

Congress of the United States  
U.S. House of Representatives  
Committee on Small Business  
2561 Rayburn House Office Building  
Washington, DC 20515-6515

March 31, 2021

The Honorable Joseph R. Biden, Jr.  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear Mr. President:

The events of this past year have underscored the fragility of our medical preparedness as a nation. In this time of unprecedented disaster, we have witnessed a groundswell of activity from small businesses across the nation voluntarily enlisting their services to help protect and defend their fellow Americans from the Invisible Enemy. The collective efforts of these small businesses have made a significant impact in equipping our communities and front-line health care workers with personal protective equipment (PPE), particularly when such items were in short supply.

On January 21, 2021, you announced the “National Strategy for the COVID-19 Response and Pandemic Preparedness,”<sup>1</sup> which includes leveraging the Defense Production Act (DPA) to substantially increase the production of essential medical supplies including PPE, vaccinations, and testing supplies. Your corresponding Executive Order, “Executive Order on a Sustainable Public Health Supply Chain,”<sup>2</sup> authorizes certain executive agencies to use available legal authorities, including the DPA, to fill any deficits in the public health supply chain.<sup>3</sup> Because of the decisive, life-saving actions of the Trump Administration’s invoking of the DPA to generate N-95 respirators, ventilators, testing supplies, vaccination supplies, and other vital supplies, a solid foundation has been laid and this new Administration is well positioned to build upon those successes.

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<sup>1</sup> President Joseph R. Biden, Jr. *National Strategy for the COVID-19 Response and Pandemic Preparedness* (Jan. 2021).

<sup>2</sup> *Id.*

<sup>3</sup> Exec. Order No. 14001, 86 Fed. Reg. 7219 (2021).

To this end, we urge you to also consider the edict in Section 701 of the DPA, which declares “a strong preference for small business concerns which are subcontractors or suppliers...”<sup>4</sup> While large manufacturers are often viewed as the traditional and preferred source for procurements, it is undeniable that small businesses constitute a vast, untapped network of manufacturers, subcontractors, and suppliers producing high-quality, “Made in America” products. The potential value in harnessing this collective power to generate and distribute necessary supplies in the face of a national health crisis must not be ignored.

Even when facing the threat of the pandemic itself and a multitude of governmentally imposed operating restrictions, many of these innovators quickly pivoted to manufacturing medical supplies or PPE, fulfilling needs in their communities while also retaining their workforce.<sup>5</sup> The agility and nimbleness exemplified by these small companies proves that small businesses are a reliable resource when times are tough. In addition, a small business’s connection to local regions, particularly rural areas, is an overlooked asset that must be recognized as you take steps to implement your January 2021 National Strategy and Executive Order, and any future DPA actions this Administration may take.

In addition to the immense value utilizing these businesses may bring to our national public health supply chain, protecting this network of small business owners is also of vital economic importance. As we know, small businesses are the engine that run our economy. However, waves of lockdowns and other stifling precautionary measures have devastated small businesses and start-ups everywhere from our home states of Missouri and Florida to the Eastern and Western shores. Fears on Main Street abound as entrepreneur confidence plummets to just over half of an already decimated population believing their operations can withstand another year of shutdowns and other such restrictions.<sup>6</sup> Exercising DPA authorities to employ small businesses is not only a logistically sound solution to the nation’s supply chain deficits, it would also inject valuable cash flow into a severely struggling sector of our economy.

We must also stress that the advantage of the small business ecosystem lies in its collective impact. The imperative is in bolstering the public health supply chain for the national defense and restricting one subset of small businesses or promoting another simply based on gender or race may only serve to weaken the industrial base, which runs counter to the original purpose of invoking the Defense Production Act. Selection of DPA vendors must be made deliberately and carefully, maximizing the safety and security of the national supply chain while also promoting the recovery of small businesses, including those most vulnerable, nationwide.

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<sup>4</sup> 50 U.S.C. § 4551

<sup>5</sup> *An Overview of the Dynamic Between the Defense Production Act and Small Contractors: Hearing Before the H. Comm. On Small Bus.*, 116th Cong. (2020).

<sup>6</sup> Kate Rogers, *Main Street Business Failure Fears Rise Again in Pandemic Whipsaw*, CNBC (Feb. 2021), available at <https://www.cnbc.com/2021/02/12/main-street-business-failure-fears-rise-again-in-pandemic-whipsaw.html>.

While you consider the key role small businesses play in revitalizing and rebuilding our supply chain, we must also insist that the DPA is not a step to take lightly. Its authorities upend traditional contracting principles, such as full and fair competition, and places unique requirements on businesses that are not required in any other instance. The previous Administration recognized these limitations and moved thoughtfully and carefully to employ its DPA authority, maximizing the benefit to the public while minimizing disruption to private businesses. We urge you to do the same as you exercise your authority.

As always, we remain ready to assist this Administration in furthering the growth of our nation's small businesses.

Sincerely,



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Blaine Luetkemeyer  
Ranking Member  
House Committee on Small Business



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Maria Salazar  
Ranking Member  
Subcommittee on Contracting &  
Infrastructure  
House Committee on Small Business