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House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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MEMORANDUM

July 2, 2020

Fr: Chairwoman Carolyn B. Maloney
Committee on Oversight and Reform

To: Chairman James E. Clyburn
Select Subcommittee on the Coronavirus Crisis

Re: Information Provided by Medical Distribution Companies on Challenges with
White House Supply Chain Task Force and Project Airbridge

This memo provides a summary of voluntary discussions between staff members of the Committee on Oversight Reform and representatives of six large medical equipment distribution companies that are playing a role in the Trump Administration's response to the coronavirus crisis: Cardinal Health, Concordance Healthcare Solutions, Henry Schein, McKesson, Medline, and Owens & Minor. This memo also includes information provided by the Health Industry Distributors Association (HIDA), a trade group that has acted as a conduit between members of the healthcare distribution industry and the Trump Administration.

These private sector officials agreed to talk with Committee staff about challenges they faced over the past six months in providing personal protective equipment (PPE) and other critical medical supplies to communities across the country. They also agreed to provide information about their interactions with the White House Supply Chain Task Force and a project led by Jared Kushner known as "Project Airbridge," which provides free air transportation for certain companies bringing PPE into the United States.

Committee staff contacted these companies because the Trump Administration has not been transparent about the actions of the Task Force or Project Airbridge. On April 7, 2020, the Committee on Oversight and Reform and the Committee on Homeland Security sent a joint letter to the Federal Emergency Management Agency (FEMA) requesting documents relating to how FEMA is working with the private sector to acquire and distribute PPE and medical supplies.¹ FEMA has not provided a single document in response to this request.

¹ Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, and Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Peter T. Gaynor, Administrator, Federal Emergency Management Agency (Apr. 7, 2020) (online at <https://oversight.house.gov/news/press-releases/chairs-thompson-and-maloney-write-fema-on-coronavirus-response-supply-chain>).

Committee staff also contacted these companies because the United States has had more cases and more deaths from coronavirus than any nation on Earth.² Despite months of effort, there are still severe shortages of PPE and critical medical equipment, and the Trump Administration has no coherent national strategy to address these deficiencies.³ These shortages continue even as coronavirus cases are now re-surfing dangerously to record highs after the President insisted that states re-open prematurely.⁴ These shortages are also occurring as public health officials warn about the possibility of an even more grave recurrence in the fall.⁵

The private sector officials who spoke with Committee staff raised troubling concerns about the status of the nation’s preparedness to combat the coronavirus crisis. For example:

- Industry officials told Committee staff that in the first three critical months of the coronavirus crisis—from January to March—private sector companies were desperate for guidance from the federal government, but the Trump Administration failed to provide it. According to these officials, calls with Administration officials were merely “informational” and “largely educational,” and “folks in the industry saw that things were getting worse, and their requests for guidance was increasing week by week.” They added: “everyone was asking the same questions, but guidance wasn’t coming.”
- On March 28, 2020, the President of HIDA sent a letter urging the Administration “to provide the strategic direction needed to more effectively target PPE supplies based on greatest need.” He wrote: “Only the federal government has the data and the authority to provide this strategic direction to the supply chain and the healthcare system.”
- Unfortunately, the Trump Administration decided not to lead a federal effort to procure PPE directly, forcing state and local governments, hospitals, and others to

² Johns Hopkins University & Medicine Coronavirus Resource Center, *COVID-19 Dashboard by the Center for Systems Science and Engineering at Johns Hopkins University* (online at <https://coronavirus.jhu.edu/map.html>).

³ See, e.g., ‘*It’s Like Pulling Teeth*’: *There’s Still a PPE Shortage—And a Second Wave Could Send Medical Workers Into Crisis Mode*, Boston Globe (June 21, 2020) (online at www.bostonglobe.com/2020/06/21/nation/dangerous-shortages-protective-gear-persist-mass-hospitals-clinicians-say/); *Medical PPE Is Still So Scarce After Months of COVID-19, Volunteers Keep Hunting for Lifesaving Supplies*, Philadelphia Inquirer (June 24, 2020) (online at www.inquirer.com/health/coronavirus/mask-ppe-shortage-philadelphia-health-covid-coronavirus-20200623.html).

⁴ *U.S. Hits Highest Single Day of New Coronavirus Cases with More Than 45,500, Breaking April Record*, NBC News (June 24, 2020) (online at www.nbcnews.com/news/us-news/u-s-hits-highest-single-day-coronavirus-cases-36-358-n1232065); see also *As Coronavirus Cases Surge, Texas Governor Says He Let Bars Reopen Too Early*, Washington Post (June 27, 2020) (online at www.washingtonpost.com/nation/2020/06/27/coronavirus-live-updates-us/); *Florida Smashes Coronavirus Case Record: Nearly 9,000 Positive Cases on Thursday*, National Public Radio (June 26, 2020) (online at www.npr.org/sections/coronavirus-live-updates/2020/06/26/883919402/florida-smashes-coronavirus-case-record-nearly-9-000-positive-cases-on-thursday).

⁵ *CDC Is ‘Highly Concerned’ About Coronavirus in the Fall*, ABC News (June 25, 2020) (online at <https://abcnews.go.com/Health/coronavirus-updates-us-reports-34000-cases-single-day/story?id=71442365>).

compete for scarce supplies. One company told Committee staff that the failure to bring procurement efforts under a federal umbrella was “one of the biggest missed opportunities.” The company explained that it proposed this federal umbrella approach directly to the Administration, but that “politics has gotten in the way of that.” As a result, the company explained that states have been forced into “working through brokers in China, which has led to a series of problems,” and warned that there is “way too much reliance on these Chinese brokers rather than a public-private partnership to procure necessary PPE.”

- Instead of procuring PPE directly, the Administration established Project Airbridge to provide transportation for PPE procured by private sector companies. Contracts for Project Airbridge do not require distributors to report back information about the pricing of PPE, despite the fact that taxpayers cover the costs of transportation. Distributors were told to deliver 50% of the PPE “across the customer base in the hotspot,” but they were provided little guidance on how to prioritize specific end-users who need PPE most urgently or what to do with the other 50% of PPE imported at taxpayer expense.
- Officials from several companies informed Committee staff that the Trump Administration, through the Department of Health and Human Services, spent many weeks pressing them to buy PPE directly from one particular Chinese company, but the U.S. companies declined because the Administration was asking them to “purchase at a price that was fairly high.” One company “made the decision to decline purchasing” from the Chinese company because of the “high price for a very uncertain supply chain market.” None of the companies had insight into why the Trump Administration did not purchase PPE directly.
- Finally, the companies informed Committee staff that they have serious concerns that “raw material for PPE is now in a really bad position worldwide.” As one company official stated: “Supply is still coming in, but not enough to meet demand.” The companies cautioned that prices for raw materials have gone up dramatically and that, for example, “raw material for gowns is unavailable at any price, at least in the quantities we need to make gowns.” They warned that continuing to supply PPE under these conditions is “not sustainable.”

Now that the Select Subcommittee on the Coronavirus Crisis is fully operational, this memo conveys information collected by Committee on Oversight and Reform staff and makes a number of recommendations on how to proceed. For example, this memo recommends issuing document requests to these companies and agencies to assess whether significant changes are needed to respond to the current resurgence of cases and prepare for a potentially even more disastrous wave of cases in the fall.

I. BACKGROUND

Starting in January, many components of the White House—including the National Security Council (NSC) and the Council of Economic Advisers—reportedly issued memoranda warning about the potentially devastating impacts of coronavirus and the need to increase U.S. supplies of PPE.⁶ In addition, the President’s Daily Brief reportedly warned about the spread of coronavirus more than a dozen times.⁷

More than two months later, on March 29, 2020, President Trump announced during a meeting with supply chain company executives that he had established a White House Supply Chain Task Force and Project Airbridge “to bring massive amounts of medical supplies from other countries to the United States.” President Trump also stated:

We’re working across government and private sectors to get our heroic doctors, nurses, healthcare workers and—medical supplies they need. We’re getting them tremendous amounts of supplies.⁸

Rather than procuring PPE directly, the Administration billed Project Airbridge as a partnership with the private sector that would quickly deliver critical supplies to communities that needed them. Participating private sector companies would purchase PPE in Asia, and the PPE would be flown to the United States at taxpayer expense.⁹

Despite the Administration’s ambitious claims for the project, it has had a negligible effect on the nation’s capacity to respond to the coronavirus pandemic.¹⁰ As the nation experiences a dangerous surge of new cases and hospitalizations, PPE shortages continue to endanger healthcare workers, especially in minority communities.¹¹ The Trump Administration still has not offered a comprehensive plan for containing the pandemic, forcing states to craft

⁶ See, e.g., *Navarro Memos Warning of Mass Coronavirus Death Circulated in January*, Axios (Apr. 7, 2020) (online at www.axios.com/exclusive-navarro-deaths-coronavirus-memos-january-da3f08fb-dce1-4f69-89b5-ea048f8382a9.html).

⁷ *President’s Intelligence Briefing Book Repeatedly Cited Virus Threat*, Washington Post (Apr. 27, 2020) (online at www.washingtonpost.com/national-security/presidents-intelligence-briefing-book-repeatedly-cited-virus-threat/2020/04/27/ca66949a-8885-11ea-ac8a-fe9b8088e101_story.html).

⁸ The White House, *Remarks by President Trump in a Meeting with Supply Chain Distributors on COVID-19* (Mar. 29, 2020) (online at www.whitehouse.gov/briefings-statements/remarks-president-trump-meeting-supply-chain-distributors-covid-19/).

⁹ *White House’s Pandemic Relief Effort Project Airbridge Is Swathed in Secrecy and Exaggerations*, Washington Post (May 8, 2020) (online at www.washingtonpost.com/investigations/white-house-pandemic-supply-project-swathed-in-secrecy-and-exaggerations/2020/05/08/9c77efb2-8d52-11ea-a9c0-73b93422d691_story.html).

¹⁰ *Jared Kushner’s Highly Scrutinized ‘Project Airbridge’ to Begin Winding Down*, NBC News (May 11, 2020) (online at www.nbcnews.com/politics/white-house/jared-kushner-backed-project-airbridge-be-largely-grounded-n1204646).

¹¹ *Few N95 Masks, Reused Gowns: Dire PPE Shortages Reveal Covid-19’s Racial Divide*, NBC News (June 12, 2020) (online at www.nbcnews.com/health/health-care/few-n95-masks-reused-gowns-dire-ppe-shortages-reveal-covid-n1229546).

individual responses to a nationwide crisis.¹² The Trump Administration has also resisted calls to use the full powers of the Defense Production Act to expand the production of critical goods like PPE.¹³

On June 15 and 18, 2020, FEMA provided two one-hour briefings to Committee staff. FEMA was unable to provide information on the Administration's procurement efforts prior to March 19, 2020, when President Trump directed FEMA to begin leading the federal response. FEMA referred to this date as "Day One for FEMA" despite the fact that the coronavirus crisis had been ongoing for months. When asked about efforts prior to this date, FEMA officials stated that they had "very limited knowledge about what HHS was doing."

In order to obtain more information about these efforts, Committee staff spoke with senior officials, procurement experts, in-house lawyers, and legal representatives from six companies: Cardinal Health, Concordance Healthcare Solutions, Henry Schein, McKesson, Medline, and Owens & Minor. These companies source, transport, and distribute PPE to end users, including hospitals, medical offices, and retirement homes. Some, but not all, manufacture PPE. Committee staff also spoke with representatives from HIDA, an advocacy group representing medical distribution companies.

Committee staff asked these companies and HIDA to describe their involvement in the White House's coronavirus response, and company officials and outside counsel provided answers in voluntary telephone calls. This memo summarizes the information they provided.

II. THE TRUMP ADMINISTRATION'S DELAYED RESPONSE

Beginning in January, medical distribution companies repeatedly sought guidance regarding PPE supply and distribution from the Trump Administration. Early communications were primarily coordinated by HIDA and consisted largely of listening sessions in which government officials took in information from the industry, even though industry representatives sought government direction on specific urgent matters.

Industry representatives told Committee staff that even though the severity of the coronavirus became clear in the first months of 2020, the Trump Administration offered no guidance on PPE procurement or distribution during that time. Despite repeated requests from the industry for advice on critical questions, such as how to prioritize distribution, the Administration did little more than collect information from companies.

HIDA's representatives reported that they facilitated calls with federal agencies as early as January 30, 2020, during which HIDA member companies raised concerns about supply chain issues resulting from the coronavirus pandemic.

¹² *Trump Leaves States to Fend for Themselves*, The Atlantic (Mar. 17, 2020) (online at www.theatlantic.com/ideas/archive/2020/03/america-has-never-had-50-state-disaster-before/608155/).

¹³ Congressional Research Service, *The Defense Production Act of 1950: History, Authorities, and Considerations for Congress* (Mar. 2, 2020) (online at <https://crsreports.congress.gov/product/pdf/R/R43767>).

For example, Owens & Minor stated that as early as February, its internal projections showed that the demand for PPE would outpace available supply sources, even assuming PPE usage at the relatively conservative rate associated with the seasonal flu.

According to one document provided to Committee staff, Dr. Robert Kadlec, the Assistant Secretary of Preparedness and Response at the Department of Health and Human Services (HHS), requested a call with HIDA members on February 3, 2020, to “start a dialogue on ensuring PPE availability for the healthcare system.”

Calls coordinated by HIDA continued throughout February and included the HHS Office for the Assistant Secretary for Preparedness and Response (ASPR), the Centers for Disease Control and Prevention (CDC), and representatives from the Strategic National Stockpile. HIDA stated that it facilitated these calls because “folks in the industry saw that things were getting worse, and their requests for guidance was increasing week by week.”

Companies characterized early calls about coronavirus with the Administration in this timeframe as only “informational,” with HHS officials merely soliciting the industry’s views on PPE shortages. For example, a February 12, 2020, HIDA calendar invitation noted that “CDC staff are interested in engaging with us to gain a better understanding of indicators in the supply chain that will help them make response decisions for the Coronavirus.”

HIDA stated that over the course of these meetings, its members repeatedly requested guidance on how to access government inventories, how to expedite exports of raw materials and finished goods from overseas, and how to prioritize distribution of PPE. HIDA’s representatives stated that “everyone was asking the same questions, but guidance wasn’t coming.”

A HIDA agenda for a call on March 2, 2020, with CDC and ASPR included the following:

Communication needs of distributors:

- One voice with federal government re: supply chain
- Establish list of facilities with confirmed cases so distributors have 1 source of truth on priorities
- Have impacted facilities work with primary distributor
- What products and quantity needed when a case is confirmed (any information on PPE burn rates are helpful)

Despite their repeated attempts, the companies did not receive guidance from the Trump Administration on how to project or prepare for the increasing demands for PPE. Instead, the companies relied on publicly available information and customer demand to make purchasing and procurement decisions.

On March 16, 2020, HIDA facilitated a call between major medical distribution companies and White House Coronavirus Task Force officials, including officials at NSC and HHS. According to Owens & Minor, this channel of communication kicked off a “rapid two-week ramp up” that “went from a couple of discussions over days to almost a daily discussion

with HHS.” Although the calls were largely led by HHS Deputy Chief of Staff for Policy Paul Mango, occasionally HHS Secretary Alex Azar II would be involved.

According to Owens & Minor, even these calls were still “largely educational, with requests from HHS to understand what we needed as an industry to help accelerate supply to the U.S.” In an agenda for the call dated March 16, 2020, HIDA again noted a list of things “Needed from Government”:

- a. One Voice from Gov’t
- b. Clarity on Prioritizing Customers
- c. Clarity for customers on How to Access Gov’t Inventories (e.g., SNS, Health depts)
- d. Expedite Export (from China) and Import (to U.S.)
- e. Expedite Raw Materials for Mask Production

HIDA’s notes from this call indicate that the private companies conveyed that: “Distributors receiving requests to provide supply for new emergency testing sites from state government. There is no product currently allocated to these sites.” The notes also confirm that the companies were concerned about product shortages:

- III. Products at risk for shortage:
 - a. Flu Tests
 - b. IV Solution
 - c. Thermometers
 - d. Hand sanitizer and surface disinfectant
 - e. Anything tied to respiratory conditions

The notes also indicate that the companies conveyed to the Trump Administration that they believed the industry faces a “long term supply chain issue”:

Longer Term Solutions Needed as this is a long term supply chain issue (we ramp for flu season in the summer and we will not have recovered from COVID-19 by then).

McKesson noted that it was not until late March “when FEMA became involved, that’s when things became more organized and pointed around structure” for “supply, production, and delivery.”

HIDA stated that on March 27, 2020, it provided FEMA and White House private sector volunteers with a “Distribution 101” education session, explaining “this is how distribution works, and this is how the supply chain works.”

HIDA reported that in late March, the Private Sector Supply Chain Coalition—a group that “came out of nowhere and have direct communications with FEMA”—appeared to take control of coordinating between HIDA member companies, FEMA, and other Administration officials. Dennis Robb, the Chief Executive Officer of HealthTrust Europe, reportedly leads the Coalition and appears to serve as a private sector volunteer. According to representatives for Henry Schein, Mr. Robb leads daily 9:00 a.m. calls with the major distributors and interfaces

with companies about their procurement efforts. Companies have confirmed that Mr. Robb is using his HealthTrust Europe email address to conduct official business on behalf of the White House.

On March 28, 2020, the President of HIDA sent a letter to FEMA echoing its members' earlier requests for guidance, writing: "I am writing to urge FEMA to provide the strategic direction needed to more effectively target PPE supplies based on greatest need." He added:

Specifically, distributors need FEMA and the federal government to designate specific localities, jurisdictions or care settings as priorities for PPE and other medical supplies. The private sector is not in a position to make these judgments. Only the federal government has the data and the authority to provide this strategic direction to the supply chain and the healthcare system.¹⁴

III. PROJECT AIRBRIDGE

At the end of March, after the Trump Administration decided that it would not procure PPE directly, it launched Project Airbridge to provide free air freight for private medical distributors importing PPE into the United States. The Administration elected to rely on the private sector to purchase and sell PPE, and it declined to make any substantive decisions about which recipients would receive the PPE or the amounts they could be charged.

Companies that spoke with Committee staff provided copies of a Memorandum of Agreement (MOA) they signed with the Department of Homeland Security (DHS) and FEMA in order to participate in Project Airbridge. According to the MOA, at least 50% of the PPE imported through Project Airbridge must be distributed to "existing customers" in specified locations "which DHS/FEMA and HHS have determined have the most pressing need"—locations that the companies referred to as "hotspots."

For the 50% of PPE that must be distributed within these hotspots, the Administration defers largely to the companies to determine which recipients to sell to and for how much. With respect to the other 50% of PPE imported at taxpayer expense, the companies have full discretion on where to sell it, to whom, and at what price.

Several companies indicated that FEMA did not provide guidance on which specific end-users in the hotspots to prioritize. A representative of Henry Schein explained: "We understand they are free to distribute as they see fit within the hotspots."

In addition, the MOA places no meaningful restrictions on the prices companies can charge. The MOA states only that PPE should be sold "at a reasonable price (*i.e.*, the price that a prudent and competent buyer would be willing to pay given available data on market conditions)." However, the companies informed Committee staff that they are not required to

¹⁴ Letter from Matthew J. Rowen, President and Chief Executive Officer, Health Industry Distributors Association, to Administrator Peter T. Gaynor, Federal Emergency Management Agency (Mar. 28, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/BBS000001-BBS000002%20redacted.pdf>).

report their prices to the Administration, raising obvious questions about how the Trump Administration is monitoring or enforcing this provision.

Companies that do not participate in Project Airbridge are not covered by the MOA, raising concerns about how those companies are coordinating the distribution of PPE to meet the most urgent needs. For example, Concordance Healthcare Solutions said it did not receive lists of hotspots for PPE distribution until it began participating in Project Airbridge on April 29, 2020.

In addition, even for companies that are participating in Project Airbridge, the MOA covers only PPE that they distribute through Project Airbridge. PPE that companies procure or manufacture separately is not required to be distributed to hotspots covered by the MOA, raising further concerns about the effectiveness and efficiency of coordination efforts.

Trump officials have widely touted Project Airbridge's role in distribution efforts, but the Project imported a relatively small amount of supplies distributed in the country. For example, in a June 16, 2020, opinion article, Vice President Mike Pence wrote: "Our administration launched a partnership with private industry that, as of June 12, had delivered more than 143 million N95 masks, 598 million surgical and procedural masks, 20 million eye and face shields, 265 million gowns and coveralls, and 14 billion gloves."¹⁵ In fact, only about 7% of that PPE came through Project Airbridge.¹⁶

In their June 18 briefing with Committee staff, FEMA officials confirmed that the Trump Administration has no involvement in directing PPE within hotspots. FEMA officials also explained that, for distributors other than those participating in Project Airbridge, there is no industry-wide guidance on where the most urgent needs are—"aside from everyone watching the news." FEMA officials stated that Project Airbridge is winding down and is now being used only to transport medical gowns on behalf of commercial entities.¹⁷ With respect to urgent needs going forward, FEMA officials conceded that "the supply chain is still not stable," but claimed that distributors can now "do it on their own."

IV. PROBLEMS WITH FOREIGN SUPPLIERS

The companies informed Committee staff that the White House Supply Chain Task Force asked them to visit potential PPE supplier leads in foreign nations, including China and Malaysia, to assess their viability for both federal and private PPE contracts.

¹⁵ *Pence Overstates Coronavirus Supplies Delivered by Administration's 'Airbridge' Program*, Wall Street Journal (June 19, 2020) (online at www.wsj.com/articles/pence-overstates-coronavirus-supplies-delivered-by-administrations-airbridge-program-11592584447).

¹⁶ *Id.* ("According to FEMA data, through June 18 the program had delivered 1.5 million N95 masks, 113.4 million surgical masks, 2.5 million face shields, 50.9 million gowns, 1.4 million coveralls and 937 million gloves. The total number of those supplies is about 7%—or one-thirteenth—of the numbers cited in Mr. Pence's article.")

¹⁷ *Jared Kushner's Highly Scrutinized 'Project Airbridge' to Begin Winding Down*, NBC News (May 11, 2020) (online at www.nbcnews.com/politics/white-house/jared-kushner-backed-project-airbridge-be-largely-grounded-n1204646).

According to Medline officials, they “vetted about a dozen,” but were “not sure the government procured product from more than one or two of them.”

Similarly, a McKesson official explained that the company vetted several sites, a “few looked good, they have taken that data,” but that “I’m not sure if they [the Task Force] used any of those factories that we inspected.”

Several companies also informed Committee staff that the Trump Administration attempted to broker a deal to procure a large amount of PPE from BYD, a Chinese electric car and battery manufacturer that claimed to be able to produce more than a billion masks and gowns. BYD reportedly receives significant subsidies from the Chinese government.¹⁸ In 2019, President Trump signed a defense appropriation bill that barred federal funds from being spent on electric buses from state-owned enterprises, including BYD.¹⁹

The medical distributor companies stated that the BYD negotiation went on for weeks. However, instead of purchasing the PPE directly from BYD, the Trump Administration, through DHS, attempted to persuade the companies participating in Project Airbridge to buy large quantities of PPE directly from BYD at prices the companies rejected as exorbitant.

Multiple companies said they were hesitant to purchase large quantities of PPE at a relatively high cost, particularly given uncertainty about future demand for those products. One company stated that it declined to join the transaction because the Administration was asking them to “purchase at a price that was fairly high.” One company “made the decision to decline purchasing” from the Chinese company because of the “high price for a very uncertain supply chain market.”

During this negotiation, BYD reportedly applied for, but was denied multiple times, certification from the National Institute for Occupational Safety and Health (NIOSH) to manufacture N95 masks. NIOSH ultimately granted BYD approval on June 8, 2020, and BYD is supplying masks to states including California and Washington.²⁰

V. STATES LEFT TO FEND FOR THEMSELVES

Since the start of the coronavirus crisis, President Trump has taken the approach that the Administration should not lead or coordinate the procurement or distribution of PPE. For example, on March 19, 2020, President Trump asserted: “The federal government is not

¹⁸ *With State Subsidies and a Firm Hand, China Races Ahead with Electric Transport*, Washington Post (June 2, 2019) (online at www.washingtonpost.com/world/asia_pacific/with-state-subsidies-and-a-firm-hand-china-races-ahead-with-electric-transport/2019/06/01/2bec456e-7af1-11e9-a66c-d36e482aa873_story.html);

¹⁹ *NDAA Provision Targets Chinese Rail Cars and Electric Buses*, Roll Call (Dec. 10, 2019) (online at www.rollcall.com/2019/12/10/ndaa-provision-targets-chinese-rail-cars-and-electric-buses/).

²⁰ *Chinese Electric-Car Maker Gets U.S. Approval to Supply N95 Masks*, Wall Street Journal (June 9, 2020) (online at www.wsj.com/articles/chinese-electric-car-maker-gets-u-s-approval-to-supply-n95-masks-11591681966).

supposed to be out there buying vast amounts of items and then shipping. You know, we're not a shipping clerk."²¹

As a result, state and local governments, hospitals, and others have been forced to scramble to compete for scarce supplies and navigate a byzantine network of foreign brokers. Reports of fraud and inflated prices have become commonplace.

Medline told Committee staff that, in its opinion, the failure to bring PPE procurement efforts under a federal umbrella was “one of the biggest missed opportunities.” The company confirmed that it proposed the federal umbrella approach directly to the Administration, but that “politics has gotten in the way of that.” Company representatives also explained that states “primarily have been working through brokers in China, which has led to a series of problems.” The company cautioned against states being forced to work with intermediaries, noting that there is “way too much reliance on these Chinese brokers rather than a public-private partnership to procure necessary PPE.”

Several companies, including Medline, McKesson, and Owens & Minor, stated that they were not aware of or could not speculate about why the Trump Administration refuses to purchase PPE directly from suppliers. The Administration could have taken this action months ago in order to leverage the federal government’s massive purchasing power for lower prices, coordinate distribution to areas where it is most needed, and replenish the national stockpile.

Companies stated that if the Trump Administration had purchased PPE directly and wanted them to distribute those supplies on behalf of the government, they have the capacity and ability to do so. For example, Henry Schein, Cardinal, Owens & Minor, Medline, and McKesson confirmed that they have all distributed government-owned goods—including N95 masks donated by the Department of Defense—to hospitals, nursing homes, and other front-line responders.

The information provided by these companies tracks with similar concerns from state and local officials. For example, New York Governor Andrew Cuomo compared the processes of bidding on medical equipment to be like “being on eBay with 50 other States.”²² One news report described a chaotic PPE purchase made by the Illinois State Comptroller in March:

Late last month, working through a broker, officials in her state thought they had secured 1.5 million N95 respirator masks, only to learn that they would lose the first shipment to another bidder if they didn't pay within 24 hours. With a check for \$3.5 million in hand,

²¹ The White House, *Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing* (Mar. 19, 2020) (online at www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-6/).

²² Briefing by New York Governor Andrew M. Cuomo (Mar. 31, 2020) (online at www.rev.com/blog/transcripts/governor-andrew-cuomo-ny-covid-19-briefing-transcript-march-31-discusses-his-brother-chris-cuomos-coronavirus-diagnosis).

Andres sped north in her car from Springfield, Ill., to meet the broker at a McDonald's parking lot. She completed the transaction with little time to spare.²³

Ben Brunjes, an Assistant Professor of Public Policy at the University of Washington, explained that “FEMA and other organizations have the ability to say stop, you stop buying it and we’ll disseminate it.” He emphasized, “They’re choosing right now to not use that part of their disaster powers.”²⁴

VI. CONTINUED PPE SHORTAGES AND FUTURE CHALLENGES

Over the past several weeks, the number of coronavirus cases and hospitalizations has resurged to dangerously high levels, including in states that President Trump urged to re-open too quickly, such as Florida and Texas.²⁵

In addition, multiple officials have warned about a second wave of coronavirus cases in the Fall. For example, CDC Director Robert Redfield stated: “There’s a possibility that the assault of the virus on our nation next winter will actually be even more difficult than the one we just went through.”²⁶ On April 28, 2020, Dr. Anthony Fauci, the head of the National Institute of Allergy and Infectious Diseases, stated in an interview: “In my mind, it’s inevitable that we will have a return of the virus or maybe it never went away.”²⁷

Despite these dire warnings, company officials who spoke with Committee staff highlighted significant unmet demands for PPE. For example, an official from Concordance Healthcare Solutions noted: “I don’t see demand wavering any time soon.” She explained: “Supply is still coming in, but not enough to meet demand.”

Company officials also expressed concern about insufficient raw materials. For example, according to Medline, “The raw material for PPE is now in a really bad position across the world.” Medline noted that prices for raw materials have gone up dramatically and that “raw material for gowns is unavailable at any price, at least in the quantities we need to make gowns.” Medline told Committee staff that the economics of supplying PPE in these circumstances are

²³ *States Do Battle for Coronavirus Protective Gear in a Market Driven by Chaos and Fear*, Los Angeles Times (Apr. 10, 2020) (online at www.latimes.com/politics/story/2020-04-10/states-battle-coronavirus-protective-gear-market).

²⁴ *States are Bidding Against Each Other and the Federal Government for Important Medical Supplies — and it’s Driving Up Prices*, CNBC (Apr. 11, 2020) (online at www.cnbc.com/2020/04/09/why-states-and-the-federal-government-are-bidding-on-ppe.html).

²⁵ *Oregon Joins Florida, Texas in Confronting Covid-19’s Resurgence*, Bloomberg (June 17, 2020) (online at www.bloomberg.com/news/articles/2020-06-17/governors-plow-ahead-with-reopenings-despite-covid-19-resurgence).

²⁶ *CDC Director Warns Second Wave of Coronavirus is Likely to be Even More Devastating*, Washington Post (Apr. 21, 2020) (online at www.washingtonpost.com/health/2020/04/21/coronavirus-secondwave-cdcdirector/).

²⁷ *Fauci Says Second Wave of Coronavirus is ‘Inevitable,’* The Hill (Apr. 29, 2020) (online at <https://thehill.com/changing-america/resilience/natural-disasters/495211-fauci-says-second-wave-of-coronavirus-is>).

“not sustainable” and that the company is “losing money on every piece of PPE we sell, and doing it at higher magnitude than we have ever done it before.”

On June 12, 2020, Deborah Burger, the co-president of National Nurses United, stated:

I hoped that the federal government would have stepped in to demand an increase in production and accountability so that we could deal with this. But five months in, it’s really immoral that they haven’t stepped up to the plate.²⁸

VII. RECOMMENDATIONS

- Issue document requests to medical distribution companies to assess how PPE flown in through Project Airbridge was being priced and distributed to end users, and what guidance they have received from the federal government, including but not limited to the White House, DHS, HHS, and FEMA, on the distribution and pricing of PPE to end users;
- Request briefings and hearing appearances from members of the White House Supply Chain Task Force regarding assessments of PPE supply chain challenges and the Trump Administration’s decision to leave procurement, distribution, and pricing decisions largely in the hands of large private sector medical distribution companies; and
- Investigate the process by which the Trump Administration attempted to broker contracts for PPE and other critical supplies.

²⁸ *Few N95 Masks, Reused Gowns: Dire PPE Shortages Reveal COVID-19’s Racial Divide*, NBC News (June 12, 2020) (online at www.nbcnews.com/health/health-care/few-n95-masks-reused-gowns-dire-ppe-shortages-reveal-covid-n1229546).