

US Department of Defense (DoD) Clarifies the Defense Industrial Base as Essential Critical Infrastructure

March 2020

On March 20, 2020, Under Secretary of Defense for Acquisition and Sustainment Ellen Lord issued a memorandum to the Defense Industrial Base (DIB), clarifying what is considered the Essential Critical Infrastructure Workforce in light of the coronavirus disease 2019 (COVID-19) (the "Memo"). The Memo can be found [here](#).

The Under Secretary reemphasizes that the DIB is a Critical Infrastructure Sector per the Department of Homeland Security and is defined as "the worldwide industrial complex that enables research and development, as well as design, production, delivery and maintenance of military weapons systems/software systems, subsystems, and components or parts, as well as purchased services to meet US Military requirements."

The Essential Critical Infrastructure Workforce for the DIB "includes workers who support the essential products and services required to meet national security commitments to the Federal Government and the US Military." These "include, but are not limited to, aerospace; mechanical and software engineers; manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon systems mechanics and maintainers; suppliers of medical supplies and pharmaceuticals; and critical transportation."

The Essential Critical Infrastructure Workforce "include[s] personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense, providing materials and services to the Department of Defense and government-owned/contractor-operated and government-owned/government-operated facilities."

The Memo provides the following examples of Essential Critical Infrastructure:

"[i]f your contract or subcontract supports the development, production, testing, fielding, or sustainment of our weapon systems/software systems, or the infrastructure to support those activities. If your efforts support manning, training, equipping, deploying, or supporting our military forces, your work is considered Essential Critical Infrastructure."

The DoD states, "[c]ompanies aligned with the essential critical infrastructure workforce definition are expected to maintain their normal work schedules." Companies and workers "... should follow guidance from the Centers for Disease Control and Prevention as well as State and local government officials regarding strategies to limit disease spread."

We are continuing to monitor the latest memoranda, directives and guidance issued by the White House and all federal entities on the COVID-19 response affecting contractors at all levels and suppliers of goods and services across the supply chain. Please contact our immediate team below with any questions with regard to this publication.

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We have created a Coronavirus Task Force composed of multijurisdictional, multidisciplinary practitioners with legal, policy, regulatory, industry and sector experience and insight. Many on the team have weathered past crises on a global scale and have a deep understanding of the complexities faced by businesses navigating unforeseen, disruptive and potentially detrimental circumstances. We help clients with sound advice and guidance to overcome challenges, minimize risks and build resilience, in order to maintain business continuity or get back to normal operations as quickly as possible. We are uniquely positioned – on substance and strategic locations around the world – to provide practical advice and support services. For additional information, guidelines, advisories and resources, please visit our [Coronavirus COVID-19 resource hub](#).