



# COVID-19: The Basics of Domestic Defense Response

Updated April 3, 2020

As the COVID-19 pandemic has unfolded, Congress has considered how the Department of Defense (DOD) might support the U.S. government's domestic response. Below are the funding, authorities, and descriptions of potential ways DOD might further contribute. Links in this product connect to more detailed information on the highlighted subjects.

President Donald J. Trump declared a U.S. national emergency on March 13, 2020. On Friday, March 20, the [Federal Emergency Management Agency](#) assumed the lead agency role in the Coronavirus Task Force under the [National Response Framework](#) (NRF) for national emergencies. DOD participates in the national response within the NRF. For more information on the domestic and international health aspects of COVID-19, see CRS Report R46219, *Overview of U.S. Domestic Response to Coronavirus Disease 2019 (COVID-19)*, and CRS In Focus IF11421, *COVID-19: Global Implications and Responses*.

## Defense Funding

The Families First Coronavirus Response Act (P.L. 116-127) became law on March 18, 2020. Title II of Division A of the act included \$82 million for the Defense Health Program to waive all [TRICARE](#) cost-sharing requirements related to COVID-19.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136) became law on March 27, 2020. Title III of Division B of the act includes \$10.5 billion in emergency funding for DOD.

Of the \$10.5 billion, \$4.9 billion (47%) is for the Defense Health Program (DHP), according to the [bill text](#). The DHP funding includes \$1.8 billion for patient care and procurement of medical and protective equipment; \$1.6 billion to increase capacity in military treatment facilities; \$1.1 billion for private-sector care; and \$415 million to develop vaccines and to procure diagnostic tests, according to [a summary](#) released by the Senate Appropriations Committee. H.R. 748 also provides:

- \$2.5 billion for the defense industrial base, including \$1.5 billion in defense working capital funds and \$1 billion in Defense Production Act purchases;

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- \$1.9 billion in operations and maintenance (O&M) funding for the Services, in part to support deployment of the hospital ships USNS COMFORT and USNS MERCY to ease civilian hospital demand by caring for non-COVID patients; and
- \$1.2 billion in military personnel (MILPERS) funding for Army and Air National Guard personnel deployments.

## Defense Capabilities and Authorities

DOD has capabilities that can directly support civil authorities in health emergency situations, including [health and medical surveillance](#), [research](#) on diseases, [treatment facilities](#), communications equipment, temporary lodging facilities and storage space, material-handling equipment, and logistics support. Installations approved for these purposes include Active and Reserve Component bases. This type of assistance is called Defense Support of Civil Authorities (DSCA). For more on DSCA in the COVID response see CRS Insight IN11305, *COVID-19: Defense Support of Civil Authorities*, by Lawrence Kapp and Alan Ott and see CRS In Focus IF11483, *The National Guard in the COVID-19 Pandemic Response: Framework for Action*, by Alan Ott.

## Integrating Defense Capabilities

Currently, legal authority for DOD involvement in domestic disasters is provided in the following statutes.

- [The Robert T. Stafford Disaster Relief and Emergency Assistance Act](#) is the statutory authority for disaster relief for both natural disasters and human-caused incidents.
- [The Economy Act](#) permits federal agencies to order items from other federal agencies; agencies may request DOD support in situations other than those in the Stafford Act.
- [The Posse Comitatus Act](#) generally prohibits federal troops from search, seizure, and arrest. While under the control of a *governor*, however, National Guard personnel are not subject to the restrictions of the Posse Comitatus Act.
- [Military Support to Civilian Law Enforcement Agencies](#) provisions (10 U.S.C. §§271-284) authorize certain types of military support to civilian law enforcement officials including use of military equipment and facilities, training and advising, maintenance and operation of equipment, support for counterdrug activities, and support for activities to counter transnational organized crime.
- [DOD Directive 3025.18](#) is the DOD regulation governing defense support of civil authorities.

## Reserve Component Activation

On March 22, the President authorized activation of National Guard personnel in hardest-hit states of New York, Washington, and California under [Title 32 U.S.C. §502\(f\)](#), which allows governors to control operations with pay and benefits provided by the federal government. The President could also order the National Guard and Reserves to federal active duty under Title 10; applicable authorities include

- [10 U.S.C. 12302](#), Partial Mobilization.
- [10 U.S.C. 12304a](#), Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve: order to active duty to provide assistance in response to a major disaster or emergency.

A state's governor can also activate its National Guard for full-time state duty (i.e., state active duty); in this status, pay and benefits are determined by state law. For more on Reserve Component activation, see CRS In Focus IF10540, *Defense Primer: Reserve Forces*.

## U.S. Army Corps of Engineers (USACE)

Per historical precedent, USACE involvement in rehabilitating or constructing facilities as part of a domestic disaster response under the [National Response Framework](#) would be funded through the Disaster Relief Fund (DRF), not from DOD funds. In this situation, the federal lead for the disaster would assign a task to USACE and pay for the task through the DRF. Below is an excerpt from the NRF that describes the typical assignment for USACE's largely civilian staff.

### ESF #3 – Public Works and Engineering

#### ESF Coordinator: DOD/U.S. Army Corps of Engineers

Coordinates the capabilities and resources to facilitate the delivery of services, technical assistance, engineering expertise, construction management, and other support to prepare for, respond to, and recover from a disaster or an incident. Functions include but are not limited to the following:

- Infrastructure protection and emergency repair;
- Critical infrastructure reestablishment;
- Engineering services and construction management; and
- Emergency contracting support for life-saving and life-sustaining services.

## Defense Production Act

As the COVID-19 pandemic evolves, the United States [faces scarcities due to disrupted supply chains and increased demand for drugs and medical supplies](#). In response, the President may invoke emergency authorities under the Defense Production Act of 1950 (DPA; 50 U.S.C. §§4501 et seq.) to address economic impacts. He did so on March 18, 2020, through an executive order but [has yet to give direction to the private sector under this authority](#). For more on the DPA, see CRS Insight IN11231, *The Defense Production Act (DPA) and COVID-19: Key Authorities and Policy Considerations*, and CRS Report R43767, *The Defense Production Act of 1950: History, Authorities, and Considerations for Congress*, by Michael H. Cecire and Heidi M. Peters.

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