



One Hundred Sixteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

April 15, 2020

The Hon. Christopher C. Krebs
Director
Cybersecurity and Infrastructure Security Agency
Department of Homeland Security
Washington, DC 20528

Dear Director Krebs:

I write to request additional information about outside consultation and lobbying efforts that informed, or attempted to inform, the Cybersecurity and Infrastructure Security Agency's (CISA) designation of certain industries and workers as "Essential Critical Infrastructure Workforce."¹ Recent reports describe a "lobbying frenzy" by industry special interests seeking to influence CISA's designation process, and similar efforts at the State and local level.² These reports, if true, raise serious questions about CISA's credibility and impartiality in deeming certain workers essential, and may expose workers, families, and communities to unnecessary or unjustifiable risks.

The "Essential Critical Infrastructure Workforce" designations were outlined in new guidance CISA published last month in an effort to help State, local, and industry partners identify the "essential workers needed to maintain the services and functions Americans depend on daily and need to be able to operate resiliently during the COVID-19 pandemic response."³ This is not the first time I have written to you regarding CISA's new *Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response (Guidance)*, and a corresponding update issued on March 28, 2020 (*Version 2.0*).⁴ On March 31, I wrote to inquire about CISA's process for developing the *Guidance* and *Version 2.0*, which stakeholders you consulted, and how to reconcile parts of the list where CISA "expands the aperture of 'essential' workers," thereby potentially increasing the number of people who may be

¹ *Guidance on the Essential Critical Infrastructure Workforce*, CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY, <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>.

² Ari Natter, "'Essential' Label Stirs Business Frenzy to Make Trump's List," BLOOMBERG, Apr. 14, 2020, <https://news.bloomberglaw.com/coronavirus/essential-label-stirs-business-frenzy-to-make-trumps-list>.

³ *CISA Guidance on the Essential Critical Infrastructure Workforce*.

⁴ *Guidance on the Essential Critical Infrastructure Workforce Version 2.0: Ensuring Community and National Resilience in Response to COVID-19*, CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY, Mar. 28, 2020, https://www.cisa.gov/sites/default/files/publications/CISA_Guidance_on_the_Essential_Critical_Infrastructure_Workforce_Version_2.0_Updated.pdf.

asked to stand in harm's way to keep services running.⁵ Further, I specifically noted my concern at CISA's decision to include "workers supporting the operation of firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges."⁶

Since that time, multiple media outlets have reported on efforts to lobby CISA, the White House, and State and local government officials to designate a wide range of industries, including a number of recreational activities or luxury goods and services that nevertheless require maintenance and other support personnel to continue operations.⁷ These articles specifically mention the National Shooting Sports Federation and other parts of the gun lobby as the force behind CISA's decision to deem gun stores and shooting ranges essential. The fact that *Version 2.0* represents such a significant expansion of essential workers is hard to ignore.⁸ As Chairman of the Homeland Security Committee, I have a responsibility to understand what influenced CISA's decisions related to designating essential personnel.

Meanwhile, the Brookings Institution estimates that CISA's "sweeping definition of essential industries" already applies to a "staggering" 62 million U.S. workers, which accounts for more than 40 percent of the U.S. workforce.⁹ And, although State and local officials are not bound by CISA's *Guidance*, many governments agencies have adopted it in whole or in part.¹⁰ The result is that CISA's expansive list may serve as grounds for employers or public officials to require that certain workers report for duty, despite the clear risks to their health, especially in COVID-19 hotspots where much of the workforce relies on public transportation to get to work.¹¹ CISA cannot allow essential workers to become a tool for the Trump administration to dole out favors to preferred industries and other allies.

Accordingly, pursuant to Rule X(3)(g) of Rule XI of the Rules of the House of Representatives, I respectfully request you provide a written response to the following questions, and whatever supplementary information you deem responsive, by April 29, 2020:

1. On March 31, 2020, I wrote to you regarding the process for developing CISA's *Guidance* and *Version 2.0* and which stakeholders CISA consulted, among other issues. In that letter, I requested a response by April 14, 2020. What is the status of CISA's response?

⁵ Correspondence from Rep. Bennie G. Thompson, Chairman, Committee on Homeland Security, U.S. House of Representatives, to Hon. Christopher C. Krebs, Director, Cybersecurity and Infrastructure Security Agency, U.S. Department of Homeland Security (Mar. 31, 2020) (on file with Committee staff).

⁶ *Guidance on Essential Critical Infrastructure Workforce Version 2.0*, at 6.

⁷ Theodor Meyer and Anna Gronewald, "Choosing Winners and Losers: Behind the Battle to be Deemed Essential," *POLITICO*, Apr. 10, 2020, <https://www.politico.com/news/2020/04/10/lobbyists-battle-to-be-deemed-essential-178488>; Natter, "Essential Label Stirs Business Frenzy to Make Trump's List," *BLOOMBERG*, Apr. 14, 2020.

⁸ Mariam Baksh, "CISA Significantly Expands List of 'Essential Critical Infrastructure' Workers," *Nextgov*, Mar. 30, 2020, <https://www.nextgov.com/cybersecurity/2020/03/cisa-significantly-expands-list-essential-critical-infrastructure-workers/164215/>.

⁹ Adie Tomer and Joseph W. Kane, "How to protect essential workers during COVID-19," *BROOKINGS*, Mar. 31, 2020, <https://www.brookings.edu/research/how-to-protect-essential-workers-during-covid-19/>.

¹⁰ Natter, "'Essential' Label Stirs Business Frenzy to Make Trump's List," *BLOOMBERG*, Apr. 14, 2020.

¹¹ *Interim Guidance: Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>.

2. For **each** position or category of positions designated part of the Essential Critical Infrastructure Workforce, please describe:
 - (a) the analytic process that CISA used to identify and designate each industry, position, or category of positions as part of the Essential Critical Infrastructure Workforce; and
 - (b) the rationale for designating each individual position, or category of positions, as part of the Essential Critical Infrastructure Workforce;
 - (c) any professional organizations, trade associations, non-profits, consulting firms, registered lobbyists, or representatives from individual companies that consulted with, contacted, or attempted to contact CISA about the designation of such position or category of positions; and
 - (d) a copy of any correspondence or communications with the entities described in 2(c), as well as any related correspondence from White House officials on behalf of, or with respect to, such entities.

3. For each of the following sections of the *Guidance* and *Version 2.0*, please provide a **separate** breakdown of (i) any entities associated with the sector or industry – including professional organizations, trade associations, non-profits, consulting firms and registered lobbyists working on behalf of such entities, and individual companies – that consulted with, contacted, or attempted to contact CISA seeking or regarding designation; and (ii) a copy of any correspondence or communications between CISA officials and representatives of such entities, as well as any related correspondence from White House officials on behalf of, or with respect to, such entities:
 - (a) Healthcare/Public Health;
 - (b) Law Enforcement, Public Safety and Other First Responders;
 - (c) Food and Agriculture;
 - (d) Energy;
 - (e) Water and Wastewater;
 - (f) Transportation and Logistics;
 - (g) Public Works and Infrastructure Support Services;
 - (h) Communications and Information Technology;
 - (i) Other Community- or Government-Based Operations and Essential Functions;
 - (j) Critical Manufacturing;
 - (k) Hazardous Materials;
 - (l) Financial Services;
 - (m) Chemical;
 - (n) Defense Industrial Base;
 - (o) Commercial Facilities;
 - (p) Residential/Shelter Facilities and Services;
 - (q) Hygiene Products and Services.

Thank you for your attention to this request.

Sincerely,



Bennie G. Thompson
Chairman
Committee on Homeland Security