

Congress of the United States
Washington, DC 20515

July 28, 2020

Peter T. Gaynor
Administrator
Federal Emergency Management Agency (FEMA)
500 C Street,
S.W. Washington, DC 20472

Dear Administrator Gaynor:

We are writing to you to reiterate our ongoing concerns regarding access to personal protective equipment (PPE) in Massachusetts and across the country, and to inquire about the Federal Emergency Management Agency's (FEMA) plans to centralize and stabilize the supply and distribution chains for all equipment necessary to protect our frontline workers as the COVID-19 pandemic continues.

For months, we have called on the Trump Administration and FEMA to take greater responsibility for the country's medical equipment supply and distribution chains, but the Administration has repeatedly declined to utilize its full authorities and powers to respond to the outsized demand for PPE.¹ This has resulted in states, including Massachusetts, experiencing ongoing frustrations regarding the procurement of PPE and has left our frontline workers without adequate protective gear to protect themselves and prevent the spread of the virus. The inability of the federal government to centralize and coordinate the distribution of these critical supplies in the early months of the pandemic resulted in states having to bid against each other and the federal government for limited supplies.² In some cases, the federal government further impeded states' procurement of supplies, including by confiscating shipments purchased by Massachusetts while on route for delivery.³

The Strategic National Stockpile (SNS) has been maintained by the federal government as a response to terrorism threats, natural disasters, and infectious disease.⁴ However, the SNS supply of N95 respirators and other supplies had not been significantly replenished since 2009.⁵ Upon

¹ CNN, "Trump Administration's Delayed Use of 1950's Law Leads to Critical Supply Shortages," Priscilla Alvarez, Curt Devine, and Kristen Holmes, July 14, 2020, <https://www.cnn.com/2020/07/13/politics/delayed-use-defense-production-act-ppe-shortages/index.html>.

² WBUR News, "Gov. Baker Asks President Not to Outbid States on COVID-19 Supplies," Deborah Becker, March 20, 2020, <https://www.wbur.org/news/2020/03/20/charlie-baker-donald-trump-coronavirus-medical-supplies>.

³ New York Times, "'Swept Up by FEMA': Complicated Medical Supply System Sows Confusion," Zolan Kanno-Youngs and Jack Nicas, April 6, 2020, <https://www.nytimes.com/2020/04/06/us/politics/coronavirus-fema-medical-supplies.html>.

⁴ Washington Post, "Face Masks in National Stockpile Have Not Been Substantially Replenished since 2009," Beth Reinhart and Emma Brown, March 10, 2020, https://www.washingtonpost.com/investigations/face-masks-in-national-stockpile-have-not-been-substantially-replenished-since-2009/2020/03/10/57e57316-60c9-11ea-8baf-519cedb6ccd9_story.html.

⁵ Washington Post, "Desperate for medical equipment, states encounter a beleaguered national stockpile," Amy Goldstein, Lena H. Sun, and Beth Reinhard, March 28, 2020, <https://www.washingtonpost.com/national/health->

gaining control of the SNS in March, FEMA has failed to adequately manage the distribution of supplies from the SNS, and the agency cited various and conflicting criteria justifying the disorganized allocation of supplies.⁶ In March, Florida received 100% of requested PPE from the SNS within days, while Massachusetts received a fraction of its initial request for PPE.⁷ According to one recent report, “Massachusetts received the lowest amount of personal protective equipment from the federal government in the U.S. relative to its count of positive cases” in May—the month the state reached its peak of COVID-19 cases.⁸

Meanwhile, the Administration has continually refused to fully utilize *Defense Production Act* (DPA) powers to manufacture, and appropriately direct the allocation of certain medical equipment and PPE to states and localities in need. Over six months into the pandemic, the Administration still has not provided a clear accounting of its use of the DPA or its plans for future use.⁹ According to a review of contracts by the *New York Times*, the Department of Defense has only issued seven contracts for medical supplies under the DPA.¹⁰ In April, the Department of Health and Human Services announced five DPA contracts for ventilators and FEMA issued one contract for N95 respirators,¹¹ but neither agency appears to have since invoked the DPA in response to the country’s surge of COVID-19 cases and continued shortages of PPE across the country.¹²

In Massachusetts, we are continuing to hear from our constituents about the sustained demand for PPE for essential workers, especially in hospitals and nursing homes.¹³ Some health care providers are still being forced to reuse PPE as a means of maintaining sufficient supply. Without a proper, reliable, supply of protective equipment, Massachusetts’ declining rates of infection will be difficult to sustain¹⁴—especially as we begin to approach Fall where a

[science/desperate-for-medical-equipment-states-encounter-a-beleaguered-national-stockpile/2020/03/28/1f4f9a0a-6f82-11ea-aa80-c2470c6b2034_story.html](https://www.washingtonpost.com/science/desperate-for-medical-equipment-states-encounter-a-beleaguered-national-stockpile/2020/03/28/1f4f9a0a-6f82-11ea-aa80-c2470c6b2034_story.html).

⁶ Washington Post, “Governors plead for medical equipment from federal stockpile plagued by shortages and confusion,” Toluse Olorunnipa, Josh Dawsey, Chelsea Janes, and Isaac Stanley-Becker, March 31, 2020, https://www.washingtonpost.com/politics/governors-plead-for-medical-equipment-from-federal-stockpile-plagued-by-shortages-and-confusion/2020/03/31/18aadda0-728d-11ea-87da-77a8136c1a6d_story.html; see also Washington Post, “Desperate for medical equipment, states encounter a beleaguered national stockpile,” Amy Goldstein, Lena H. Sun, and Beth Reinhard, March 28, 2020, https://www.washingtonpost.com/national/health-science/desperate-for-medical-equipment-states-encounter-a-beleaguered-national-stockpile/2020/03/28/1f4f9a0a-6f82-11ea-aa80-c2470c6b2034_story.html.

⁷ *Id.*

⁸ WBUR, “As Coronavirus Cases Surged Here, FEMA Gave Mass. Least PPE Per Case of Any State,” Christine Willmsen, July 23, 2020, <https://www.wbur.org/news/2020/07/23/fema-masks-ppe-massachusetts-coronavirus>.

⁹ New York Times, “Virus Surge Brings Calls for Trump to Invoke Defense Production Act,” Aishvarya Kavi, July 22, 2020, <https://www.nytimes.com/2020/07/22/us/politics/coronavirus-defense-production-act.html>.

¹⁰ *Id.*

¹¹ Federal Emergency Management Agency, “Applying the Defense Production Act,” April 14, 2020, <https://www.fema.gov/news-release/2020/04/14/applying-defense-production-act>.

¹² New York Times, “Grave Shortages of Protective Gear Flare Again as Covid Cases Surge,” Andrew Jacobs, July 8, 2020, <https://www.nytimes.com/2020/07/08/health/coronavirus-masks-ppe-doc.html>.

¹³ New York Times, “Grave Shortages of Protective Gear Flare Again as Covid Cases Surge,” Andrew Jacobs, July 8, 2020, <https://www.nytimes.com/2020/07/08/health/coronavirus-masks-ppe-doc.html>.

¹⁴ Boston Globe, “Gov. Baker pledges state will buy PPE for coronavirus for ‘as long as we have to,’” Travis Anderson, July 13, 2020, <https://www.bostonglobe.com/2020/07/13/metro/gov-baker-pledges-state-will-buy-ppe-coronavirus-long-we-have-to/?event=event12>.

confluence of the COVID-19 pandemic and this year's flu season could further strain the already tenuous PPE supply chain.¹⁵

Ensuring that constituents, especially our essential workers in Massachusetts, have the proper supplies and equipment to keep healthy is of the highest priority. FEMA's role in this is paramount – streamlining the distribution of PPE across the country to ensure that states such as Massachusetts receive what they need.

We would appreciate a response regarding FEMA's plans to prioritize PPE distribution moving forward.

- 1.) On May 14, 2020, President Trump announced his Administration's plans to replenish the SNS for the fall.¹⁶ When will the SNS be ready for additional shipments to states? What criteria will FEMA employ when determining PPE allotment to states from the replenished SNS?
- 2.) Please provide the following information regarding the SNS:
 - a. By type, how much PPE was in stock at the SNS as of January 20, 2020?
 - b. By type, how much PPE was distributed from the SNS between January 20, 2020 and May 14, 2020?
 - c. By type, how much PPE does the SNS currently have in stock?
 - d. By type, how much PPE is FEMA planning to add to the SNS?
 - e. By type, how much PPE has been distributed to Massachusetts over the course of the coronavirus public health emergency?
- 3.) Please provide a list of all instances in which FEMA has used the DPA in response to the coronavirus public health emergency.
- 4.) Please provide a list of all contracts awarded by FEMA for PPE. What percentage of PPE contracts awarded by FEMA have been awarded to United States companies?
- 5.) What steps will FEMA take to ensure that state-acquired supplies, like PPE, are not seized from states moving forward?
- 6.) What steps is FEMA taking to ensure that states will not continue to be forced to outbid each other or the federal government for PPE and other supplies?

Thank you for your attention to this critical matter, I look forward to the agency's prompt and comprehensive response.

Sincerely,

¹⁵ Forbes, "Here's What Hospitals are Doing to Brace Themselves for the Coronavirus Resurgence," Sai Balasubramanian, July 12, 2020, <https://www.forbes.com/sites/saibala/2020/07/12/heres-what-hospitals-are-doing-to-brace-themselves-for-the-coronavirus-resurgence/#1a0262106e53>.

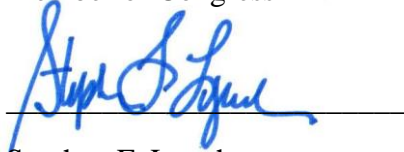
¹⁶ Bloomberg Law, "Trump Unveils Medical Supply Plan After Criticism Over Shortages," Mario Parker and Justin Sink, May 14, 2020, <https://news.bloomberglaw.com/health-law-and-business/trump-administration-seeking-a-90-day-viral-supply-stockpile>.



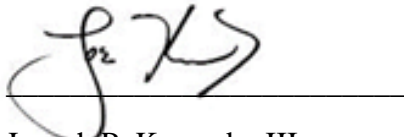
Elizabeth Warren
United States Senator



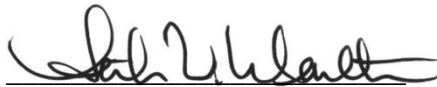
Richard E. Neal
Member of Congress



Stephen F. Lynch
Member of Congress



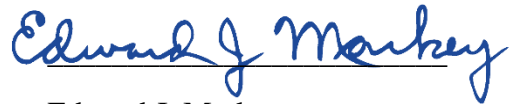
Joseph P. Kennedy, III
Member of Congress



Seth Moulton
Member of Congress



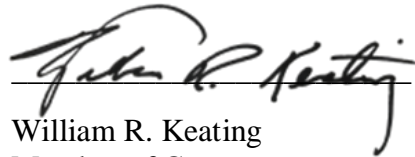
Lori Trahan
Member of Congress



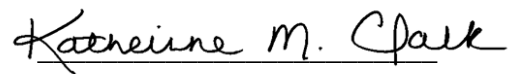
Edward J. Markey
United States Senator



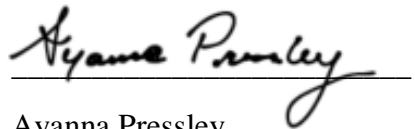
James P. McGovern
Member of Congress



William R. Keating
Member of Congress



Katherine M. Clark
Member of Congress



Ayanna Pressley
Member of Congress