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April 21, 2020

The Honorable Peter Navarro  
Director of the Office of Trade and Manufacturing Policy  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. Navarro,

I write to you in your capacity as Defense Production Act (DPA) Policy Coordinator to request information about orders placed in response to the coronavirus (COVID-19) pandemic and funds remaining in the Defense Production Act Fund (DPAF). The DPA is a vital tool to make sure there are enough personal protective equipment (PPE), ventilators, swabs, tests, and other supplies needed to combat the coronavirus. Congress fulfilled its constitutional responsibility, adding \$1 billion to the DPAF in the CARES Act, which passed on March 27. Now, we ask that the Administration fulfill its duty to the American people by harnessing these funds to support Americans in the areas most impacted by infections of COVID-19.

Unfortunately, the information that the Administration has provided to Congress and the public has been opaque and contradictory, raising concerns that the DPA is not being used to the extent necessary. As you know, the Trump Administration did not issue an emergency declaration for the Coronavirus Pandemic until March 13, at which point 36 Americans had already died. Five days and 90 deaths later, on March 18, the Administration issued Executive Order 13909, making the DPA available for emergency contracts.<sup>1</sup> Two days later President Trump announced that he had ordered General Motors (GM) to make ventilators under the DPA, but GM was not contacted until at least April 2, and the order was not officially announced by the Department of Health and

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<sup>1</sup> "Prioritizing and Allocating Health and Medical Resources to Respond to the Spread of COVID-19," Executive Order 13909, March 18, 2020. Retrieved at: <https://www.federalregister.gov/documents/2020/03/23/2020-06161/prioritizing-and-allocating-health-and-medical-resources-to-respond-to-the-spread-of-covid-19>

Human Services until April 8—at which point nearly 15,000 Americans had already died.<sup>2,3,4</sup> Similarly, the Department of Defense did not announce its first order under the DPA until April 11, and did not finalize the order until April 20.<sup>5</sup>

Increasing the production of PPE and ventilators will save lives, but we still need to address the critical shortage of testing supplies before we can safely reopen the country. “We’re at a really critical juncture and the supply chain has not yet caught up,” says Scott Becker, chief executive of the Association of Public Health Laboratories.<sup>6</sup> “Across the board, labs do not have predictable, consistent access to the test kits and other supplies necessary for expanded testing capacity,” according to the American Clinical Laboratory Association.<sup>7</sup> These warnings stand in stark contrast to the President’s claims on April 15 that we have “the most expansive and accurate testing system anywhere in the world.”<sup>8</sup> Only on April 19, with more than 40,000 Americans dead, did the White House announce its first orders for tests under the DPA.<sup>9</sup>

The American people need clear, unambiguous answers about what the Trump Administration is doing in response to the coronavirus. That is why I am requesting a full list of DPA contracts issued in response to the pandemic, including award date, quantity, per-unit cost, and other information detailed in the appendix to this letter.

Congress needs answers as well. As part of the CARES Act, Congress added \$1 billion to the DPAF, in addition to the \$64.4 million appropriated for Fiscal Year 2020.<sup>10</sup> Despite this level of funding, recent news reports suggest it is not being spent to address COVID-19. The country cannot reopen without a thorough testing process in place, both for identification of new cases, and for antibodies in those who may have been infected, and the administration should be using the DPA to ensure testing supplies are available in sufficient quantities.

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<sup>2</sup> “Trump hasn’t ordered any ventilators from GM, despite saying he was using wartime powers to force production,” by John Fritze and Jayne O’Donnell, USA TODAY, April 2, 2020. Retrieved at: <https://www.usatoday.com/story/news/politics/2020/04/02/coronavirus-trump-said-force-gm-build-ventilators-he-hasnt/5100856002/>

<sup>3</sup> “HHS Announces Ventilator Contract with GM under Defense Production Act,” HHS Press Office, April 8, 2020. Retrieved at: <https://www.hhs.gov/about/news/2020/04/08/hhs-announces-ventilator-contract-with-gm-under-defense-production-act.html>

<sup>4</sup> “Coronavirus government response updates: Trump notes religious holidays amid crisis, CDC issues guidance allowing some to return to work,” by Libby Cathey, ABC News, April 8, 2020. Retrieved at: <https://abcnews.go.com/Politics/coronavirus-government-response-updates-trump-blames-cdc-issue/story?id=70041084>

<sup>5</sup> “DoD’s \$133m N95 mask contracts going to 3M, Honeywell, Owens & Minor,” by Chris Newmarker, MassDevice, April 20, 2020. Retrieved at <https://www.massdevice.com/dods-133m-n95-mask-contracts-going-to-3m-honeywell-owens-minor/>

<sup>6</sup> “Testing Falls Woefully Short as Trump Seeks an End to Stay-at-Home Orders,” by Abby Goodnough, Katie Thomas, and Sheila Kaplan, The New York Times, April 15, 2020. Retrieved at: <https://www.nytimes.com/2020/04/15/us/coronavirus-testing-trump.html>

<sup>7</sup> “Diagnostic testing supply shortages threaten coronavirus response,” by Caitlin Owens, Axios, April 13, 2020. Retrieved at: <https://www.axios.com/diagnostic-testing-shortages-coronavirus-6aea12b3-98e8-407d-aa7d-717eecdc156.html>

<sup>8</sup> “Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing,” as released by the White House, April 15, 2020. Retrieved at: <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-26/>

<sup>9</sup> “Trump invokes DPA for testing swabs, weeks after reported shortages,” by Alice Miranda Ollstein, POLITICO, April 19, 2020. Retrieved at: <https://www.politico.com/news/2020/04/19/trump-dpa-testing-swabs-reported-shortages-195721>

<sup>10</sup> “The Defense Production Act of 1950: History, Authorities, and Considerations for Congress,” Congressional Research Service, March 2, 2020. Retrieved at: <https://crsreports.congress.gov/product/pdf/R/R43767>

As Congress drafts the next relief package, it is crucial that we know how much money remains in the DPAF, and how the DPA funds provided in the CARES Act are being spent. I ask that you provide this information, with DPAF outlays for the Coronavirus, broken down by commodity, delegate agency, and priority rating.

Thank you for your attention to this matter. I hope for your response no later than Friday, April 24.

Very Truly Yours,

A handwritten signature in blue ink that reads "Katie Porter". The signature is written in a cursive, flowing style.

Katie Porter

Member of Congress

## Appendix

Please provide a full list of contracts issued in response to the Coronavirus under the Defense Production Act, including the following information:

1. The date the rated order was initiated;
2. A unique identifier assigned to the rated order;
3. The delegate agency;
4. The unique ID assigned to the delegate agency by the U.S. Treasury or other relevant federal agency;
5. The name of the vendor;
6. For the vendor, its Data Universal Numbering System (DUNS) identifier or a successor identifier or replacement identifier that is non-proprietary, and the Tax ID Number (TIN) number (unless it is a social security number);
7. The beneficial owner of the vendor;
8. The city that is the principal place of business for the vendor;
9. The state of the vendor's principal place of business expressed as a two-letter postal ID;
10. The five-digit zip code for the principal place of business for the vendor;
11. The place of performance;
12. A list of all the item(s) contained in the rated order;
13. The quantity of the item(s) contained in the rated order;
14. A crosswalk between each item contained in the order, the per-unit cost for the item, the quantity of that item ordered, the priority rating for each item, and the program identification symbol for each item;
15. The priority rating and program identification symbol for each of the item(s);
16. The date of promised delivery, in whole or in part;
17. The actual date of delivery; and
18. The date and nature of any modifications made to the original order, if applicable, and information about each of the modifications expressed in the format described above.