

**Written Testimony for Dr. Laura Taylor-Kale
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**Hearing of the Senate Committee on Banking, Housing, and Urban Affairs
“Advancing U.S. National Security through Export Controls, Investment Security, and the
Defense Production Act”
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Good morning, Chairman Brown, Ranking Member Scott, and Members of the Committee. Thank you for the opportunity to testify today on the state of the defense industrial base, and the ways in which the Defense Production Act (DPA) can be used to address shortfalls and adversarial capital investments in the defense industrial base. I look forward to highlighting today how DoD links systemic and emerging economic threats to the defense industrial base with DPA investments in capacity-building and defense supply chain resilience. To ensure that we are protecting and expanding our defense industrial base, the DoD strongly supports the reauthorization of the Defense Production Act. Supporting the Defense Production Act is one of the most important actions that the Congress can do to ensure that the U.S. industrial base is ready to support defense needs and the Warfighter in addition to timely, consistent appropriations and multiyear procurement authority.

STATE OF THE DEFENSE INDUSTRIAL BASE

Today we face geoeconomic and technological competition with peer and near peer adversaries that impact our economy and military posture. Defense production – undergirded by a strong industrial and innovation ecosystem – deters our adversaries. Since Congress enacted the DPA in 1950, the Executive Branch has invoked DPA authorities to manage the Nation’s defense-related production capacity, defense critical supply chains, and to protect and strengthen the U.S. industrial base in war, peace, and during national emergencies. The DoD uses the DPA every day in its mission to safeguard vital U.S. national interests. Fully executing DPA authorities is a priority for defense industrial policy. In January of this year, the DoD published the first-ever National Defense Industrial Strategy, which highlights four strategic priorities for building a modernized, resilient industrial ecosystem that can support national defense: 1) resilient supply chains, 2) workforce readiness, 3) flexible acquisition strategies, and 4) economic deterrence. The DPA is a critical tool for national defense and the successful implementation of the National Security Strategy, the National Defense Strategy, and the National Defense Industrial Strategy.

As the first Senate-Confirmed Assistant Secretary of Defense for Industrial Base Policy, some of my top priorities includes overseeing DoD’s participation in the Committee on Foreign Investment in the United States (CFIUS), addressing the impacts of malign economic activity on the defense industrial base, and the effective management and execution of DPA authorities and appropriations. I would like to thank the Congress for adding the United Kingdom and Australia to the definition of domestic sources for Title III awards in the FY2024 National Defense Authorization Act. Allowing the DoD to enter agreements with companies the U.S., Canada, U.K., and Australia reinforce important alliances and the short- and long-term development of secure defense critical supply chains. Going forward, the DPA will remain a critical national defense tool to mitigate supply chain risk vulnerabilities in our key weapons and defense systems, and for building capabilities with close global allies and partners.

ADDRESSING SUPPLY CHAIN SHORTFALLS & ADVERSARIAL CAPITAL INVESTMENTS IN THE DEFENSE INDUSTRIAL BASE

Our adversaries attempt to exploit supply chain vulnerabilities to weaken the U.S. economy and military. These systemic, ongoing threats take many forms, including economic statecraft, coercion and predatory investments and acquisitions by malign actors who seek to undermine our national security and defense, weaken the defense industrial base, and erode our military advantage. My office often identifies these risks through our review of CFIUS transactions, Hart-Scott-Rodino mergers, and other economic-focused matters. Through these authorities, we catalogue actions that must be taken to ensure that adversarial capital investments do not rob the U.S. industrial base of technology and capability leadership.

As a key pillar of the National Defense Industrial Strategy, economic deterrence is the DoD's strategic focus approach to economic security that promotes defense industrial resiliency and capacity. Economic deterrence efficiently integrates policies, investments, countermeasures, and other risk mitigation activities inside and outside the DoD to prevent adversaries from weakening the defense industrial base by exploiting vulnerabilities and our open market economy. Our objective is to quickly identify and counter malign economic activities that threaten U.S. national security.

The DoD frequently uses DPA VII authorities to combat adversarial investments and predatory acquisitions in the U.S. industrial base. DoD is one of the most active members of CFIUS. While reviewing investment transactions, DoD is particularly concerned with protecting military installations, supply chains, and technology from foreign ownership and influence. CFIUS caseloads have reached all-time highs in recent years. The DoD has dedicated significant time and resources to the successful execution of CFIUS authorities, and DoD is co-lead agency on a large proportion of all CFIUS cases. Additionally, DoD actively evaluates "non-notified cases" – transactions that were not submitted to CFIUS for a review or assessment. My team evaluates many such transactions and refers non-notified transactions to Treasury every year.

My team's due diligence in investment and acquisition reviews includes intelligence, open-source information, cyber security analysis, counterintelligence, and business analytics to gather information on systematic vulnerabilities in defense-critical supply chains. By layering multiple sources of information, the DoD builds a holistic understanding of targets for adversarial investments, identifies defense sectors and technology capabilities that are most at-risk, develops mitigation strategies, and seeks to identify investment opportunities for DPA investments.

Leveraging analytics and intelligence from economic security reviews enables our decision-making for investments in industrial capacity-building. This integrated approach to assessment, analysis, strategy, and mitigation informs DoD's primary use of the DPA -- to increase the readiness and resilience of defense industrial base in support of defense critical needs and the Warfighter. Through informed investments and mitigation activities, DoD continues to ensure our Nation's industrial base is dynamic, state of the art, resilient, and able to provide our Warfighters the capabilities needed to counter new and emerging threats and to prevail in conflicts.

PRIORITIZING INDUSTRIAL RESOURCES FOR NATIONAL DEFENSE: DOD USE OF DPA TITLE I AUTHORITIES

The DoD utilizes DPA Title I authority through the Commerce-administered Defense Priorities & Allocations System (DPAS) to prioritize contracts and orders in support of DoD's needs within industrial supply chains and to allocate scarce components to spur production and support allies and partners. This prioritization ensures that defense programs do not experience supply chain disruptions that inhibit meeting their program objectives in day-to-day operations and national emergencies. The DoD places DPAS priority rated contracts and orders for industrial resources over 300,000 times a year at no cost to the taxpayer to help ensure DoD procurements meet cost, schedule, and performance parameters by proactively mitigating supply chain risks.

Since the last DPA reauthorization in 2018, the DoD has leveraged Title I authority to directly contribute to national defense and prioritize the delivery of weapons and materiel to allies and partners. The DoD has signed 17 Security of Supply Arrangements (SOSAs) – non-binding, reciprocal agreements to provide mutual support for industrial resources, including seven new SOSAs in 2023 with Japan, Israel, Latvia, Denmark, Lithuania, Estonia, and Singapore. The DoD has also endorsed Special Priorities Assistance requests for DPAS rating authority to Commerce to expedite delivery of military supplies at any level of the supply chain to allies. For example, in 2023, DoD endorsed the use of DPAS priority rating Title I authority to formally resolve thirty-seven requests for Special Priorities Assistance. Two of these requests were in support of Ukraine-related efforts, including cases which supported the National Security and Defense Council of Ukraine's cybersecurity infrastructure, prioritized the delivery of tanks, and expedited the manufacturing and transfer of more than 20,000 radios and other communications capabilities.

EXPANDING PRODUCTION AND ENABLING RESILIENT SUPPLY CHAINS: DOD USE OF DPA TITLE III AUTHORITIES

Sufficient investment in the defense industrial base is critical to ensuring that the defense industrial ecosystem can produce at speed and scale. The DoD's DPA Title III program is a key investment tool to build capacity and strengthen the defense industrial base. Single source and no source risk exists in nearly every supply chain and at all levels of the defense industrial base. It is a national security priority to sustain essential single source defense component manufacturers as well as mitigate sourcing risk upstream in supply chains. Through the use of Title III, DoD alleviates pain points in supply chains and expand domestic capacity in manufacturing, critical technologies, critical minerals and strategic materials, and vital defense capabilities. Industry demand is high for Title III support. Since the start of 2021, my office has received hundreds of proposals and favorably evaluated more than 50 projects (valued at \$5.74 billion). This fiscal year alone, DPA Title III has received over 140 industry white papers requesting a total of \$1.26 billion in Government funding, an increase from 15 white papers in FY21. Continued support of the U.S. industrial and technological base ensures that the United States has a resilient industrial ecosystem that serves as a deterrent to our adversaries. We will continue to work to ensure that taxpayer resources fund the best value for defense needs.

Title III Execution since 2018

Congress has markedly increased DPA Title III appropriations in recent years. In FY2018 and FY2019, the DoD's DPA Title III appropriations, including Congressional adds, totaled \$67.4 and \$53.6 million respectively. Since FY2020, DoD Title III appropriations have averaged over \$783 million which includes supplemental funding. The key factors driving increased DoD Title III budget has been the government's response to COVID and DoD's urgent focus on shoring defense critical supply chains and expansion of domestic manufacturing capacity.

COVID Response

In March 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act appropriated \$1 billion to the DoD DPA program to prepare for, prevent, and respond to coronavirus. In coordination with Health and Human Services (HHS), \$900 million of the \$1 billion in CARES Act funding was used to expand or maintain capacity in medical resources and the defense industrial base. DoD obligated a total of \$740.6 million (or 82% of the \$900 million) within the first six months and obligated much of the remaining funding over the next fiscal year. By FY2022, appropriations totaled nearly \$1.4 billion as Congress and the Biden Administration increased DPA appropriations to expand domestic manufacturing capacity, protect defense-critical supply chains from adversaries, and counter predatory investment and acquisition strategies.

Focus on Defense Supply Chain Resiliency in FY2023 and FY2024

Improving prioritization and execution of Title III programs has been an Administration priority and DoD has aligned Title III execution to Executive Order 13806 (Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States), Executive Order 14017 (America's Supply Chains), and the National Defense Industrial Strategy. The DoD has prioritized using Title III to expand domestic capacity in the most sensitive materials and critical minerals vital to national security, thereby reducing reliance on adversarial foreign sources, and tackling the long lead times of critical materials that inhibit industry's rapid production of key weapons systems. For example, DoD has obligated approximately \$20 billion to replace U.S. stocks and services drawn down for Ukraine, including Guided Multiple Launch Rocket Systems (GMLRS), Stinger, Javelin, and 155mm ammunition.

It is important to underscore that the DoD cannot exercise Title III authorities unless the President has issued a formal determination or waiver that an industrial resource, material, or critical technology item is essential to the national defense. Since the 2018 DPA reauthorization, the President has issued 22 determinations and three waivers. President Biden's February 2023 Supply Chain Waiver has been the most far-reaching in allowing DoD to swiftly act to avert shortfalls in defense-critical supply chains and quickly execute Title III awards.

As a result of the 2023 Presidential Supply Chain waiver, in FY23 the DoD executed \$733 million in DPA Title III awards that helped to strengthen supply chain resilience across sectors, including:

- **Microelectronics (\$22 million):** Investments were made to sustain and/or expand manufacturing capabilities and establish a robust domestic microelectronics ecosystem in support of radiation-hardened microelectronics, printed circuit boards, advanced packaging, discrete components, and other electronics.
- **Strategic & Critical Minerals & Materials (\$329 million):** Established and expanded domestic industrial mining, refining, processing, and manufacturing capabilities required to

field weapon systems, including rare earth elements required for magnets, energetic materials required for munitions, structural materials for aircrafts, and upstream battery materials.

- **Kinetic Capabilities (\$351 million):** Expanded existing production and onshore capabilities for critical chemicals required for DoD missiles and munitions; increase capacity for ball bearings and solid rocket motors for missiles and munitions.
- **Energy Storage & Batteries (\$31 million):** Invested in domestic battery cell manufacturing capabilities to enable the Department to have a stable, qualified, and secure supply.

In FY2024, the DoD is on-track to execute over \$1 billion in DPA Title III awards and continues to remain postured to execute the authorities provided under the DPA to support the Warfighter. DoD announced \$192.5 million in DPA Title III awards in February 2024 to establish, expand, and modernize capability to manufacture twenty-two defense-critical chemicals and reduce reliance on foreign sources, particularly the PRC. These awards will result in production of several chemicals deemed critical for the proper functioning of defense and weapon systems. Many of these chemicals are also used in numerous commercial applications (including but not limited to pharmaceuticals, consumer products, agriculture, automotive, and energy), resulting in products that will be competitive in the marketplace and increase resiliency of domestic critical chemical supply chains.

Improving Title III Execution by Launching Defense Industrial Base Consortium Other Transaction Authority

The rapid scaling of DPA appropriations following the COVID supply chain crisis and Russia's invasion of Ukraine strained DoD's internal capacity to swiftly execute Title III awards. It has been my priority to quickly improve execution and align the Department's use of the authorities to the implementation of the National Defense Industrial Strategy. To that end, in January 2024, the DoD announced the establishment of the Defense Industrial Base Consortium (DIBC) Other Transaction Authority (OTA).

Along with the Air Force Executive Agent, DoD's launch of the DIBC OTA positions the DoD to shorten the time of execution of DPA awards and lessen bureaucratic hurdles. The OTA directly aligns with the NDIS four strategic priorities by providing a vehicle to rapidly research, prototype, and manufacture commercial solutions for defense requirements and innovations from private industry, academia, and firms not traditionally part of defense contracting systems. The OTA will spur competition and attract non-traditional defense contractors, non-profit research institutes, and small businesses that will in turn lead to an expansion of the defense industrial ecosystem, increase innovation, and improve the transition of new technologies into production. Additionally, the OTA can execute interagency requirements aimed at enhancing critical domestic supply chains.

FULLY EXECUTING DPA TITLE III AUTHORITIES: REAUTHORIZATION PRIORITIES FOR DOD

DPA strongly supports the reauthorization of the DPA as the Department continues to use DPA authorities to advance national security and mitigate to the defense industrial base and the U.S.

technological innovation ecosystem. DPA Title III authorizes the use of direct purchases (grants), purchase commitments, guarantees of purchases or leases of advanced manufacturing equipment, and loans or loan guarantees. Currently DoD only has the capacity to issue Title III grants for direct purchases. Essentially DoD only uses one of the four Title III authorities. However, we need to fully use DPA Title III to mitigate systemic and emerging threats to national defense. To support fully executing the potential of DPA authorities, the DoD requests two key changes to the existing DPA law to respond to increasing requirements. We submitted these legislative proposals to Congress. Specifically, the DoD supports legislative amendments that would raise the DPA annual fund balance and remove designation of the Secretary of the Air Force as the sole and exclusive executive agent.

First, **raising the DPA Fund annual fund balance ensures that the DPA Title III Program will not be penalized for increased and supplemental appropriations.** DoD increasingly leverages DPA authorities to respond to critical national defense requirements, the balance of the DPA Fund is anticipated to rise accordingly. While the DPA Title III Program always pursues the most expedient path to execution, some acquisition or mitigation strategies cannot be completed in the span of a year. As such, DoD requests amending the law to allow for a higher DPA Fund balance so that monies that are appropriated or transferred into the DPA Fund are not returned to the Treasury.

The second change that the DoD supports is the **elimination of the sole and exclusive Executive Agent in favor of access to multiple execution offices.** The designation of the Secretary of the Air Force as the sole and exclusive DoD executive agent for the DPA Title III program unnecessarily constrains the ability of the program to execute efforts in support of national security requirements. While we will continue fully utilizing the Air Force resources devoted to DPA execution, the increased appropriations to the program require DoD to use all available contracting mechanisms to expediently obligate funds. Amending the designation of the Secretary of the Air Force as “the sole and exclusive Department of Defense Executive Agent” to “an execution office for the Department of Defense” would allow seamless access to additional execution offices for the DPA Title III program, enabling the Department to leverage additional contracting resources when necessary.

Finally, DoD supports **increasing the period of availability of Title III funds.** Currently, DoD only issues direct purchase grants due to the recent change in period of availability for appropriations from non-expiring to five years in the last Appropriations Acts. If Congress appropriates non-expiring funds in the future, DoD can issue purchase commitments, loans, and loan guarantees through DPA authorities. Purchase commitments would particularly improve defense supply chains by helping to spur advanced procurement of critical materials and make DOD demand more predictable.

CLOSING

In closing, DPA is critical to ensuring that America is ready to address shortfalls and counter adversarial capital investments in the defense industrial base. The DoD will continue to focus on increasing execution of DPA Title III funding and look for opportunities to utilize more of the authorities to include purchase commitments, loans, and loan guarantees. I cannot over-emphasize how important the DPA is to ensure that the DoD can protect and strengthen the U.S. industrial

base, and work with our closest allies and partners to secure defense-critical supply chains. We look forward to working with Congress and the interagency on the successful reauthorization of the DPA and support for DoD legislative proposals to fully align DPA execution with the defense critical needs.