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H. R. 6711

To provide for the expedited and transparent procurement and distribution of equipment and supplies needed to combat COVID–19.

IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2020

Mr. CROW (for himself, Ms. SLOTKIN, Mr. RYAN, Ms. PORTER, Mr. SCHNEIDER, Ms. SCANLON, Ms. GARCIA of Texas, Mr. ESPAILLAT, Ms. CRAIG, Mr. TONKO, Ms. ROYBAL-ALLARD, Ms. TLAIB, Mr. MALINOWSKI, Mr. NEGUSE, Mr. ROSE of New York, Mr. GALLEGO, Mr. CLAY, Ms. WEXTON, Mr. PAPPAS, Mr. KHANNA, Ms. KUSTER of New Hampshire, Mr. THOMPSON of Mississippi, Ms. SCHRIER, Mr. LEVIN of Michigan, Mr. ROUDA, Mr. KILMER, Mr. RUPPERSBERGER, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. LARSON of Connecticut, Mr. SOTO, Ms. DELAURO, Mr. RASKIN, Mrs. HAYES, Mrs. FLETCHER, Ms. UNDERWOOD, Mr. LEVIN of California, Ms. DEGETTE, Mr. TRONE, Mr. DEFazio, Mr. VARGAS, Mrs. LURIA, Mrs. DEMINGS, Ms. KAPTUR, Mr. DAVID SCOTT of Georgia, Mr. CISNEROS, Ms. VELÁZQUEZ, Mr. MOULTON, Ms. JACKSON LEE, and Ms. FUDGE) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Transportation and Infrastructure, Armed Services, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the expedited and transparent procurement and distribution of equipment and supplies needed to combat COVID–19.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Medical Supply Trans-
3 parency and Delivery Act”.

4 **SEC. 2. EMERGENCY PRODUCTION OF MEDICAL EQUIP-**
5 **MENT AND SUPPLIES TO ADDRESS COVID-19.**

6 (a) **EXECUTIVE OFFICER FOR CRITICAL MEDICAL**
7 **EQUIPMENT AND SUPPLIES.—**

8 (1) **APPOINTMENT.—**Not later than 3 days
9 after the date of the enactment of this Act, the Sec-
10 retary of Defense shall appoint, detail, or tempo-
11 rarily assign a civilian to serve as the Executive Of-
12 ficer for Critical Medical Equipment and Supplies
13 (in this section referred to as the “Executive Offi-
14 cer”), who shall—

15 (A) direct, through the National Response
16 Coordination Center of the Federal Emergency
17 Management Agency, the national production
18 and distribution of critical medical equipment
19 and supplies, including personal protective
20 equipment, in support of the response of the
21 Federal Emergency Management Agency to the
22 Coronavirus Disease 2019 (commonly known as
23 “COVID-19”); and

24 (B) report directly to the Administrator of
25 the Federal Emergency Management Agency

1 for the duration of the appointment, detail, or
2 temporary assignment.

3 (2) QUALIFICATIONS.—The Secretary of De-
4 fense, in consultation with the Administrator of the
5 Federal Emergency Management Agency, shall se-
6 lect the individual to serve as the Executive Officer
7 from among individuals with sufficient experience in
8 defense and industrial acquisition and production
9 matters, including such matters as described in sec-
10 tion 668(a)(1)(B) of title 10, United States Code.

11 (3) AUTHORITIES.—The Executive Officer, act-
12 ing through the National Response Coordination
13 Center and in direct consultation with the Secretary
14 of Homeland Security, the Secretary of Defense, the
15 Secretary of Health and Human Services, and the
16 Secretary of Commerce, shall use all available Fed-
17 eral acquisition authorities, including the authorities
18 described under sections 101(b), 102, 301, 302, 303,
19 704, 705, 706, 708(c) and (d), and 710 of the De-
20 fense Production Act of 1950 (50 U.S.C. 4511(b),
21 4512, 4531, 4532, 4533, 4554, 4555, 4556, 4558
22 (c) and (d), and 4560), to oversee all acquisition and
23 logistics functions related to the response by the Na-
24 tional Response Coordination Center to COVID–19.

1 (4) RESPONSIBILITIES.—The Executive Officer,
2 as the officer overseeing the acquisition and logistics
3 functions of the response by the National Response
4 Coordination Center to COVID–19, shall—

5 (A) receive all requests for equipment and
6 supplies, including personal protective equip-
7 ment, from States and Indian Tribes;

8 (B) make recommendations to the Presi-
9 dent on utilizing the full authorities available
10 under the Defense Production Act of 1950 (50
11 U.S.C. 4501 et seq.) to increase production ca-
12 pacity as identified under subparagraphs (C)
13 and (H) of subsection (c)(1);

14 (C) ensure that allocation of critical re-
15 sources is carried out in a manner consistent
16 with the needs identified in the reports required
17 by subsection (c);

18 (D) direct, in consultation with the Federal
19 Emergency Management Agency, the Depart-
20 ment of Health and Human Services, the De-
21 fense Logistics Agency, and other Federal agen-
22 cies as appropriate, all distribution of critical
23 equipment and supplies to the States and In-
24 dian Tribes, through existing commercial
25 distributers where practical;

1 (E) communicate with State and local gov-
2 ernments and Indian Tribes with respect to
3 availability and delivery schedule of equipment
4 and supplies;

5 (F) contribute to the COVID–19 strategic
6 testing plan required by title I of division B of
7 the Paycheck Protection Program and Health
8 Care Enhancement Act (Public Law 116–139)
9 to ensure the Secretary of Health and Human
10 Services includes in that plan a comprehensive
11 plan to scale production and optimize distribu-
12 tion of COVID–19 tests, including molecular,
13 antigen, and serological tests, in the United
14 States; and

15 (G) establish, in direct consultation with
16 the Secretary of Health and Human Services,
17 and the heads of any other appropriate Federal
18 agencies, a comprehensive plan to address nec-
19 essary supply chain issues in order to rapidly
20 scale up production of a SARS–CoV–2 vaccine.

21 (5) TRANSPARENCY.—The Executive Officer
22 shall make available, including on a publicly avail-
23 able website, information, updated not less fre-
24 quently than every 3 days, including—

25 (A) the reports required by subsection (c);

1 (B) requests for equipment and supplies
2 from State governments and Indian Tribes;

3 (C) standards used for data collection;

4 (D) modeling and any formulas used to de-
5 termine allocation of equipment and supplies,
6 and any related chain of command making final
7 decisions on allocations;

8 (E) the amount and destination of equip-
9 ment and supplies delivered;

10 (F) an explanation of why any portion of
11 a purchase order placed under subsection (d),
12 whether to replenish the Strategic National
13 Stockpile or otherwise, will not be filled;

14 (G) the percentage amounts of procured
15 products used to replenish the Strategic Na-
16 tional Stockpile, targeted to COVID-19 hot-
17 spots, or going into the commercial market;

18 (H) metrics, formulas, and criteria used to
19 determine hotspots or areas of critical need at
20 the State, county, and Indian Health Service
21 area level;

22 (I) production and procurement bench-
23 marks, where practicable; and

24 (J) results of the outreach and stakeholder
25 reviews required by subsection (c).

1 (6) ADDITIONAL PERSONNEL.—The Secretary
2 of Defense may detail members of the armed forces
3 on active duty, or additional civilian employees of
4 the Department of Defense, as appropriate, with rel-
5 evant experience in acquisition matters, to support
6 the Executive Officer.

7 (7) TERMINATION.—The office of the Executive
8 Officer shall terminate 30 days after the Executive
9 Officer certifies in writing to Congress that all needs
10 of States and Indian Tribes identified in reports
11 submitted under subsection (c) have been met and
12 all Federal Government stockpiles have been replen-
13 ished.

14 (b) COMMERCIAL SECTOR PARTICIPATION.—

15 (1) IN GENERAL.—The Executive Officer shall
16 collect and compile data from each of the commer-
17 cial distributors that is able to fulfill purchase orders
18 authorized by this Act through the Federal Emer-
19 gency Management Agency, the Defense Logistics
20 Agency, the Department of Health and Human
21 Services, the Department of Veterans Affairs, and
22 any other appropriate Federal agencies.

23 (2) DATA INCLUDED.—The data to be collected
24 and compiled under paragraph (1) includes—

1 (A) the name and address of each delivery
2 of supplies and equipment under a purchase
3 order authorized by this Act;

4 (B) the number of such supplies and
5 equipment delivered; and

6 (C) the date of each such delivery.

7 (c) REPORTS REQUIRED.—

8 (1) IN GENERAL.—Not later than 7 days after
9 the date of the enactment of this Act, and every 7
10 days thereafter until the termination date described
11 in subsection (a)(7), the Executive Officer, in coordi-
12 nation with the National Response Coordination
13 Center of the Federal Emergency Management
14 Agency, the Defense Logistics Agency, the Depart-
15 ment of Health and Human Services, the Depart-
16 ment of Veterans Affairs, and other Federal agen-
17 cies as appropriate, shall submit to Congress and the
18 President, and publish in a timely manner in the
19 Federal Register a summary of, a report including—

20 (A) an assessment of the needs of the
21 States and Indian Tribes for equipment and
22 supplies necessary to prevent, identify, mitigate,
23 and recover from cases of COVID–19, including
24 personal protective equipment, ventilators, test-
25 ing supplies, construction supplies, and emer-

1 agency food sources, for each month during the
2 2-year period beginning on the date of the en-
3 actment of this Act;

4 (B) an assessment of the quantities of
5 equipment and supplies in the Strategic Na-
6 tional Stockpile as of the date of the report and
7 the projected gap between the quantities of
8 equipment and supplies identified as needed in
9 the assessment under subparagraph (A) and the
10 quantities in the Stockpile;

11 (C) an identification of the industry sec-
12 tors and manufacturers most ready to fulfill
13 purchase orders for such equipment and sup-
14 plies, including manufacturers that may be
15 incentivized, through the exercise of authority
16 under section 303(e) of the Defense Production
17 Act of 1950 (50 U.S.C. 4533(e)), to modify, ex-
18 pand, or improve production processes to manu-
19 facture such equipment and supplies;

20 (D) an estimate of the funding and other
21 measures necessary to rapidly expand manufac-
22 turing production capacity for such equipment
23 and supplies, including—

24 (i) any efforts to expand, retool, or re-
25 configure production lines;

1 (ii) any efforts to establish new pro-
2 duction lines through the purchase and in-
3 stallation of new equipment; or

4 (iii) the issuance of additional con-
5 tracts, purchase orders, purchase guaran-
6 tees, or other similar measures;

7 (E) an identification of government and
8 privately owned stockpiles of equipment and
9 supplies not included in the Strategic National
10 Stockpile that could be repaired or refurbished;

11 (F) an identification of previously distrib-
12 uted critical supplies that can be redistributed
13 based on current need;

14 (G) an identification of critical areas of
15 need by county and Indian Health Service area
16 in the United States and the metrics and cri-
17 teria for their identification as critical;

18 (H) an inventory of the national produc-
19 tion capacity for equipment and supplies identi-
20 fied as needed in the assessment under sub-
21 paragraph (A); and

22 (I) an identification of the needs of essen-
23 tial employees and healthcare workers based on
24 regular stakeholder reviews.

1 (2) FORM OF REPORTS.—Each report required
2 by paragraph (1) shall be submitted in unclassified
3 form but may include a classified annex.

4 (d) PURCHASE ORDERS.—

5 (1) IN GENERAL.—Not later than 1 day after
6 receiving a report required under subsection (c), the
7 President, using authorities provided under the De-
8 fense Production Act of 1950 (50 U.S.C. 4501 et
9 seq.), shall—

10 (A) establish a fair and reasonable price
11 for the sale of equipment and supplies identified
12 in the reports required by subsection (c); and

13 (B) issue rated priority purchase orders
14 pursuant to Department of Defense Directive
15 4400.1, part 101, subpart A of title 45, Code
16 of Federal Regulations, or any other applicable
17 acquisition authority, to procure equipment and
18 supplies identified in the reports required by
19 subsection (c).

20 (2) DISPOSITION OF UNUSED EQUIPMENT AND
21 SUPPLIES.—Any equipment or supplies produced
22 pursuant to paragraph (1) using amounts from the
23 Defense Production Act Fund and in excess of needs
24 identified in reports required by subsection (c) shall
25 be deposited in the Strategic National Stockpile.

1 (3) AUTHORIZATION OF CONGRESS TO IMPOSE
2 PRICE CONTROLS.—Paragraph (1)(A) shall be
3 deemed to be a joint resolution authorizing the im-
4 position of price controls for purposes of section
5 104(a) of the Defense Production Act of 1950 (50
6 U.S.C. 4514(a)).

7 (e) WAIVER OF CERTAIN REQUIREMENTS.—The re-
8 quirements of sections 301(d)(1)(A), 302(d)(1), and sub-
9 paragraphs (B) and (C) of section 303(a)(6) of the De-
10 fense Production Act of 1950 (50 U.S.C. 4531(d)(1)(A),
11 4532(d)(1), and 4533(a)(6)) are waived for purposes of
12 this section until the termination date described in sub-
13 section (a)(6).

14 (f) FUNDING.—Amounts available in the Defense
15 Production Act Fund under section 304 of the Defense
16 Production Act of 1950 (50 U.S.C. 4534) shall be avail-
17 able for purchases made under this section.

18 (g) DEFINITIONS.—In this section:

19 (1) INDIAN TRIBE.—The term “Indian Tribe”
20 has the meaning given the term “Indian tribe” in
21 section 4 of the Indian Self-Determination and Edu-
22 cation Assistance Act (25 U.S.C. 5304).

23 (2) INDIAN HEALTH SERVICE AREA.—The term
24 “Indian Health Service area” has the meaning given

1 the term “Service area” in section 4 of the Indian
2 Health Care Improvement Act (25 U.S.C. 1603).

3 (3) STATE.—The term “State” means each
4 State of the United States, the District of Columbia,
5 the Commonwealth of Puerto Rico, American
6 Samoa, Guam, the Commonwealth of the Northern
7 Mariana Islands, the Virgin Islands of the United
8 States, and any other territory or possession of the
9 United States.

10 (4) UNIFORMED SERVICES.—The term “uni-
11 formed services” has the meaning given that term in
12 section 101 of title 37, United States Code.

13 **SEC. 3. ANNUAL COMPTROLLER GENERAL REPORT.**

14 Not later than 180 days after the date of the enact-
15 ment of this Act, and annually thereafter, the Comptroller
16 General of the United States shall submit to Congress a
17 report assessing the Strategic National Stockpile, includ-
18 ing—

19 (1) recommendations for preparing for and re-
20 sponding to future pandemics;

21 (2) recommendations for changes to the Stra-
22 tegic National Stockpile, including to the manage-
23 ment of the stockpile;

24 (3) in the case of the first report required to be
25 submitted under this section—

1 (A) an assessment with respect to how
2 much personal protective equipment used for
3 the COVID–19 response was sourced within the
4 United States and how much was sourced from
5 the People’s Republic of China and other for-
6 eign countries; and

7 (B) recommendations with respect to how
8 to ensure that the United States supply chain
9 for personal protective equipment is better
10 equipped to respond to emergencies, including
11 through the use of funds in the Defense Pro-
12 duction Act Fund under section 304 of the De-
13 fense Production Act of 1950 (50 U.S.C. 4534)
14 to address shortages in that supply chain; and

15 (4) in the case of each subsequent report re-
16 quired to be submitted under this section—

17 (A) an assessment with respect to how
18 much personal protective equipment was im-
19 ported into the United States in the year pre-
20 ceeding submission of the report and, of that
21 equipment, how much would be used to prepare
22 for and respond to a future pandemic; and

23 (B) a review of the implementation during
24 that year of the recommendations required by
25 paragraph (3)(B).

1 **SEC. 4. OVERSIGHT.**

2 (a) IN GENERAL.—The Chairperson of the Council
3 of the Inspectors General on Integrity and Efficiency shall
4 designate any Inspector General responsible for con-
5 ducting oversight of any program or operation performed
6 in support of this Act to oversee the implementation of
7 this Act, to the maximum extent practicable and con-
8 sistent with the duties, responsibilities, policies, and proce-
9 dures of that Inspector General.

10 (b) REMOVAL.—The designation of an Inspector Gen-
11 eral under subsection (a) may be terminated only for per-
12 manent incapacity, inefficiency, neglect of duty, malfea-
13 sance, or conviction of a felony or conduct involving moral
14 turpitude.

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