

118TH CONGRESS
1ST SESSION

H. R. 1166

To enhance authorities under the Defense Production Act of 1950 to respond to the public health emergencies, to provide additional oversight of such authorities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2023

Mr. VARGAS introduced the following bill; which was referred to the
Committee on Financial Services

A BILL

To enhance authorities under the Defense Production Act of 1950 to respond to the public health emergencies, to provide additional oversight of such authorities, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Health Emer-
5 gency Medical Supplies Enhancement Act of 2023”.

6 **SEC. 2. PUBLIC HEALTH EMERGENCIES.**

7 (a) **FUTURE PREPAREDNESS FOR HEALTH EMER-**
8 **GENCIES.**—Section 702(14) of the Defense Production

1 Act of 1950 is amended by striking “and critical infra-
2 structure protection and restoration” and inserting “, crit-
3 ical infrastructure protection and restoration, and public
4 health emergency preparedness and response activities”.

5 (b) PUBLIC HEALTH EMERGENCY.—The Defense
6 Production Act of 1950 (50 U.S.C. 4501 et seq.) is
7 amended by inserting after section 711 the following:

8 **“SEC. 712. PUBLIC HEALTH EMERGENCIES.**

9 “(a) SCARCE AND CRITICAL MATERIALS.—During a
10 public health emergency, any medical equipment or sup-
11 plies determined by the Secretary of Health and Human
12 Services or the Secretary of Homeland Security to be
13 scarce and critical materials essential to the national de-
14 fense for purposes of section 101 may be deemed by the
15 President to be a scarce and critical material essential to
16 the national defense for purposes of section 101 and other-
17 wise meet the requirements of section 101(b), and funds
18 available to implement this Act may be used for the pur-
19 chase, production (including the construction, repair, and
20 retrofitting of government-owned facilities as necessary),
21 or distribution of such medical equipment or supplies.

22 “(b) EXERCISE OF TITLE I AUTHORITIES IN RELA-
23 TION TO CONTRACTS BY STATE, LOCAL, OR TRIBAL GOV-
24 ERNMENTS.—In exercising authorities under title I during
25 a public health emergency, the President (and any officer

1 or employee of the United States to which authorities
2 under such title I have been delegated)—

3 “(1) may exercise the prioritization or alloca-
4 tion authority provided in such title I to exclude any
5 materials or supplies described in subsection (a) or-
6 dered by a State, local, or Tribal government that
7 are scheduled to be delivered within 15 days of the
8 time at which—

9 “(A) the purchase order or contract by the
10 Federal Government for such materials or sup-
11 plies is made; or

12 “(B) the materials or supplies are other-
13 wise allocated by the Federal Government
14 under the authorities contained in this Act; and

15 “(2) shall, within 24 hours of any exercise of
16 the prioritization or allocation authority provided in
17 such title I—

18 “(A) to the extent practicable notify any
19 State, local, or Tribal government if the Presi-
20 dent determines that the exercise of such au-
21 thorities would delay the receipt of such mate-
22 rials or supplies ordered by such government;
23 and

24 “(B) take such steps as may be necessary,
25 and as authorized by law, to ensure that such

1 materials or supplies ordered by such govern-
2 ment are delivered in the shortest possible pe-
3 riod, consistent with the purposes of this Act.

4 “(c) ENGAGEMENT WITH THE PRIVATE SECTOR.—

5 “(1) OUTREACH REPRESENTATIVE.—Consistent
6 with the authorities in this title VII, the Adminis-
7 trator of the Federal Emergency Management Agen-
8 cy, in consultation with the Secretary of Health and
9 Human Services, may designate or appoint, pursu-
10 ant to section 703, an individual to be known as the
11 ‘Outreach Representative’ for any public health
12 emergency. Such individual shall—

13 “(A) be appointed from among individuals
14 with substantial experience in the production or
15 distribution of medical supplies or equipment;
16 and

17 “(B) act as the governmentwide single
18 point of contact during the public health emer-
19 gency for outreach to manufacturing companies
20 and their suppliers who may be interested in
21 producing medical supplies or equipment, in-
22 cluding the materials described under sub-
23 section (a).

24 “(2) ENCOURAGING PARTNERSHIPS.—During a
25 public health emergency, the Outreach Representa-

1 tive shall seek to develop partnerships between com-
2 panies, in coordination with any overall coordinator
3 appointed by the President to oversee the response
4 to the public health emergency, including through
5 the exercise of the authorities delegated by the
6 President under section 708.

7 “(d) ENHANCEMENT OF SUPPLY CHAIN PRODUC-
8 TION.—In exercising authority under title III during a
9 public health emergency with respect to materials de-
10 scribed in subsection (a), the President shall seek to en-
11 sure that support is provided to companies that comprise
12 the supply chains for reagents, components, raw materials,
13 and other materials and items necessary to produce or use
14 the materials described in subsection (a), if applicable, to
15 the extent necessary for the national defense during the
16 public health emergency.

17 “(e) ENHANCED REPORTING DURING A PUBLIC
18 HEALTH EMERGENCY.—

19 “(1) IN GENERAL.—Not later than 90 days
20 after the use of authorities under this Act with re-
21 spect to a public health emergency, and every 120
22 days thereafter until the termination of such public
23 health emergency, the President, in consultation
24 with the Administrator of the Federal Emergency
25 Management Agency, the Secretary of Defense, and

1 the Secretary of Health and Human Services, shall
2 submit to the appropriate congressional committees
3 a report on the exercise of authorities under titles I,
4 III, and VII with respect to the public health emer-
5 gency.

6 “(2) CONTENTS.—Each report required under
7 paragraph (1) shall include the following:

8 “(A) IN GENERAL.—With respect to each
9 exercise of such authority—

10 “(i) an explanation of the purpose of
11 the applicable contract, purchase order, or
12 other exercise of authority (including an
13 allocation of materials, services, and facili-
14 ties under section 101(a)(2));

15 “(ii) the cost of such exercise of au-
16 thority; and

17 “(iii) if applicable—

18 “(I) the amount of goods that
19 were purchased or allocated;

20 “(II) an identification of the enti-
21 ty awarded a contract or purchase
22 order or that was the subject of the
23 exercise of authority; and

24 “(III) an identification of any en-
25 tity that had shipments delayed by the

1 exercise of any authority under this
2 Act.

3 “(B) CONSULTATIONS.—A description of
4 any consultations conducted with relevant
5 stakeholders on the needs addressed by the ex-
6 ercise of the authorities described in paragraph
7 (1).

8 “(3) UPDATE.—The President shall provide an
9 additional briefing to the appropriate congressional
10 committees on the matters described under para-
11 graph (2) no later than four months after the sub-
12 mission of each report.

13 “(f) DEFINITIONS.—In this section:

14 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
15 TEES.—The term ‘appropriate congressional com-
16 mittees’ means the Committees on Appropriations,
17 Armed Services, Energy and Commerce, Financial
18 Services, and Homeland Security of the House of
19 Representatives and the Committees on Appropria-
20 tions, Armed Services, Banking, Housing, and
21 Urban Affairs, Health, Education, Labor, and Pen-
22 sions, Homeland Security and Governmental Affairs,
23 and Veterans’ Affairs of the Senate.

24 “(2) RELEVANT STAKEHOLDER.—The term
25 ‘relevant stakeholder’ means—

1 “(A) representative private sector entities;

2 “(B) representatives of the nonprofit sec-

3 tor;

4 “(C) representatives of primary and sec-
5 ondary school systems; and

6 “(D) representatives of organizations rep-
7 resenting workers, including health workers,
8 manufacturers, teachers, other public sector
9 employees, and service sector workers.

10 “(3) STATE.—The term ‘State’ means each of
11 the several States, the District of Columbia, the
12 Commonwealth of Puerto Rico, and any territory or
13 possession of the United States.”.

14 (c) UPDATE TO FEDERAL REGULATIONS.—

15 (1) DPAS.—Not later than 30 days after the
16 date of enactment of this Act, the Defense Property
17 Accountability System regulations (15 C.F.R. part
18 700) shall be revised to reflect the requirements of
19 section 712(b) of the Defense Production Act of
20 1950.

21 (2) FAR.—Not later than 30 days after the re-
22 visions required by paragraph (1) are made, the
23 Federal Acquisition Regulation shall be revised to
24 reflect the requirements of section 712(b) of the De-

1 fense Production Act of 1950, consistent with the
2 revisions made pursuant to paragraph (1).

3 **SEC. 3. REPORT ON ACTIVITIES INVOLVING SMALL BUSI-**
4 **NESS.**

5 The report required by section 304(f)(3) of the De-
6 fense Production Act of 1950 (50 U.S.C. 4534(f)(3)) with
7 respect to fiscal years 2023 and 2024 shall include the
8 percentage of contracts awarded using funds to carry out
9 the Defense Production Act of 1950 for each of the fiscal
10 years 2023 and 2024, respectively, to small business con-
11 cerns (as defined under section 702 of such Act).

○