

November 13, 2020

The Honorable Christopher Miller  
Acting Secretary of Defense  
Department of Defense  
1400 Defense Blvd  
Washington, D.C. 20301

Dear Acting Secretary Miller:

I write to express my extreme concern regarding the persistent shortage of personal protective equipment (PPE), specifically N95 masks, for health care providers and front-line workers and other supplies, like reagents, needed for increased testing across the nation.

These products are critical to keeping workers safe and curtailing the spread of the Coronavirus Disease 2019 (COVID-19). Masks do not just protect workers, but also the general public. On September 16, the Centers for Disease Control and Prevention Director Robert Redfield said that masks are “the most important, powerful public health tool we have.”<sup>1</sup> Since the beginning of the pandemic, health care workers and front-line employees at grocery stores, post offices, and other community staples have faced barriers in procuring PPE. Months later, these providers continue to face these barriers and are left with having to reuse PPE.

In March 2020, Congress passed *The Coronavirus Aid, Relief, and Economic Security (CARES) Act* in the immediate aftermath of the COVID-19 outbreak to respond to the critical health and economic demands facing the nation.<sup>2</sup> In *The CARES Act*, Congress appropriated \$1 billion to the Department of Defense (DoD) under *the Defense Production Act (DPA)* “to increase access to materials necessary for national security and pandemic recovery” with the specific intent to “prevent, prepare for, and respond to coronavirus.”<sup>3</sup> This would, in theory, include the production of N95 masks and other PPE. However, *The Washington Post* reported that the Pentagon allocated parts of these vital funds to companies with no clear connection to COVID-19 response efforts, including millions of dollars for shipbuilding, drone technology, Army dress uniforms, and an aircraft parts company, disregarding Congressional intent.<sup>4</sup>

The Pentagon’s use of DPA funds beyond the direct pandemic response falls outside Congressional intent, and is even more disturbing given the shortage of PPE persists over eight months into the pandemic. This is precisely what the DPA was designed to prevent. According to a recent survey conducted by the *American Nurses Association*, one in three of 20,000 nurses say

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<sup>1</sup> <https://www.nytimes.com/2020/09/16/world/covid-coronavirus.html#link-12e31d64>

<sup>2</sup> <https://www.congress.gov/bill/116th-congress/house-bill/748>

<sup>3</sup> <https://www.congress.gov/bill/116th-congress/house-bill/748/text>

<sup>4</sup> <https://www.washingtonpost.com/business/2020/09/22/covid-funds-pentagon/>

they are “out” or “short” of N95 masks.<sup>5</sup> Sixty-eight percent of these nurses say they are required to reuse single-use PPE, and fifty-eight percent say they are reusing masks for five or more days. The majority of these nurses indicated that they do not feel safe with these practices. This sentiment reflects broader concerns among health care and front-line workers across the nation.

The COVID-19 pandemic has claimed over 230,000 American lives, and as you start to lead the DoD, I urge you to utilize the DPA to ensure the nation has all the resources necessary to face COVID-19 effectively. The Congressional intent and national shortages demonstrate that DPA funds allocated through the *CARES Act* should have been used to procure PPE and other critical supplies.

In light of your new authorities, I urge you to respond to the following inquiries no later than December 1, 2020:

- Describe in detail how the DoD plans to use DPA authority to increase the production of PPE and other medical supplies this year to address COVID-19. If the DoD does not plan on using the DPA for this purpose, explain why.
- Provide Congress with a report listing each award that the Department of Defense has granted, including to whom and for what purpose, to procure PPE.
- Detail the amount of funding that was allocated specifically for medical production purposes and the amount allocated for other pandemic response purposes.
- Describe the approval process at DoD for using DPA funds outside of what they were set forth for by the CARES Act and other law. Please detail if, when, and how you communicated this intent change to Congress.

Thank you for your prompt attention to this pressing matter, and I look forward to your response.

Sincerely,



Michael F. Bennet  
United States Senator

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<sup>5</sup> <https://www.nursingworld.org/~4a558d/globalassets/covid19/ana-ppe-survey-one-pager---final.pdf>