



SUMMARY AND KEY POINTS
House Armed Services Committee Hearing:
“Department of Defense COVID-19 Response to Defense Industrial Base Challenges”
June 10, 2020

Witness: The Honorable Ellen Lord
Under Secretary of Defense for Acquisition and Sustainment Department of Defense

Section 3610

The Department has taken steps to ensure the widest dissemination of guidance to the contracting community. These contracting policy documents focus on allowing companies to continue to work while ensuring workforce safety, providing liquidity, implementing legislation crucial to industry, improving speed of contracting, and providing spending transparency. DOD implementation guidance provides a framework for contracting officers to assess any claimed, allowable paid leave, including sick leave, that a contractor or subcontractor provides to keep its workforce in a ready state.

In the early stages of the pandemic, industry made clear that liquidity was a key issue. DOD increased the progress payment rate from 80% to 90% for large businesses and 90% to 95% for small businesses. This change will infuse an estimated \$3 billion in cash to all levels of the DIB. The Department has partnered with the major prime contractors to ensure that this increase in cash makes its way throughout the supply chain.

Section 3610 authorized but did not appropriate the funds needed to make these reimbursements. While the Department may be able to use other appropriated funds to reimburse contractors, the cost for 3610 is likely well beyond the Department's resource stability without significantly jeopardizing modernization or readiness. One major prime contractor estimated that 3610's impact could be up to \$1.5 billion just for that company and its associated suppliers. DOD will submit a request for 3610 reimbursement funds in the next congressional relief bill that will be in the “lower end” of the double digits of billion dollars (e.g., the lower end of \$10-99 billion).

Leave costs of 3610 are only one category of costs related to COVID experienced by the DIB. Others include those associated with contracting officer selection, such as stop-work orders, purchasing of PPE, cleaning and sterilization costs, and other impacts related to implementing CDC guidelines (e.g., desk spacing, staggered work schedules).

DOD has received extensive industry input on how to manage Covid-related reimbursements. One of the primary recommendations was to develop a process enabling a global settlement rather than contract-by-contract reviews. The Department plans to issue final guidance clarifying what costs will be allowable under Section 3610 by July 10.

Manufacturing of PPE

Under Secretary Lord noted that the March 27 CARES Act includes language and resources to mitigate critical shortfalls and create and expand domestic industrial base capabilities. The March 18 invocation of the Defense Production Act delegated authority to Secretary of Health and Human Services (HHS) to

allocate health and medical resources related to the spread of COVID-19 and provided HHS with authorities and resources to invest in industrial expansion. Since then, DOD has invested \$284 million to increase domestic capacity and capabilities for medical equipment.

A COVID-19 Joint Acquisition Task Force (JATF) is enabling HHS and FEMA to access the DOD acquisition workforce quickly and effectively. DOD is reaching out beyond traditional defense contractors to a range of small businesses and will make a “FedMall” site available so to enable comparison of available PPE from multiple suppliers.

Supply Chain Vulnerabilities

As a result of Covid-19, DOD could not import materials that were produced off-shore. Such limitations may be in place for some time. As a result, DOD accelerated its illumination of the defense supply base and will actively consider how to “re-shore” critical items. Tax incentives and other measures requiring congressional authorization could encourage greater domestic production.