this appointment, from October 2012 – June 2017, Ms. Lord served as the President and Chief Executive Officer of Textron Systems Corporation, a subsidiary of Textron Inc. In this role, she led a multi-billion dollar business with a broad range of products and services supporting defense, homeland security, aerospace, infrastructure protection, and customers around the world.

Ms. Lord has more than 30 years of experience in the defense industry, serving in a variety of capacities, to include Senior Vice President and General Manager of Textron Defense Systems, now Weapon & Sensor Systems; and Senior Vice President and General Manager of AAI Corporation, now known as Textron Systems' Electronic Systems, Support Solutions, and Unmanned Systems businesses. Earlier in her career, Ms. Lord served as Vice President of Integration Management for Textron Systems and Vice President of Intelligent Battlefield Systems for Textron Defense Systems, in addition to other business and operations positions.

Ms. Lord is a former Vice Chairman of the National Defense Industrial Association, as well as a former Director of the U.S. – India Business Council. She has served on the industry steering committee for the Center for New American Security's (CNAS) task force on "Strategy, Technology and the Global Defense Industry," as well as CNAS's DoD-Industry collaborative project "Future Foundry: Forging New Industries for Defense," which was formed to examine key technological trends and challenges facing the global defense industry. Ms. Lord has also served on the Board of Trustees of the U.S. Naval Institute Foundation.

Ms. Lord earned a Master of Science degree in chemistry from the University of New Hampshire, as well as a Bachelor of Arts degree in chemistry from Connecticut College.

DOCUMENTS SUBMITTED FOR THE RECORD

JUNE 10, 2020

JAY INSLEE
Governor



June 10, 2020

The Honorable Mike Pence
Vice President of the United States
The White House
1600 Pennsylvania Ave, N.W.
Washington, D.C. 20500

Dear Mr. Vice President:

I write to you at a critical moment in our nation's response to the COVID-19 pandemic. We are working at all levels of government to forge a pathway toward a safe and responsible recovery, conscious that our efforts will succeed or fail based on our collective ability to contain the virus. Central to that goal is ensuring access to personal protective equipment (PPE) for every American who needs it.

Unfortunately, we have fallen far short in addressing the shortages of PPE to date. We have watched with shame as so many healthcare workers across the nation — nurses, doctors, midwives, home health aides, janitors and cleaning staff, and more — have cared for their communities tirelessly without the protection they need and deserve. We have seen this pandemic spawn new categories of frontline workers: grocery store workers, transit operators, shelter staff, and other essential employees. These are hard-working Americans who never expected to be putting their lives on the line, but who have continued to serve their communities under dangerous and unprecedented circumstances. I have spoken directly with workers, businesses, and labor groups, and I know that the PPE shortages are widespread. It is our duty to address this challenge and ensure that all those in the workforce today and in the future have the equipment they need to protect themselves, their families, and their communities.

It is time for a new national mission to manufacture the medical supplies and equipment necessary to keep our people safe and prevent transmission of the virus. More than four months after the first U.S. coronavirus case was confirmed in our state, it is clear that the status quo is not working. The inadequacy of the federal stockpile, the overreliance on foreign suppliers, and the limited domestic production of PPE have meant that in our time of greatest need, our nation has been unable to adequately protect healthcare and other frontline workers. This must change.



P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111 • www.governor.wa.gov



The Honorable Mike Pence
June 10, 2020
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Washington has exhausted every possible avenue to tackle this challenge. We worked closely with federal partners to make use of the Strategic National Stockpile and welcomed the limited distributions while they lasted. We have worked wherever possible with local companies to increase production of PPE in our state. We pivoted rapidly to the commercial market and began competing with other states and the federal government for limited supplies — driving up prices and fighting for the same products as our fellow Americans. We have scoured the globe and placed orders domestically and internationally for approximately \$400 million worth of PPE. To date, however, we have received less than 10 percent of that amount.

Today, we remain participants in an unnecessary, chaotic, 50-state scramble to secure badly needed PPE. The challenges that all states are facing include inadequate domestic production; narrow channels of producers for federally certified products — such as surgical masks and N95 respirators; intense pressure on the global supply chain; challenges with shipping and customs; and significant quality control problems with unknown producers abroad.

The central challenge, however, is the lack of a coordinated federal response to ensure PPE for every American who needs it. It is akin to fighting a war in which each state is responsible for procuring its own weapons and body armor. Our current situation will only become more dire as more businesses reopen and more Americans head back to work — putting additional strain on a system that is already unable to meet demand. States need the federal government to harness its power under the Defense Production Act and finally address the critical need for PPE, in much the same manner as it has done for ventilators and testing supplies. While the challenges we are facing are significant, they are far from insurmountable. This country can rise to the moment and meet its obligation to protect our people and our communities.

To address persistent shortages and ensure a safe reopening, the federal government should:

- Use the Defense Production Act to increase domestic PPE production necessary to meet current and projected needs for all workers in all sectors.
- Develop a comprehensive assessment of protection needs by industry, evaluate critical supply chain gaps in the U.S. manufacturing base, and work with Congress to support a resilient national medical industrial base.
- Provide more detailed and adequately protective federal guidance for workers across all categories, including comprehensive roadmaps for infection control across sectors.
- Create a national industry consultation program to provide technical assistance to employers on safely reconfiguring businesses, including administrative controls, engineering controls, and PPE, and establish a grant program for necessary expenditures with a focus on serving frontline workers and vulnerable and low-income populations.
- Replenish and expand the Strategic National Stockpile to prepare adequately for a future COVID-19 surge and other potential pandemic outbreaks.



The Honorable Mike Pence
June 10, 2020
Page 3

Increasing domestic production of PPE is both a public health and national security imperative. It is our responsibility to honor the sacrifice made by healthcare and other frontline workers to address these shortages now and avoid a similar fate in the future. Washington stands ready to partner with you on this and other issues as we continue working together to keep people safe.

Very truly yours,



Jay Inslee
Governor



May 25, 2020

Dr. Michael E. Wooten
Administrator
Office of Federal Procurement Policy
Office of Management and Budget
Washington, DC 20503

Dear Administrator Wooten:

On behalf of the undersigned business associations, representing thousands of employers directly supporting the design, construction, and maintenance of our nation's infrastructure, we appreciate your efforts related to Covid-19 pandemic response and recovery. The Administration and Congress have taken strong and unprecedented measures to responsibly address the combined public health and economic needs resulting from this pandemic. Important among them is the Paycheck Protection Program (PPP), which helps provide an infusion of capital to employers to avert layoffs and continue safe and essential business operations.

We respectfully request that the federal guidance be clarified such that treatment of PPP loan forgiveness for small business government contractors who have properly qualified for the loan forgiveness based on demonstrated financial need not be required to provide a credit to direct or indirect costs in contracts with the government.

Current guidance provided by the Department of Defense in the form of Implementation Guidance for Section 3610 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act states that loan forgiveness received by a government contractor under a PPP loan must be treated as a credit to cost-based government contracts. Specifically, it states in Frequently Asked Question (FAQ) 23 "FAR 31.201-1 Composition of Total Cost states that total cost is the sum of the direct and indirect costs allocable to the contract less any allocable credits. Accordingly, to the extent that PPP credits are allocable to costs allowed under a contract, the Government should receive a credit or a reduction in billing for any PPP loans or loan payments that are forgiven."¹

We believe that the application of such a credit to the direct or indirect costs of a small business government contractor who has properly qualified for the loan forgiveness based on demonstrated financial need would be contrary to the intent of the PPP program and would harm small businesses by essentially requiring them to repay the loan through such credits.

The Department of Defense position on this issue, when considered in conjunction with the Internal Revenue Service's current position, as of the date of this writing – that expenses funded with the proceeds of a PPP loan which is later forgiven are not deductible from taxable income – creates a very likely scenario where a small business government contractor could actually be harmed, rather than aided, by accepting forgiveness of a PPP loan. A contractor who performs primarily government contracts could see almost all of the loan forgiveness rescinded through the application of the credit to their direct costs or indirect cost rate, resulting in a lower

¹ Implementation Guidance for CARES Act Sec 3610 (current as of April 24, 2020)

reimbursement on government contracts performed in the current or future years. If that same small business is unable to deduct the funded expenses from their taxable income, they will essentially be taxed on the loan forgiveness. The sum of the impact of the credit to direct and indirect costs and the tax on the loan forgiveness could easily exceed 100% of the amount of loan forgiveness.

In establishing the PPP loan program, Congress and the Treasury Department intentionally established a standard that loans under the program would be forgivable, provided the recipient's use of the funds meets stated criteria. If any forgiveness of the proceeds of properly utilized PPP loans ultimately must get credited back to the government by contractors, then these loans are not truly forgivable. Such treatment would be inconsistent with the stated provisions of the PPP loan program.

We are seeking to clarify the treatment of loan forgiveness received by a firm for a Paycheck Protection Program (PPP) loan relative to direct and indirect costs allocable to government contracts in accordance with Federal Acquisition Regulation (FAR) Part 31.

Sincerely,

American Council of Engineering Companies
 American Road and Transportation Builders Association
 American Subcontractors Association
 Associated General Contractors of America
 Construction Management Association of America
 Design-Build Institute of America
 Independent Electrical Contractors
 International Institute of Building Enclosure Consultants
 National Association of Surety Bond Producers
 National Electrical Contractors Association
 National Society of Professional Surveyors
 Sheet Metal and Air Conditioning Contractors National Association
 Surety & Fidelity Association of America
 Women Construction Owners and Executives

Cc: Kim Herrington
 Acting Principal Director
 Defense Pricing and Contracting
 Office of the Secretary of Defense
 Department of Defense

**WITNESS RESPONSES TO QUESTIONS ASKED DURING
THE HEARING**

JUNE 10, 2020

RESPONSE TO QUESTIONS SUBMITTED BY MR. SMITH

Secretary LORD. For N95 respirators, we understand current demand to be ~170M/month, based on the demand data available to the government. Current domestic capacity is approximately ~80M masks/month. DOD has invested nearly \$295M to increase domestic production of N95 masks, with the largest 5 domestic producers on track to yield increases to meet the 170M masks/month by Jan 2021. [See pages 8, 41.]

RESPONSE TO QUESTION SUBMITTED BY MRS. DAVIS

Secretary LORD. No, I did not. [See page 12.]

RESPONSE TO QUESTION SUBMITTED BY MR. CISNEROS

Secretary LORD. DOD understands the challenges small businesses face with uncertainty in production and procurement, and we are leveraging that experience in our support to HHS. On July 14–15, the JATF hosted a Domestic PPE Information Day focused on engaging businesses who want to provide PPE to the interagency effort and to industry. The two-day virtual event provided an overview of the interagency work in replenishing the Strategic National Stockpile and included presenters from HHS, the Veterans Administration, and the White House Supply Chain Advisory Group, in addition to the JATF, the Defense Logistics Agency, the Joint Staff, and the Office of Industrial Policy. As the government is only a small portion of the overall demand for PPE, the event also included presenters from the National Association of Manufacturers and the Healthcare Industry Distributors Association—respectively representing non-medical and medical industry—to explain their demand projections for PPE. We are continuing to work with industry to determine what type of incentives or policies the government can create to drive industry to maintain sustained purchasing of domestically produced PPE, so the companies you reference can appropriately plan for and rely on that business. We are happy to provide a summary of our findings back to the Congress in the coming months. OSD Industrial Policy hosts a weekly call with industry associations which provides an opportunity for industry and DOD to openly exchange information in a non-attributional environment. This forum has been key to sharing information with small business on policy changes and outreach events as well as DOD receiving input on challenges. In the early spring the JATF stood up an online portal which provided information to industry on how to do business with the government and where to find COVID–19 business opportunities. The portal provided access to resources and a mechanism for industry to provide DOD their ideas for COVID response. [See page 31.]

RESPONSE TO QUESTION SUBMITTED BY MR. BRINDISI

Secretary LORD. Under the Buy American Act, a determination that an article, material, or supply is not reasonably available is required when domestic offers are insufficient to meet the requirement and a contract award is to be made on other than a qualifying country or eligible end product. For the Department of Defense (DOD), these determinations are made at a level above the contracting officer for acquisitions valued at or below \$250K; by the chief of the contracting office for acquisitions with a value greater than \$250K, but less than \$1.5 million; or by the head of the contracting activity or immediate deputy for acquisitions valued at \$1.5 million or more. The number of non-availability determinations for the Buy American Act covering the last three fiscal years are: Fiscal Year 2019—2,717; Fiscal Year 2018—2,714; and Fiscal Year 2017—2,081. Under the Berry Amendment, if the Secretary concerned determines that items grown, reprocessed, reused, or produced in the United States cannot be acquired as and when needed in a satisfactory quality and sufficient quantity at U.S. market prices, the following officials are author-

ized, without power of re-delegation, to make such a domestic non-availability determination: The Under Secretary of Defense (Acquisition and Sustainment); The Secretary of the Army; The Secretary of the Navy; The Secretary of the Air Force; or, The Director of the Defense Logistics Agency. The supporting documentation for the determination must include an analysis of alternatives that would not require a domestic non-availability determination and a written certification by the requiring activity, with specificity, why such alternatives are unacceptable. The number of domestic non-availability determinations for the Berry Amendment covering Fiscal Year 2020 (as of July 6, 2020) and the last three fiscal years prior are: Fiscal Year 2020—8; Fiscal Year 2019—3; Fiscal Year 2018—9; and Fiscal Year 2017—4. [See page 36.]

RESPONSES TO QUESTIONS SUBMITTED BY MS. HOULAHAN

Secretary LORD. From late April until the beginning of July, the JATF hosted an industry portal into which companies with potential solutions for COVID response could submit their ideas. We received numerous submissions and pursued all those that seemed viable from a financial, manufacturing, and production perspective. On July 10 until August 7, we shifted our focus to the JATF Commercial Solutions Opening, which was informed by the industry portal submissions and provided industry with four focus areas and more detailed criteria which we were using to evaluate industrial base expansion efforts. The focus areas were N-95 respirators and surgical masks, pharmaceuticals, screening & diagnostics, and personal protective equipment. The evolution of the industry portal—which was broader and more open—to the CSO coincided with the evolution of the JATF's support to HHS and the interagency's response to the COVID crisis. We continue to solicit ideas from industry with domestic production capacity, including in Puerto Rico. We recently awarded a \$4.9M contract to Pall Corporation to expand their manufacturing of ventilator consumables in their factory in Puerto Rico. We are working with a second company who produces critical supplies for testing to expand production in Puerto Rico. Additionally, we are investigating several opportunities in the pharmaceutical supply chain. [See page 40.]

Secretary LORD. During this time, it is critically important that the Department undertake all that it can to maintain and grow our defense industrial base, and there are a number of resources that companies can take advantage of to learn about those tools which may be available to them.

- The Department of Defense's Office of Small Business Programs, in conjunction with the Defense Acquisition University, are putting on a series of webinars to help answer companies' questions about a variety of topics. Companies can sign up for the webinars at <https://business.defense.gov/Events/Webinars/>.
- The Office of Small Business Programs also retains an events page, which helps to aggregate those events across the department that are devoted to small business. This can be found here: <https://business.defense.gov/Events/>
- The Office of Industrial Policy has a number of FAQs regarding the COVID-19 response that can be found here: <https://www.businessdefense.gov/corona-virus/>

These additional websites also provide information on resources available to support businesses currently within the U.S. defense industrial base, as well as direction for those interested in becoming part of the industrial base.

- Commercial Solutions Opening: <https://fedsim.gsa.gov/CSOClient.html>
- Defense Production Act Title III: <https://www.businessdefense.gov/Programs/DPATitle-III/>
- Trusted Capital Marketplace: <https://www.businessdefense.gov/Trusted-Capital/>
- Developmental Finance Corporation: <https://www.dfc.gov/>
- The Office of Small Business Programs: <https://www.businessdefense.gov/Small-Business-Programs/>

[See page 41.]

QUESTIONS SUBMITTED BY MEMBERS POST HEARING

JUNE 10, 2020

QUESTIONS SUBMITTED BY MR. WILSON

Mr. WILSON. I have heard from a number of groups representing Federal contractors about concerns with guidance issued on Paycheck Protection Program loans for DOD contractors. In the Frequently Asked Questions section of the Office of Defense Pricing & Contracting implementation guidance for section 3610 of the CARES Act, the answer to Question 23 states that “to the extent that PPP credits are allocable to costs allowed under a contract, the government should receive a credit or a reduction in billing for any PPP loans or loan payments that are forgiven.”

I’d like to enter into the record a letter signed by 14 stakeholder organizations representing thousands of small businesses that explains their concerns with this guidance. Essentially, they contend that the application of a credit to the direct or indirect costs of a small business government contractor who has properly qualified for the PPP loan forgiveness would be contrary to the intent of the PPP program and would harm small businesses by essentially requiring them to repay the loan through such credits. If any forgiveness of the proceeds of properly utilized PPP loans ultimately must get credited back to the Federal Government by contractors, then these loans are not truly forgivable. Depending on how the credits are allocated, including to the firm’s overhead costs, they may be in a worse financial position in future years than had they not taken the loan at all.

[The letter referred to can be found in the Appendix on page 66.]

Can you please provide clarification on the treatment of PPP loan forgiveness for small business government contractors to address these concerns?

Secretary LORD. The Department of Defense (DOD) has examined how the Paycheck Protection Program (PPP), established by section 1102 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116–136), impacts its authority to provide reimbursement to contractors pursuant to section 3610 of the CARES Act. The Department’s position is that it is required, by section 3610 of the CARES Act, to reduce the amount of reimbursement provided to a contractor under section 3610 by the amount of any PPP loan forgiven for that contractor.

- Section 3610 of the CARES Act is a discretionary authority allowing agencies to reimburse contractors for paid leave a contractor provides to keep its employees or subcontractors in a ready state during the public health emergency declared for the Coronavirus Disease 2019 (COVID–19) pandemic, subject to certain conditions.
- Congress explicitly limited agencies’ authority to reimburse contractors for paid leave in section 3610: “Provided, that the maximum reimbursement authorized by this section shall be reduced by the amount of credit a contractor is allowed pursuant to division G of Public Law 116–127 and any applicable credits a contractor is allowed under this Act.”
- The Department reasonably interprets “any applicable credits a contractor is allowed under this Act” to include forgiven PPP loans. Although section 3610 of the CARES Act does not specifically refer to the PPP or section 1102 of the CARES Act (or section 1106, which provides for PPP loan forgiveness) PPP loans are provided under the CARES Act (i.e., “this Act”), and, when forgiven, PPP loans thus become “credits”¹ a contractor is allowed under the CARES Act.
- The Department therefore understands that it is required, by statute, to reduce the amount of reimbursement provided to a contractor under section 3610 by the amount of any PPP loan forgiven for that contractor. This is a legal requirement. To understand section 3610 differently could allow for contractors to obtain duplicate recovery of their paid leave costs.
- The requirement in section 3610 to reduce the maximum reimbursement for paid sick leave a contractor may receive by the amount of “any applicable

¹ Although any loan a contractor is eligible to receive under the PPP would constitute “credits a contractor is allowed under” the CARES Act, the Department has determined that it would be unreasonable and contrary to Congressional intent to interpret section 3610 as requiring the maximum reimbursement it is authorized to provide to a contractor to be reduced by the amount of loans a contractor is eligible to receive under the PPP, or by the amount of PPP loans a contractor repays to the Government.

credits a contractor is allowed under” the CARES Act contains no restriction that the “applicable credits” the contractor is allowed were provided or used for the same costs as section 3610 reimbursement payments. Thus, section 3610 reimbursement amounts must, by law, be reduced for any credits a contractor is allowed under the CARES Act, even if such credits are not provided for the contractor’s paid leave costs.

QUESTIONS SUBMITTED BY MR. TURNER

Mr. TURNER. In the Department’s May 29th CARES Act spending plan, DOD mentioned plans for a “Coronavirus detection-by-sequencing” platform. Can you share more about this initiative and are you actively looking to partner with the bio-industrial members of the defense industrial base that has long been working alongside DOD on sequencing platforms and projects?

Secretary LORD. The DOD’s SARS-CoV-2 sequencing efforts, led by the Armed Forces Health Surveillance Branch’s Global Emerging Infections Surveillance (GEIS) section, used its existing partnerships with Army, Navy, and Air Force public health and medical research laboratories to jumpstart the effort. This connection helped to establish a collaborative approach to the sequencing capabilities. Sequence data from this collaboration will provide critical information about transmission patterns, track diagnostic effectiveness, and guide the development and evaluation of medical countermeasures for the 1.4 million active duty and 331,000 reserve personnel. In addition, efforts to evaluate “detection-by-sequencing” methods have been initiated by multiple DOD laboratories to determine the feasibility and cost parameters of implementing this process for large-scale screening and testing. Each of these efforts have continued to be coordinated with industry partners to ensure the latest technologies and capabilities are being implemented by DOD laboratories, and to establish high-quality repository of full genome sequences of SARS-CoV-2 from across the Joint Forces. The DOD has also continued engagement with HHS and other interagency partners to exchange best practices and leverage other existing industry partnerships to ensure analysis methods and logistic considerations are being optimized across the network. Additional engagements with industry and interagency partners seek to develop a DOD-based data infrastructure to complement national genomic databases. This capability would enable accurate, efficient, and secure access to genomic, clinical, and epidemiologic data across multiple sources to support public health response to the SARS-CoV-2 pandemic and improve preparedness for other emerging pathogens with epidemic or pandemic potential. Our DOD laboratories have existing partnerships with industrial experts in sequencing technologies utilized for past infectious disease outbreaks. Our teams are leveraging these relationships for expanding capability today.

Mr. TURNER. I understand that the current expiration date for section 3610, Federal Contractor Authority, of the CARES Act is September 30th. It seems very unlikely, based on current public health projections and agency return to work plans, that access to national security facilities will be back to pre-COVID-19 levels by September 30th. Additionally, I am concerned about the ability of small business subcontractors to carry staff for extended periods without revenue and how the turning off of relief provided for by section 3610 starting October 1 would severely impact ready state support to DOD missions. Because facility restrictions and constraints may still be in place with continuing impact to the industrial base, do you agree with me that section 3610 coverage should be extended by Congress beyond to September 30th?

Secretary LORD. The Department anticipates COVID-19 impacts to industry requiring continued use of paid leave beyond the current September 30, 2020 date. The Department has no objections to an extension beyond September.

Mr. TURNER. A question regarding the implementation of section 3610 of the CARES Act, which provided much needed relief for the national security contractor workforce. The level of detail being required for small and large contractors seeking reimbursement under section 3610 by DOD in draft guidance appears to be onerous and may significantly impact their ability to invoice for costs that industry has been incurring since March to maintain the industrial base. Further, because of the complexity that the Department is creating from a process perspective, DOD has not even been able to finalize its guidance, and the national security workforce is very hesitant to move forward with contractor requests for reimbursement without guidance. The result is that DOD is lagging well behind other agencies where invoices are being submitted and paid. What can DOD do to simplify the process so that the industrial base can invoice and be paid for costs covered by the CARES Act?

Secretary LORD. DOD issued guidance on April 9th on how to modify contracts as required by the Act to enable payment of claims under section 3610. The guidance called for creating a line item or line items for the 3610 paid leave costs so that those could be segregated and tracked. We are preparing to publish additional guidance that recommends, regardless of the original contract type, the contracting officer create a firm fixed price line item for reimbursement of section 3610 paid leave costs. Once the funded line item is included in a contract modification, the contractor can invoice immediately for the full amount of the line item. While we understand the need to reimburse section 3610 paid leave costs promptly, the Department must ensure that reimbursement requests include sufficient data to verify that contractors are reimbursed only for paid leave costs that meet the criteria in section 3610 and that they are not reimbursed more than once for the same costs. Through July 31, 67 percent of the Department's section 3610 reimbursement requests were paid within 15 days. The Department believes that the principal reason we have received a limited number of section 3610 reimbursement requests is that no dedicated funds are available for such reimbursements. Contractors are aware that section 3610 reimbursement is "subject to available funding," and will not expend resources to prepare a reimbursement request unless they have a reasonable expectation that funds are available.

QUESTIONS SUBMITTED BY MR. WITTMAN

Mr. WITTMAN. Secretary Lord, can you please lay out a clear definition for the committee as to what the Department is categorizing as COVID related cost impacts to the defense industrial base?

In doing so can you also distinguish between COVID cost impacts that are covered under section 3610 of the CARES Act and related costs beyond the scope of 3610?

Secretary LORD. Section 3610 of the CARES Act is specifically for the costs of paid leave a contractor or subcontractor provides to its employees to keep its workforce in a ready state, including to protect the life and safety of Government and contractor personnel, when they are unable to work because of a facility shutdown (company or government facility) or other COVID-19-related restrictions. Other COVID-19-related costs may include costs of providing personal protective equipment, additional cleaning costs, supply chain disruption costs, and costs stemming from production inefficiencies such as changing a factory floor layout to provide social distancing.

Mr. WITTMAN. Secretary Lord, you have previously stated that you expect the pandemic to delay major programs by about 3 months and require a supplement of "billions and billions" of dollars to reimburse contractors required to remain in a "ready state."

a. Can you describe to the committee what steps the Department is taking to collect and compile COVID related cost impact data across the defense industrial base?

b. When do you believe you will have enough data to develop a cost estimate with sufficient fidelity to bound the problem and present it to Congress?

c. Some have suggested that the costs defense industry wide could be as high as \$20B. Do you have any preliminary estimates that you could share at this time?

Secretary LORD. a. We have requested and received rough order of magnitude estimates from some of our major contractors. A summary spreadsheet can be made available setting forth the DOD estimate. It should be noted that our estimate was based on assumptions around lost efficiency and the cost impact that it would drive, and was not based on a bottoms up estimate of all the details of 3610 costs, PPE costs, etc.

b. Better cost estimates can only be made after submission of full proposals from industry for their COVID-19 related costs. Industry is understandably hesitant to expend resources to prepare such proposals without assurance that funds are available for reimbursement of these costs.

c. The Department has made its initial request for \$10.8B for COVID-19 related costs, including section 3610 paid leave costs, but COVID-19 impacts have already gone on longer than assumed and continue to be an issue. Given the uncertainty about the trajectory of the COVID-19 health emergency and the resultant long-term impacts such as production inefficiencies and lost sources of supply, it is not unreasonable to estimate the Defense industry-wide cost impact may be as high as \$20B.

Mr. WITTMAN. Do you believe that if we do not address these issues now, much of the good work undertaken by the Department and industry to maintain the viability of the defense industrial during this crisis could be undone?

Secretary LORD. Yes—While the Department has made great strides mitigating risks in the Defense Industrial Base (DIB) exacerbated by the COVID-19 pandemic,

many critical companies still remain vulnerable. Continued investments into essential businesses would lower the probabilities of potential irreversible negative impacts to the DIB. Small businesses remain particularly vulnerable as they do not have the necessary capital or resources to weather the ongoing market conditions. In recognition of the risk the COVID-19 pandemic has created for essential small businesses, DOD used 64% of the Defense Production Act (DPA) Title III CARES Act allocation to support struggling small businesses, and the Small Business Program Office routinely communicates with more than 4,500 small businesses through webinars and calls with 14 trade associations. The Department remains committed to ensuring the continued viability of critical companies and the preservation of the DIB.

Mr. WITTMAN. What processes or mechanisms are you considering to efficiently manage what is likely to be a coming wave of COVID REAs from the defense industry?

Secretary LORD. We will soon publish a detailed process for managing industry requests for reimbursement of section 3610 paid leave costs, including instructions for what information industry should include in reimbursement proposals. Internal to the Department, we are establishing procedures for prioritization of industry requests and for managing any funds that may be appropriated for the purpose of section 3610 reimbursements. Requests for reimbursement of COVID-19 costs not covered by section 3610 will be addressed in accordance with normal procedures for equitable adjustment of contract schedules and prices. This process begins with a contractor request for equitable adjustment (REA), and Industry REA proposals will be reviewed and negotiated just like any other proposed effort. To date, we have received few COVID-19 REAs because contractors are aware that no funding has been provided to the Department for reimbursement of such costs.

QUESTIONS SUBMITTED BY MRS. HARTZLER

Mrs. HARTZLER. Secretary Lord, China is the principal developer of active pharmaceutical ingredients for generic prescription drugs, which account for approximately 90 percent of pharmaceuticals used in the United States. The current pandemic has shed light on this vulnerability and highlights the urgency in ending China's chokehold on the global pharmaceutical supply chain. Representative Garamendi and I introduced H.R. 4710, the Pharmaceutical Independence Long-Term Readiness Reform Act, which seeks to take the first step in tackling this issue by ensuring our military's medications are produced in the United States. Representative Garamendi and I are working to ensure our bill is included in this year's NDAA. On April 21st of this year, following one of our committee briefings with you, we sent a follow-up letter to you highlighting these concerns.

Is the Department of Defense using the Defense Production Act to stand up American industry to produce pharmaceuticals in the United States for our men and women in uniform? If not, what is the Department of Defense doing to protect our military's medications?

Secretary LORD. Over the past few decades there has been offshoring of pharmaceutical manufacturing, especially active pharmaceutical ingredient (API) production and fill-finish/final dosage form production, primarily in the generic drug industry which represents 85–90% of all drugs. Increasingly more APIs are manufactured in China and India, creating a strategic risk for the nation. Reshoring domestic capacity requires capital investment in new infrastructure and machinery and it will take years to see the results of these investment using traditional processes. The DOD is evaluating advanced manufacturing capabilities, i.e. continuous flow manufacturing, which is different than the traditional batch manufacturing processes used by the pharmaceutical industry. While this new technology needs to be matured—most companies have 12–18 month timelines for regulatory approvals—it does have great potential to accelerate flexible and sustainable domestic pharmaceutical manufacturing. Long term solutions to the offshoring challenge in pharmaceuticals will require a combination of legislative and regulatory reforms to entice manufacturers to establish and sustain a domestic presence. Current inventory levels of the pharmaceuticals for the DOD are healthy and have been throughout the pandemic. The Department will continue to work closely with the interagency regarding the application of DPA authorities to aid in the national COVID-19 response where and when called upon. There have not been any DPA activities to date for domestically producing pharmaceuticals for the Services. The current efforts being reviewed in the pharmaceutical sector would likely be funded by the HHS CARES Act and in support of the Strategic National Stockpile.

QUESTIONS SUBMITTED BY MS. HORN

Ms. HORN. Secretary Lord, the current expiration date for section 3610 of the CARES Act is September 30. It seems unlikely, based on current public health projections and agency return to work plans, that access to national security facilities will be back to pre-COVID-19 levels by September 30th. I am concerned about the ability of small business subcontractors to carry staff for extended periods without revenue and turning off relief from section 3610 starting October 1 would severely impact ready state support to DOD missions. Because facility restrictions and constraints will still be in place with continuing impact to the industrial base, do you agree with me that section 3610 coverage should be extended beyond to September 30th?

Secretary LORD. The Department anticipates COVID-19 impacts to industry requiring continued use of paid leave beyond the current September 30, 2020 date. The Department has no objections to an extension beyond September.

Ms. HORN. Secretary Lord, section 3610 of the CARES Act provided much needed relief for the national security contractor workforce. However, the level of detail being required for small and large DOD contractors seeking reimbursement under section 3610 in draft guidance appears to be onerous and may impact their ability to invoice for costs that industry has been incurring since March to maintain the industrial base. Additionally, DOD has not finalized its guidance, and the national security workforce is very hesitant to move forward with contractor requests for reimbursement without guidance. The result is that DOD is lagging well behind other agencies where invoices are being submitted and paid. What can DOD do to simplify the process so that the industrial base can invoice and be paid for costs covered by the CARES Act?

Secretary LORD. The Department is providing additional guidance based on inputs received from the draft guidance mentioned in your question. Defense Pricing and Contracting is developing an Abbreviated Guidance Checklist for section 3610 reimbursement requests that will be applicable to requests less than \$2M for paid leave provided to direct-charged employees under a single contract, a Global Guidance Checklist for requests at a division or corporate level, and a Multipurpose Guidance Checklist for when the Abbreviated Checklist or Global Checklist is not applicable. Based on industry feedback, the Department is implementing a two-step process, in which contractors can submit a rough order of magnitude (ROM) and inquire if funds are available prior to submitting a formal section 3610 reimbursement request. This new guidance and accompanying Checklists are expected to be issued by mid-August. As I have testified previously, I believe the biggest impediment is the lack of dedicated congressional funding for section 3610 reimbursement.

QUESTIONS SUBMITTED BY MR. BANKS

Mr. BANKS. Are current DOD policies effective in checking and reversing the atrophy of key and unique talent, such as engineers and designers, specialty craftsman?

Secretary LORD. Yes. Facing similar challenges as industry, through policies and also programs, DOD uses a variety of talent management tools to attract and retain DOD technical talent. Tools include contribution-based personnel programs for acquisition organizations and DOD Science and Technology Research Labs, flexible hiring authorities, training and development, exchange programs, recruiting and retention incentives and recognition programs. The Defense Acquisition Workforce Development Account provides funding for targeted hiring of acquisition workforce technical talent and also retention incentives, such as student loan repayment. DOD also implements the 10 U.S.C. 1706, Government Performance of Critical Acquisition Functions through policy which includes establishment of technical key leadership positions in acquisition, such as the Chief Engineer and Chief Developmental Tester, which requires a three year tenure agreement.

Mr. BANKS. How effectively are current authorities, such as multi-year purchasing and block buys, being employed to strengthen the purchasing power of the DOD budget? How well do new and existing programs contemplate and execute those authorities?

Secretary LORD. Multi-year procurement (MYP) and block buy contracting provide an alternative contracting mechanism for the Department compared to the standard annual contracting, and are used to reduce weapon system costs by several percent. A 2012 briefing by the Cost Assessment and Program Evaluation office found that MYP savings for four aircraft procurement programs ranged from 2% to 8%, but the briefing also stated that actual savings from using MYP rather than annual contracting are difficult to verify since the annual contracting path was not chosen. Block buy contracting has been used much less frequently than MYP, but has pro-

vided the flexibility to programs that do not meet the MYP statutory criteria but would still benefit from using a single contract for more than one year's worth of procurement. Since FY11, Congress has authorized MYP 21 times for programs from all military services, including some programs approved more than once. Block buy contracting has been used four times since it was initialized in the FY98 National Defense Authorization Act.

Mr. BANKS. Is there adequate testing facility bandwidth to match the scale and pace at which we are developing hypersonic systems? If not, what specific measures could be taken now, at a time when we're making targeted investments to support the industrial base, to ensure we are able to meet future testing demand?

Secretary LORD. Per the Office of the Under Secretary for Research and Engineering, the Test Resource Management Center (TRMC) is the Defense Field Activity responsible for assessing readiness of the department's test infrastructure. The TRMC makes test infrastructure modernization investments to address enterprise test capability and capacity needs. Hypersonic ground and flight testing demand exceeds current capacity of the hypersonics test infrastructure. The TRMC's strategic planning process anticipated the increased demand for testing of hypersonic systems and has prioritized and programmed \$768M (PB21) to address the most critical hypersonic test infrastructure capacity and capability needs. To support the acceleration of hypersonic system development, test, and fielding, the Department is considering what investments are required in the out years to ensure future high priority testing demand and capability needs are met. Investments under consideration include increased capacity at critical ground test facilities, establishment of additional long range flight test corridors to offload demand from the Pacific, and investment in airborne test instrumentation platforms to increase throughput and capability. These additional investments will allow hypersonics test infrastructure to meet future testing demand from current hypersonic programs and future technology demonstrators. The TRMC is currently completing two reports to Congress to address Department's hypersonic test capability, capacity, and workforce, as required by the Senate Report accompanying S1790 the 2020 NDAA. These reports will be delivered to the Committee by January 2021.

QUESTIONS SUBMITTED BY MS. TORRES SMALL

Ms. TORRES SMALL. Understanding that an effective vaccine for COVID-19 may be some months or years away, I am interested to learn in what other diagnostic or screening capabilities the Department is investing in. Several articles over the last few months note DOD is procuring items such as thermal cameras. While that solution may identify symptomatic individuals, it will not detect individuals that are asymptomatic or pre-symptomatic and no test exists currently that is truly "instant".

1. What is Acquisition and Sustainment doing, in conjunction with their counterparts at Research and Evaluation, to rapidly develop advanced capabilities, such as remote sensing, and get them in the field as fast as possible?

2. How are you supporting work done by DTRA and others on this type of approach?

Secretary LORD. A&S is providing contracting and program management expertise to enable capability for the DOD and the Department of Health and Human Services. DOD research on these problem sets falls under the Under Secretary of Defense for Personnel and Readiness, who coordinates closely with the JATF and the Defense Health Agency. Additional efforts are also being conducted by DARPA. DOD, led by the JATF, has made industrial base expansion investments to support onshoring of screening and diagnostics solutions. A&S contracting and logistics experts have supported the execution of HHS funding to enable the following:

- \$7.6 million undefinitized contract award to Hologic, Inc. on July 25 to expand domestic production of custom sample collection and processing consumables to support increased production and availability of COVID-19 tests for the United States. These Tube, Cap, and Multi-tube Unit (MTU) consumables are critical for performing molecular diagnostic tests on the Panther and Panther Fusion systems.
- \$24.3 million contract to Becton, Dickinson and Company (BD) on July 30 to establish and expand domestic production of SARS-CoV-2 rapid point-of-care (POC) tests used for COVID-19 testing on the BD Veritor™ Plus analyzers. More than 25,000 BD Plus Veritor™ instruments exist in the U.S. in urgent care centers, physician offices, acute care facilities and other health care locations. This investment in equipment procurement and facility renovations will support the establishment and expansion of COVID-19 test production in Cali-

ifornia, Pennsylvania, and Massachusetts for U.S. consumption, with an initial manufacturing scale-up to 4 million tests per month by the end of September 2020, and subsequent scale-up to enable a final production rate of 8 million tests per month by the end of February 2021.

DOD is also conducting research with several of the new POC tests in asymptomatic populations to compare their ability to detect asymptomatic cases compared to PCR based testing. If those tests demonstrate similar capability to PCR, then that data will support potential expansion of the FDA EUAs for surveillance efforts, allowing rapid expansion for a quick turnaround alternative.

QUESTIONS SUBMITTED BY MS. HAALAND

Ms. HAALAND. Can you describe the plans currently underway to build the capacity that is needed within the department to manage and accelerate the spend plan you released on May 29th?

Secretary LORD. Since the enactment of the CARES Act on April 6, DOD has engaged in a collaborative and focused execution plan for the funding appropriated to the Defense Production Act (DPA) Title III program. In order to accelerate the spend plan, the DPA Title III Executive Agent (EA) Program Office has used the full spectrum of acquisition tools ensuring companies can begin performance as soon as possible. The EA further collaborated with contracting offices that had existing, more expedient contract vehicles to which work could be added. These efforts greatly reduced the timeline from issue identification to agreement performance, and resulted in funds flowing to the companies that urgently needed assistance. As of the first week of August, the DPA Title III Program Office has issued awards totaling \$847.37M to defense industrial base companies impacted by the pandemic, as well as allocated \$100M to a COVID-19 response loan program in conjunction with the United States International Development Finance Corporation (DFC) in support of the DPA title III Loan Program, in accordance with Executive Order 13922 (May 14, 2020). These actions account for 94.7% of the appropriation. The Department anticipates awarding the remainder of the CARES Act funding appropriated to DPA Title III over the next 30–60 days.

Ms. HAALAND. In keeping with the efforts to shore up the critical Space Industrial Base, Secretary Lord, you've spoken publicly about your concerns over the small launch industrial base as a result of the COVID-19 pandemic. How do you see the \$150M funding in the Department's CARES Act spending plan to "support and maintain a competitive space launch industrial base" being used to ensure new and innovative capabilities are available to the military, such as responsive small launch?

Secretary LORD. A healthy and resilient space industrial base is essential to national defense and the Department has utilized CARES Act funding to make investments to sustain key space industrial base capabilities such as domestic solar panel arrays, and essential space qualified materials. Within this important sector, the small launch industrial base remains a priority for the DOD. The forecasted small launch initiative in the CARES Act spend plan remains an area of focus and we continue to closely monitor the state of the small launch industrial base in concert with the Air Force and Space Force (SMC/ECL).

Ms. HAALAND. My final question is for the thousands of small businesses that supply the DIB, and especially as we've spoken about previously the very vulnerable growing Space Industrial Base. If I am a small business owner struggling during COVID to meet demands and remain operational under the national security orders to stay open, how do I navigate the maze of policies and constantly updated guidelines on your industry portal? What infrastructure are you putting in place to help stakeholders navigate and find the answers they need to continue operating in the complex and massive undertaking you're managing?

Secretary LORD. The Department is dedicated to assisting small businesses grow their engagement with the DOD—especially amid the myriad challenges presented by COVID-19. Small business holds an important place within the Defense Industrial Base, especially in the emerging domain of space technology. The Office of Small Business Programs (www.businessdefense.gov/Small-Business-Programs) provides resources and information to assist small businesses. In addition, there is a visual representation of how to do business with the Department at www.businessdefense.gov/resources.