



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

April 23, 2021
DoD FOIA: 20-L-1005
Civil Action: 20-cv-1596

American Oversight
Mr. Austin Evers
1030 15th Street NW
Suite B255
Washington, D.C. 20005

Via Email: foia@americanoversight.org; emma.lewis@americanoversight.org

Dear Mr. Evers,

This is a final response to your April 23, 2020 Freedom of Information Act (FOIA) request on behalf of American Oversight requesting records concerning the “role and influence” of certain private individuals in the federal government’s response to the novel coronavirus, now known as severe acute respiratory syndrome coronavirus 2 or SARS-CoV-2, the virus that causes the disease known as coronavirus disease 2019 or COVID-19. This request, which is now in litigation, was assigned Department of Defense (DoD) FOIA litigation case number 20-L-1005.

Please find enclosed records determined to be responsive to this request. The 13 pages in this release are Bates numbered 0094-0106. Some information has been withheld from release under Title 5 U.S.C. § 552 (b)(5), which pertains to certain inter- or intra-agency communications protected by the deliberative process and/or attorney-client or attorney work product privileges; and 5 U.S.C. § 552 (b)(6), which allows for withholding information the disclosure of which would result in a clearly unwarranted invasion of the personal privacy of individuals. This production comprises the last remaining responsive documents located by DoD in connection with this request/litigation.

Please direct any questions to Mr. Michael Drezner at Michael.L.Drezner@usdoj.gov.

Sincerely,

John Renehan
Associate Deputy General Counsel

Enclosure: As stated
cc: Michael Drezner, Trial Attorney, DOJ
Emma Lewis, Counsel, American Oversight

(b) (6)

From: Polowczyk, John P RADM USN JS J4 (USA)
Sent: Thursday, April 9, 2020 6:48 PM
To: (b) (6) COL USARMY JS J4 (USA); Farmer, Robert
Cc: (b) (6) LT USN JS J4 (USA)
Subject: FW: MEMO: DPA Decision Flow Process (Revised)
Attachments: Defense Production Act Decision Flow v11.pdf

Importance: High

Put out to team as needed.

-----Original Message-----

From: Policy Coordinator <(b) (6)>
Sent: Thursday, April 9, 2020 5:45 PM
To: Meadows, Mark R. EOP/WHO <(b) (6)>; Kushner, Jared C. EOP/WHO <(b) (6)>
Cipollone, Pat A. EOP/WHO <(b) (6)>; Navarro, Peter K. EOP/WHO <(b) (6)>
(b) (6) <(b) (6)>; O'Brien, Robert C. EOP/WHO <(b) (6)>
Short, Marc T. EOP/OVP <(b) (6)>; Lyons, Derek S. EOP/WHO <(b) (6)>
Philbin, Patrick F. EOP/WHO <(b) (6)>; Pottinger, Matthew F. EOP/WHO <(b) (6)>
(b) (6) <(b) (6)>; Short, Marc T. EOP/OVP <(b) (6)>
Kudlow, Larry A. EOP/WHO <(b) (6)>; Doolin, Joel <(b) (6)>; Kadlec, Robert (OS/ASPR/IO) <Robert.Kadlec@hhs.gov>; Troye, Olivia EOP/NSC <(b) (6)>; Giroir, Brett P ADM USPHS (USA) <brett.giroir@hhs.gov>; Polowczyk, John P RADM USN JS J4 (USA)
Vought, Russell T. EOP/OMB <(b) (6)>; Boehler, Adam <(b) (6)>; Biegunse <(b) (6)>; Jacob, Gregory F. EOP/OVP <(b) (6)>; Joel.Szabat@dot.gov; <(b) (6)>
(b) (6) <(b) (6)>; Lord, Ellen M HON OSD OUSD A-S (USA) <(b) (6)>
(b) (6) <(b) (6)>; Bradbury, Steven (OST) <Steven.Bradbury@dot.gov>
Cc: Policy Coordinator <(b) (6)>; Liddell, Christopher P. EOP/WHO <(b) (6)>
Subject: MEMO: DPA Decision Flow Process (Revised)
Importance: High

Good afternoon:

Here is the DPA decision flow document (b) (5)

(b) (5) This document is similar to versions previously circulated, but has been modified to improve the quality and integrity of the information within the DPA recommendations flowing to the Task Force.

It has been fully cleared (b) (5)

Thank you,

Policy Coordinator

Defense Production Act Decision Flow

- 1) **All Defense Production Act (DPA) requests must flow through the Unified Coordination Group (UCG)** at the National Response Coordination Center (NRCC) for approval, with accommodation for emergency use if required (see #3 below). The UCG meets daily.
- 2) Before formally approving a DPA request, **the UCG must notify the White House** through one of two paths:
 - **Normal path:** the daily White House Task Force meeting.
 - Step 1: At least 24 hours prior to a WHTF meeting, the UCG (through Brian Cavanaugh) emails one-page, standardized memo on DPA recommendation to Jared Kushner, Pat Cipollone, Peter Navarro, Robert O'Brien, Russ Vought, Marc Short, Derek Lyons, Nick Butterfield, Olivia Troye, and Greg Jacob.
 - Step 2: Absent objection from a WH Principal identified in Step 1, Olivia Troye adds the DPA recommendation to the WHTF agenda and circulates the one-page memo with WHTF read-ahead materials.
 - Step 3: Administrator Gaynor or the General Counsel to the Vice President (Greg Jacob) briefs the DPA recommendation to the WHTF.

NOTE: Principals who wish to provide input on a DPA recommendation should do so via email in Step 1.

- **Expedited path** (for immediate DPA approvals): Email to senior White House leadership.
 - UCG (through Brian Cavanaugh) emails DPA recommendation to Mark Meadows, with a copy to Jared Kushner, Pat Cipollone, Peter Navarro, Robert O'Brien, Russ Vought, Marc Short, Derek Lyons, and Nick Butterfield.
 - UCG includes relevant background and specific deadline.
 - UCG provides minimum of one hour for review.

NOTE: Absent objection from a WH Principal identified above, a DPA request will be approved by default once UCG's specified deadline lapses.

3) Emergency use

- In circumstances where delay in a DPA decision may result in danger to life or health, FEMA may need to act immediately to authorize DPA use, while notifying the UCG and WH leadership in real-time and back briefing the WHTF later.

(b) (6)

From: Polowczyk, John P RADM USN JS J4 (USA)
Sent: Thursday, April 9, 2020 7:05 AM
To: (b) (6) COL USARMY JS J4 (USA); Farmer, Robert; (b) (6) LT USN JS J4 (USA)
Subject: FW: For 845 call
Attachments: 9April Operations.pptx

-----Original Message-----

From: Birx, Deborah L. EOP/NSC <(b) (6)>
Sent: Thursday, April 9, 2020 6:39 AM
To: Short, Marc T. EOP/OVP <(b) (6)>; Gaynor, Pete (b) (6)>; Polowczyk, John P RADM USN JS J4 (USA) (b) (6)>; Adam Boehler (b) (6)>; Kushner, Jared C. EOP/WHO (b) (6)>; Navarro, Peter K. EOP/WHO <(b) (6)>
Cc: McGuffee, Tyler Ann A. EOP/OVP <(b) (6)>
Subject: For 845 call

Added some smaller metro areas so we have some views into their abilities and contact their local leaders and check in through the FEMA regions. Deb

(b) (6)

From: Polowczyk, John P RADM USN JS J4 (USA)
Sent: Friday, April 10, 2020 6:44 AM
To: (b) (6) LT USN JS J4 (USA); (b) (6) COL USARMY JS J4 (USA);
Farmer, Robert
Subject: FW: Operations call
Attachments: 10AprilOperations.pptx

-----Original Message-----

From: Birx, Deborah L. EOP/NSC <(b) (6)>
Sent: Friday, April 10, 2020 5:43 AM
To: Short, Marc T. EOP/OVP <(b) (6)> Gaynor, Pete (b) (6) Polowczyk, John
P RADM USN JS J4 (USA) (b) (6) Kushner, Jared C. EOP/WHO <(b) (6)> Adam
Boehler (b) (6) >; Navarro, Peter K. EOP/WHO <(b) (6)>
Cc: McGuffee, Tyler Ann A. EOP/OVP <(b) (6)>
Subject: Operations call

Biggest concern is Houston metro, expanding cases in Boston and new cases in Denver – assuming the meat packing plant is only a small part of this issue. CDC will need to call their health officials today. I added the smaller metros to the back to make sure we weren't missing any small city outbreaks. Deb

(b) (6)

From: Polowczyk, John P RADM USN JS J4 (USA)
Sent: Wednesday, April 8, 2020 4:18 PM
To: (b) (6) CDR USN JS J4 (USA); (b) (6) COL USARMY DLA
JCASO (USA)
Subject: FW: [EXTERNAL] N95 masks

Call this guy (b) (6)

-----Original Message-----

From: Kushner, Jared C. EOP/WHO <(b) (6)>
Sent: Wednesday, April 8, 2020 3:59 PM
To: Polowczyk, John P RADM USN JS J4 (USA) (b) (6)
Subject: Fwd: [EXTERNAL] N95 masks

FYI

Sent from my iPhone

Begin forwarded message:

From: Kelly Craft <kelly@kellycraft.com>
Date: April 8, 2020 at 3:50:36 PM EDT
To: "Kushner, Jared C. EOP/WHO" (b) (6)
Subject: [EXTERNAL] N95 masks

See below !!!!!

Hi Kelly. It's joe Montgomery. One of my companies is working with OPAD (UN NGO) on a drinking water initiative. One of our suppliers has several million certified N95 masks. Thought you could help me get to right federal contact

Joe Montgomery
Joe@smartglo.com
859-509-3972

Kelly Craft

(b) (6)

From: Polowczyk, John P RADM USN JS J4 (USA)
Sent: Saturday, April 4, 2020 4:54 PM
To: (b) (6) COL USARMY HQDA DCS G-8 (USA)
Subject: FW: [EXTERNAL] Ventilator manufacturer

(b) (5)

V/r John

-----Original Message-----

From: Kushner, Jared C. EOP/WHO <(b) (6)>
Sent: Saturday, April 4, 2020 4:40 PM
To: Navarro, Peter K. EOP/WHO <(b) (6)>; Boehler, Adam <(b) (6)>;
Polowczyk, John P RADM USN JS J4 (USA) (u) (u) Rader, John N. EOP/NSC
(b) (6)
Subject: FW: [EXTERNAL] Ventilator manufacturer

From: Rob Moran <rnm@atorlabs.com>
Sent: Saturday, April 4, 2020 2:18 PM
To: Kushner, Jared C. EOP/WHO <(b) (6)>; jared@ijkfamily.com; jared@kushnerfamily.us;
jared@trumporg.com; jared@kushner.com; jared@kushnercompanies.com
Subject: [EXTERNAL] Ventilator manufacturer

Dear Mr. Kushner,

My name is Rob Moran, I am the co-founder of a service disabled veteran owned company named ATOR Labs based in Panama City Beach, Florida. Until mid-march, we manufactured the best breathing and metabolic machines in the world. After becoming familiar with the ventilator shortage plaguing our country, we knew we had to adapt. Since March 14th, we have been working non-stop to re-factor one of our products into a full fledged emergency ventilator that we call the EVS (Emergency Ventilation System).

Our ventilator is different from the Ford/GE, and Tesla ventilators. The EVS provides mechanical ventilation, rather than simple breathing support. We have worked with the local hospitals and respiratory therapists to design a product that fills their needs. While Ford and Tesla components are readily available in large quantities, and i have no doubt the will help many COVID-19 patients, they don't help the severe cases that require intubation. With all respect to their efforts, our core technology is mechanical respiration - something our team has spent a cumulative 120 years refining on behalf of the U.S. Navy, U.S. Army, NIOSH and various respiratory protective equipment manufacturers.

And, our unit price is \$4,750. At scale, even cheaper (\$3,400 - 3,700).

Our team is willing and able to work whatever hours as needed to produce as many EVSs as possible. We are submitting to the FDA for an Emergency Use Authorization on Monday, 3 April. We will begin production in May, scaling to over 1,000 units per month by late June.

Jared, I am writing to you because I know that with your help, we could make many, many more. We have been closely following the Trump administration, and know that you are a key figure in the Federal response to this pandemic. With a sliver of Federal resources, we would exponentially increase our production to match the exponential rise of the COVID-19 virus. We would be making these life saving machines even more affordable.

Very Respectfully,

Rob Moran

President

Ator Labs Inc

850 807 7888

>www.atorlabs.com<

(b) (6)

From: Polowczyk, John P RADM USN JS J4 (USA)
Sent: Thursday, April 9, 2020 9:36 AM
To: Farmer, Robert; (b) (6) COL USARMY JS J4 (USA)
Subject: FW: Gov Kristi Noem request

Bob,

Please call them at (b) (5)

(b) (5)

V/r John

-----Original Message-----

From: Kushner, Jared C. EOP/WHO <(b) (6)>
Sent: Wednesday, April 8, 2020 1:55 PM
To: Polowczyk, John P RADM USN JS J4 (USA) <(b) (6)>
Cc: Dumbauld, Cassidy M. EOP/WHO <(b) (6)>
Subject: FW: Gov Kristi Noem request

(b) (5)

From: Venhuizen, Tony <(b) (6)>
Sent: Tuesday, April 7, 2020 9:55 PM
To: Kushner, Jared C. EOP/WHO <(b) (6)>
Cc: Malsam-Rysdon, Kim <(b) (6)>
Subject: [EXTERNAL] Gov Kristi Noem request

Mr. Kushner,

I am chief of staff to Gov. Kristi Noem of South Dakota. She told me that she spoke to you a few minutes ago, and that you asked that we send you more detail on our need for hydroxychloroquine. Those details are included below - the short answer is 1.2 million doses in 200 mg.

Included on this email is SD Secretary of Health Kim Malsam-Rysdon. You can consider the two of us to be the points of contact on this request:

- * Tony Venhuizen - Chief of Staff to Gov. Noem - (b) (6)
- * Kim Malsam-Rysdon - SD Secretary of Health - (b) (6)

Please feel free to contact either of us, or to pass on our contacts to the appropriate people, to move this forward. And thank you very much for your consideration.

Tony Venhuizen

Chief of Staff to Gov. Kristi Noem

500 E. Capitol Ave. ~ Pierre, South Dakota 57501

office ~ (b) (6)

mobile ~ (b) (6)

Details on request

Populations to be treated are all hospitalized (30k), 35% of positive patients quarantined at home (60k), and 20% of health workers (10k). This is over the course of time for the disease curve.

We need 1.2 million doses (they only come in 200 mg) of hydroxychloroquine. If we couldn't get that amount up front which is preferable, here is the breakdown by date:

190k doses now

409k doses by May 8

409k doses by May 26

190k doses by June 11

If we can't get 1.2 million doses we can adapt the parameters for the study. We feel there would be great value to doing a sizable study though as it will surely inform treatment of people in future waves of COVID-19.

There would be other costs associated with such a study. Staff time, monitoring of patients, etc. Don't know what those will be yet. The systems will work on the protocols and budget planning and will have a rough sketch done by Friday.

(b) (6)

From: Polowczyk, John P RADM USN JS J4 (USA)
Sent: Thursday, April 9, 2020 11:56 AM
To: Boehler, Adam
Cc: (b) (6); Jared EOP/WHO Kushner; (b) (6) (b) (6)
CDR USN JS J4 (USA)
Subject: RE: Gowns

Adam,

The numbers are in large millions based on what we are seeing at hospitals who are using a million gowns a week. Keeping this simple of just Gowns realizing the isolation gown different of surgical. Here is what the PPE models say for current and projected caseloads. I think its high but after talking to hospitals they all say they number is close to 100K per week if not close to 1M a week per hospital.

Next 30 days 700M

Next + 400M

Beyond + 260M

(b) (5)

CDR (b) (6) is working this for me and can give updates on what we are looking to do. (b) (5)

(b) (5)

V/r John

-----Original Message-----

From: Boehler, Adam <(b) (6)>
Sent: Thursday, April 9, 2020 11:28 AM
To: Polowczyk, John P RADM USN JS J4 (USA) (b) (6)
Cc: (b) (6); Jared EOP/WHO Kushner (b) (6)
Subject: [Non-DoD Source] Gowns

Admiral,

(b) (5)

Adam

(b) (6)

From: Polowczyk, John P RADM USN JS J4 (USA)
Sent: Thursday, April 9, 2020 4:23 PM
To: Kushner, Jared C. EOP/WHO
Cc: Dumbauld, Cassidy M. EOP/WHO; Adam Boehler; Gaynor, Pete
Subject: RE:

(b) (5)

V/r John

-----Original Message-----

From: Kushner, Jared C. EOP/WHO <(b) (6)>
Sent: Thursday, April 9, 2020 2:41 PM
To: Polowczyk, John P RADM USN JS J4 (USA) <(b) (6)>
Cc: Dumbauld, Cassidy M. EOP/WHO <(b) (6)>; Adam Boehler <(b) (6)>; Gaynor, Pete <(b) (6)>
Subject:

Admiral P- (b) (5)

(b) (5)

(b) (6)

From: Microsoft Outlook on behalf of Polowczyk, John P RADM USN JS J4 (USA)
Sent: Friday, April 10, 2020 7:04 PM
To: Kushner, Jared C. EOP/WHO
Subject: Fwd: South Dakota request
Attachments: Fwd: South Dakota request

Sender: (b) (6)
Subject: Fwd: South Dakota request
Message-Id: <6n81hqs8fsaof6u093v4m0di.1586559819757@emailplus.mobileiron.com>
To: (b) (6)