

Congress of the United States
Washington, DC 20515

April 1, 2020

The Honorable Mark T. Esper
Secretary of Defense
Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

The Honorable Ellen M. Lord
Under Secretary of Defense
Acquisition and Sustainment
3010 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Esper and Under Secretary Lord,

We write to you to elevate our urgent concerns with the COVID-19 pandemic as it relates to Ohio's aerospace defense contractor community, specifically those who support the Air Force Research Laboratory (AFRL) at Wright Patterson Air Force Base in Dayton, Ohio.

In these extraordinary times it is critical our Defense Industrial Base receive clear, uniform guidance that protects the welfare of their workforce while still maintaining the ability to execute the key defense related tasks they have contracted with the United States Government to perform.

We appreciate the guidance issued by the Office of Management and Budget (OMB) within the last two weeks as well as the memorandum released by Under Secretary Lord on March 20, 2020 regarding designation of the Defense Industrial Base as Essential Critical Infrastructure. Despite the prompt release of this instruction, we are concerned that guidance to the defense contractor workforce remains ambiguous and lacks uniformity in application.

We have been contacted by 13 small businesses in Ohio that have research and development contracts with AFRL. They have raised concerns about the ongoing spread of COVID-19 and an absence of sufficient guidance on how they may continue to meet their contractual obligations to DoD during this crisis. One of their key concerns is the lack of uniform guidance from local leadership and contracting officers on which tasks and personnel are deemed "mission essential" and the rules on which contractors can continue to work remotely.

We are urging that clear mandates be directed to contracting officers until such time as this emergency has passed. We are mindful of the ongoing health emergency, its potential economic impact on the DoD contracting community, and the vital contribution this workforce makes to our national security. In order to protect and preserve the workforce during what certainly is the worst crisis facing the United States in many decades, we request DoD leadership consider taking the following actions immediately:

1. Direct contracting officers to allow contractors to work remotely to the maximum extent possible to continue meaningful progress on critical programs while maintaining worker safety against the COVID 19 virus.
2. Direct that contracting officers designate contractors who are performing work on research and development contracts “as mission essential personnel.” Also, in accordance with Center for Disease Control Guidelines for prevention of COVID-19 spread, allow them to conduct work on-site when required.
3. Direct contracting officers to provide contractors with maximum flexibility to meet their contractual obligations, including accommodations such as task or work reprioritization, changes in work locations, personnel qualifications, and flexible schedules.
4. In the event working on-site or telework is not possible, direct contracting officers to exercise the available authorities found in OMB Memorandum M-20-17 and Section 3610, Federal Contractor Authority of the CARES Act of 2020 to maintain a source of cashflow to keep this vital workforce intact and prevent avoidable reductions in forces during this crisis.

Thus far, the DoD policy of delegating key decision-making authorities to the lowest levels has caused the contractor workforce great concern because of uncertain, and often conflicting guidance. The defense contractor community needs stability and continuity in this time of crisis and these steps will enable contractors to meet their obligations while protecting their workforce.

Ohio’s defense military-industrial base, and the contractors who comprise it are critical components of the effectiveness of the Joint Force and security of the United States. During these extraordinary times we request the Department consider using all available authorities to provide maximum flexibility and clear, top down guidance to the companies and individuals who provide critical services to the Department. These decisive actions will prevent interruption in services and ensure that we as a Nation remain ready to address any threats that may arise.

Sincerely,



Rob Portman
United States Senator



Sherrod Brown
United States Senator



Marcy Kaptur
United States Representative



Michael R. Turner
United States Representative

Tim Ryan

Tim Ryan
United States Representative

Steve Chabot

Steve Chabot
United States Representative

David P. Joyce

David P. Joyce
United States Representative

Warren Davidson

Warren Davidson
United States Representative