

**Congress of the United States**  
Washington, D.C. 20515

April 9, 2020

The Honorable Dr. Mark Esper  
Secretary of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301

The Honorable Alex Azar  
Secretary of Health and Human Services  
200 Independence Avenue S.W.  
Washington D.C. 20201

Dear Secretary Esper and Secretary Azar:

The coronavirus disease 2019 (COVID-19) pandemic continues to pose a grave threat to the American people and the broader economy. According to the Centers for Disease Control and Prevention (CDC), there have been at least 12,754 deaths and 395,011 cases across all 50 states, the District of Columbia, Puerto Rico, Guam, Northern Marianas, and U.S. Virgin Islands as of April 8, 2020,<sup>1</sup> and these staggering numbers continue to grow.

In the face of this crisis, health care professionals across the country are struggling to both save the lives of their patients and protect themselves from this deadly pandemic. Last week President Trump stated that the Strategic National Stockpile was exhausted, and critically needed medical supplies and equipment, including personal protection equipment (PPE), are being shipped directly to hospitals and other health care providers around the country.<sup>2</sup> On March 27, 2020 and April 2, 2020, the President invoked the Defense Production Act (DPA)<sup>3</sup> to enable six firms to expedite the production of ventilators<sup>4</sup> which, as you know, are imperative to life-saving treatment for Americans with severe symptoms arising out of COVID-19.

It is clear that it is a critical national priority and essential to saving American lives that the Department of Defense and the Department of Health and Human Services, working in close cooperation with one another and with FEMA and other federal agencies, do all they can to assist in the production, purchase and distribution of critically needed medical supplies, treatment and equipment. Although diagnostic tests are evolving, many existing tests require that testing personnel have PPE, and as the COVID-19 pandemic crests in the United States, we cannot

---

<sup>1</sup> See Center for Disease Control and Prevention, Cases in U.S., <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (accessed April 8, 2020)

<sup>2</sup> Transcript of Remarks at the White House Coronavirus Task Force Briefing (April 1, 2020), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-16/>

<sup>3</sup> 50 U.S.C. 4501 (et. seq.)

<sup>4</sup> Memorandum on Order under the Defense Production Act Regarding General Motors (March 27, 2020); Memorandum on Order under the Defense Production Act Regarding Purchase of Ventilators (April 2, 2020)

expect our heroic medical professionals to continue their tireless service to the American people by providing life-saving treatment such as through the use of ventilators without sufficient PPE.

In this context, we urge you to collaborate closely and intensify your efforts to use the full resources of the DPA to address this critical shortage. In particular, we note that Congress took the extraordinary step of appropriating \$1 billion to carry out the Title III authorities of the DPA in H.R. 748, the Coronavirus Aid, Relief, and Economic Security (CARES) Act,<sup>5</sup> and waived a number of requirements in the DPA to expedite use of its authorities.<sup>6</sup> Those funds are to be made available under DPA Title III specifically to ensure that domestic production capacity necessary to supply US COVID-19-related medical needs can be rapidly expanded. We note that the CARES Act already provides significant funding for businesses in the United States, including funding specifically for small business<sup>7</sup> and to support businesses critical to maintaining U.S. national security.<sup>8</sup> Thus, funding is already available in the CARES Act to support the defense industrial base without resorting to funds available for Title III of the Defense Production Act.

During floor consideration of H.R. 748, members of Congress focused on the need to increase the supply of critically needed medical supplies, treatment and equipment, and stated that the \$1 billion for Defense Production Act purchases was “to be used to help expand our domestic productive capacity for critically needed medical supplies or equipment, to purchase such supplies or equipment where necessary and to address other needs that directly relate to meeting the emergency medical needs arising directly from the COVID–19 pandemic.”<sup>9</sup>

We urge you to coordinate closely together to combine the ample resources Congress provided to HHS, FEMA and other agencies to facilitate direct purchases of medical supplies, treatment and equipment, and dedicate the spending of the Title III appropriated \$1 billion to bolstering U.S. production of the full range of COVID-19 medical supplies and equipment, starting with PPE and any necessary investment in ventilator production but also ensuring that funds are available to bolster the production of key future needs, such as pharmaceuticals and medicines where the U.S. is critically dependent on foreign sources.

With many manufacturers already working overtime and at capacity, and supply chains strained, we must ensure that the capacity of American manufacturers and their supply chains is fully utilized and, where necessary, rapidly expanded using the full authorities of the DPA. These unique and powerful authorities, when combined, allow the federal government to prioritize and allocate medical supplies, treatment and equipment; to enable manufacturers to rapidly expand domestic manufacturing efforts to produce them; and to provide assurances to those manufacturers that the U.S. government will purchase and distribute to the hardest-hit areas of our nation all of the necessary medical equipment and supplies they can produce. It is imperative that the demand signals to our manufacturing sector -- in the form of purchase

---

<sup>5</sup> Title III, Division B, Public Law 116-136.

<sup>6</sup> Section 4017, Public Law 116-136

<sup>7</sup> See, e.g., <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>.

<sup>8</sup> Section 4003, Public Law 116-136.

<sup>9</sup> Congressional Record H1850 (Daily Ed. March 27, 2019) (Statement of Representative Maxine Waters).

agreements, purchase orders, contracts and other mechanisms, including support for critical supply chains -- be clear and unequivocal.

All of these efforts must be ramped up quickly for the sake of our health care professionals and the people that are vulnerable to and already sick with this deadly disease. The American people deserve nothing less.

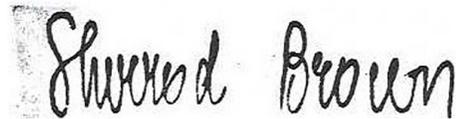
Thank you for your consideration of our request.

Sincerely,



---

Representative Maxine Waters  
Chairwoman, House Committee on  
Financial Services



---

Senator Sherrod Brown  
Ranking Member, Senate Committee  
on Banking, Housing and Urban Affairs

cc: Vice President Michael R. Pence  
Administrator Peter T. Gaynor, Federal Emergency Management Agency  
Commissioner Stephen Hahn, Food and Drug Administration  
Under Secretary for Acquisition and Sustainment Ellen Lord, Department of Defense