



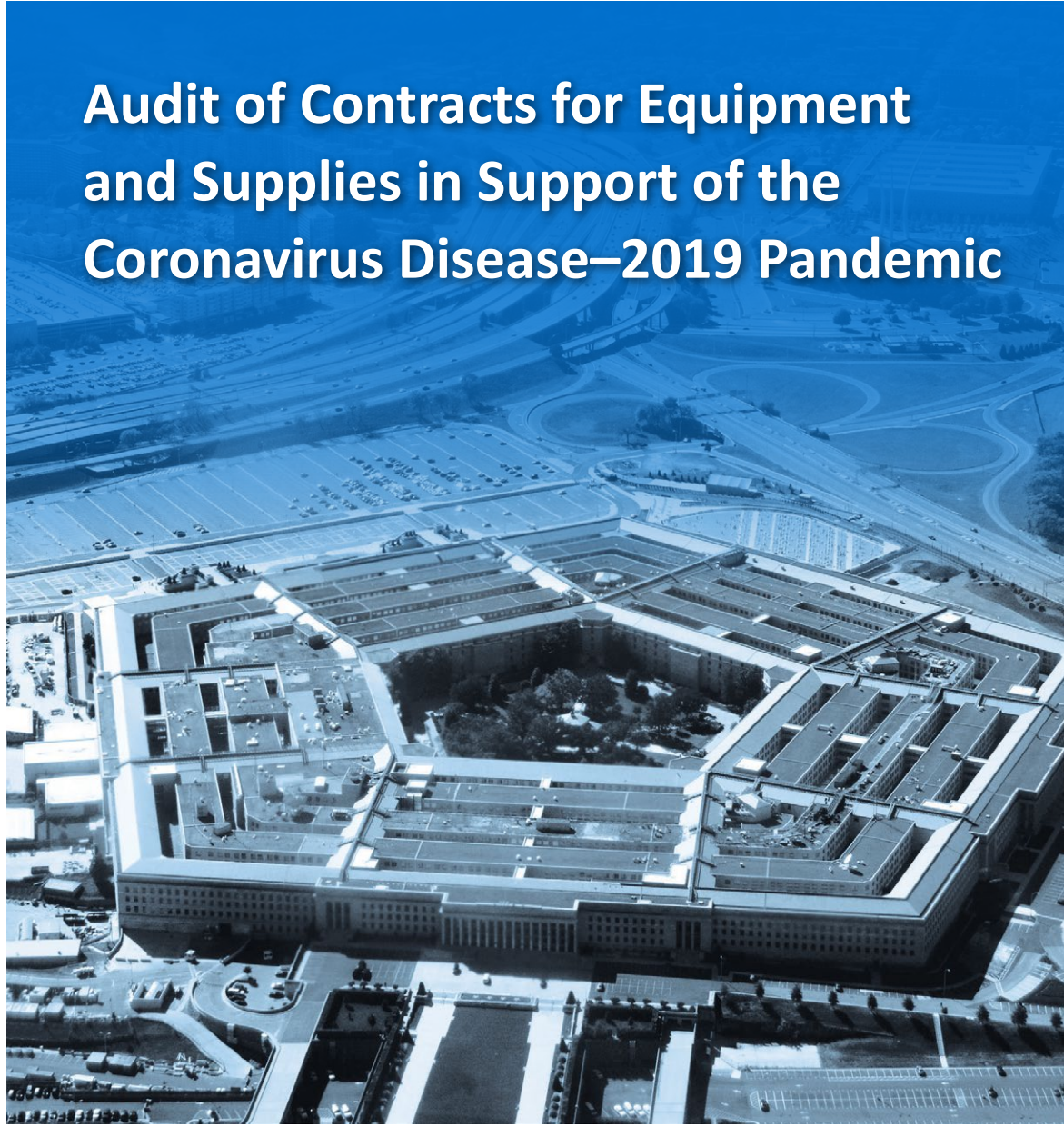
# INSPECTOR GENERAL

*U.S. Department of Defense*

JANUARY 15, 2021



## Audit of Contracts for Equipment and Supplies in Support of the Coronavirus Disease–2019 Pandemic



INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE







# Results in Brief

## *Audit of Contracts for Equipment and Supplies in Support of the Coronavirus Disease-2019 Pandemic*

January 15, 2021

### Objective

The objective of this audit was to determine whether the DoD paid fair and reasonable prices for laboratory equipment and medical supplies, including personal protective equipment (PPE), procured in response to the coronavirus disease-2019 (COVID-19) pandemic.

### Background

COVID-19 is an infectious disease caused by a newly discovered coronavirus. The World Health Organization Director-General declared COVID-19 a pandemic on March 11, 2020. As a result of the surge in demand in response to the pandemic, laboratory equipment and medical supplies were in short supply, and the World Health Organization and the Centers for Disease Control and Prevention (CDC) both warned of severe and mounting disruption to the global supply of PPE due to the COVID-19 pandemic. According to the World Health Organization, these shortages left doctors, nurses, and other frontline workers ill-equipped to care for COVID-19 patients due to limited access to supplies, such as gloves, medical masks, respirators, goggles, face shields, gowns, aprons, hand sanitizer, and thermometers. Therefore, we selected particular items for review so we could determine whether the DoD obtained these items at fair and reasonable prices.

The focus of our review was on four items we categorized as laboratory equipment and medical supplies, and four items we categorized as PPE. For laboratory equipment and medical supplies, we focused on reagents, viral transport tubes, thermometers, and

### Background (cont'd)

hand sanitizer; for PPE we focused on nitrile gloves, gowns, coveralls, and N95 masks. These items accounted for 861 contract actions, valued at \$27.8 million, as of May 1, 2020.

According to the Federal Acquisition Regulation (FAR), at a minimum, contracting officers must use price analysis to determine whether prices are fair and reasonable when acquiring commercial items, which are items available for sale to the general public. All the items we reviewed were considered commercial items. Furthermore, according to the FAR, in acquisitions that do not require certified cost or pricing data, contracting officers are required to use all data available for determining a fair and reasonable price. Finally, contracting officers are required to document the main elements of negotiated agreements in their contract files.

### Finding

The DoD paid fair and reasonable prices on 19 of 23 contracts, valued at \$4.1 million, for the eight items reviewed. In addition, contracting personnel evaluated price reasonableness and determined that prices for all 23 contracts were fair and reasonable in accordance with DoD and FAR guidance. However, using commercially available and historical pricing, we identified items on four contracts for which the DoD did not pay fair and reasonable prices. This occurred because the COVID-19 pandemic caused an increase in demand for medical supplies that were not always available for purchase at the time contracting personnel made their determinations. Specifically, the DoD paid:

- \$13.75 per mask for N95 masks, while the price published by the manufacturer for the same model was between \$1.02 and \$1.31 per mask.
- \$4 per ounce for 8-ounce bottles of hand sanitizer (\$32 per bottle) and \$6 per ounce for 4-ounce bottles of hand sanitizer (\$24 per bottle), while comparable prices for other contracts we reviewed were between \$0.49 and \$0.70 per ounce of hand sanitizer.



# Results in Brief

## *Audit of Contracts for Equipment and Supplies in Support of the Coronavirus Disease-2019 Pandemic*

### **Finding (cont'd)**

- \$20 per viral transport tube, while comparable prices for other contracts we reviewed were between \$0.88 and \$3.68 per tube.
- \$8.99 per isolation gown, while comparable prices for other contracts we reviewed were between \$0.88 and \$2.80 per gown.

The DoD did not pay fair and reasonable prices for viral transport tubes and isolation gowns because there was an urgent need for these items and lower-priced options were not available due to the impact of the COVID-19 pandemic on supply availability. We referred the contracts related to N95 masks and hand sanitizer to the Defense Criminal Investigative Service for possible investigation and consequently cannot discuss in detail our oversight of these purchases.

While the DoD paid between \$466,935 and \$530,263 more than the manufacturer's list prices or other comparable prices on the four contracts, contracting

personnel had to purchase these urgently needed items, the availability of which was drastically impacted by supply shortages. Though the DoD was not able to spend these funds on other equipment and supplies, contracting personnel were able to procure the items to combat the pandemic and ensure the health and safety of service members, their families, and other frontline health care workers.

### **Recommendations**

Given the impact of the COVID-19 pandemic on commercially available supplies, contracting personnel took necessary actions to procure the urgently needed items, even though the DoD did not pay fair and reasonable prices for some items. Therefore, we did not make any recommendations.



**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

January 15, 2021

MEMORANDUM FOR DIRECTOR, DEFENSE HEALTH AGENCY  
DIRECTOR, DEFENSE LOGISTICS AGENCY  
AUDITOR GENERAL, DEPARTMENT OF THE NAVY  
AUDITOR GENERAL, DEPARTMENT OF THE ARMY  
AUDITOR GENERAL, DEPARTMENT OF THE AIR FORCE

SUBJECT: Audit of Contracts for Equipment and Supplies in Support of the Coronavirus Disease-2019 Pandemic (Report No. DODIG-2021-045)

This final report provides the results of the DoD Office of Inspector General's audit. We considered management's comments on a discussion draft copy of this report when preparing this final report. We did not make any recommendations; therefore, no management comments are required.

We appreciate the cooperation and assistance received during the audit. If you have any questions, please contact me at [REDACTED]

A handwritten signature in black ink, reading "Theresa S. Hull", is positioned above the printed name.

Theresa S. Hull  
Assistant Inspector General for Audit  
Acquisition, Contracting, and Sustainment

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# Introduction

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## Objective

The objective of this audit was to determine whether the DoD paid fair and reasonable prices for laboratory equipment and medical supplies, including personal protective equipment (PPE), procured in response to the coronavirus disease-2019 (COVID-19) pandemic. See the Appendix for our scope, methodology, and prior audit coverage related to the objective.

## Background

COVID-19 is an infectious disease caused by a newly discovered coronavirus. According to the World Health Organization, the virus spreads primarily through droplets of saliva or discharge from the nose when an infected person coughs or sneezes. The World Health Organization Director-General declared COVID-19 a pandemic on March 11, 2020.

As a result of the surge in demand in response to the pandemic, laboratory equipment and medical supplies were in short supply, and the World Health Organization and the Centers for Disease Control and Prevention (CDC) both warned of severe and mounting disruption to the global supply of PPE due to the COVID-19 pandemic. According to the World Health Organization, these shortages left doctors, nurses, and other frontline workers ill-equipped to care for COVID-19 patients due to limited access to supplies, such as gloves, medical masks, respirators, goggles, face shields, gowns, and aprons. Therefore, we selected particular items for review so we could ensure that the DoD obtained these items at fair and reasonable prices. The focus of our review was on four items we categorized as laboratory equipment and medical supplies and four items we categorized as PPE. For laboratory equipment and medical supplies, we focused on reagents, viral transport tubes, thermometers, and hand sanitizer; for PPE, we focused on nitrile gloves, gowns, coveralls, and N95 masks. These items accounted for 861 contract actions, valued at \$27.8 million, as of May 1, 2020.

## ***Laboratory Equipment and Medical Supplies***

The Code of Federal Regulations (CFR) defines general purpose laboratory instruments as devices that are intended to prepare or examine specimens from the human body and are labeled or promoted for specific medical uses.<sup>1</sup>

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<sup>1</sup> Title 21 CFR section 862.2050 (2001).



Medical supplies are defined as disposable health care materials which are primarily used to serve a medical purpose, which include hand sanitizer.

We reviewed the following types of laboratory equipment and medical supplies:

- **Reagents.** Reagents are the substances used to test specimens for the presence of the virus that causes COVID-19. Reagents are shipped in kits that contain chemicals to deactivate, isolate, amplify, and detect the virus.
- **Viral transport tubes (test tubes).** Viral transport tubes are collection tubes used to transfer specimens between the collecting location and the testing location. The tubes typically have screw caps and are filled with a viral transport medium.
- **Non-contact infrared thermometers.** Non-contact infrared thermometers are used to measure a person's surface temperature, because a fever is a symptom of COVID-19. These thermometers have advantages over other thermometers, including a reduced risk of spreading disease between people being evaluated, ease of cleaning and disinfecting, and rapid measurement and display of temperature readings. The CDC recommends using infrared thermometers to measure an individual's temperature, as part of the COVID-19 screening process.
- **Hand sanitizer.** The CDC notes that hand hygiene is an important part of the U.S. response to the international emergency of COVID-19. Using hand sanitizer is a simple yet effective way to prevent the spread of pathogens and infections in health care settings. The CDC recommends using a hand sanitizer with greater than 60 percent ethanol or 70 percent isopropanol in health care settings.

## ***PPE***

The CDC defines PPE as specialized clothing or equipment worn by an employee for protection against infectious materials. The goal of PPE is to improve personnel safety in the health care environment. We reviewed the following types of PPE:

- **Nitrile Gloves.** Gloves are the most common type of PPE used in health care settings. Gloves are used when touching body fluids, secretions, and excretions; contaminated items; mucus membranes; and non-intact skin. Gloves can be made of vinyl, latex, nitrile, or other materials and can be either sterile or nonsterile. We focused on nitrile gloves for the purpose of this review.
- **Gowns.** Gowns can be either clean or sterile, reusable or disposable, and are used when contamination of the arms can be anticipated. There are several types of gowns, including surgical gowns, surgical isolation gowns, and non-surgical gowns. A surgical gown is a personal protective garment intended to be worn by health care personnel during surgical procedures to protect both the patient and health care personnel. A surgical isolation



gown is used when there is a medium to high risk of contamination and a need to cover larger critical zones—including the front of the body from the tops of the shoulders to the knees, and the arms from the wrist cuff to above the elbow—than traditional surgical gowns. A non-surgical gown is intended to protect the wearer from the transfer of microorganisms and body fluids in low or minimal risk patient isolation situations. Isolation gowns can be surgical or non-surgical.

- **Coveralls.** Coveralls are an acceptable alternative to gowns when caring for and transporting COVID-19 patients. According to the CDC, while no clinical studies have compared the effectiveness of gowns and coveralls, both have been used effectively by health care workers in clinical settings during patient care. Coveralls typically provide 360-degree protection because they are designed to cover the whole body.
- **N95 Masks.** Masks protect their wearers from inhaling infectious aerosols. One of the most commonly used masks in health care settings is the N95 mask. Therefore, we focused on N95 masks for the purpose of our review. The largest manufacturer makes numerous models of N95 masks, with the 1860 and 1860S models being the most common models purchased under contracts included in our review.

### ***DoD CARES Act Funding***

On March 24, 2020, Secretary of Defense Mark T. Esper outlined his priorities regarding the DoD and COVID-19. His first priority was protecting service members, DoD civilian employees and contractors, and their families. On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). This \$2 trillion economic relief package sought to provide relief from the COVID-19 pandemic to individuals, families, and businesses. The CARES Act also provided \$10.5 billion to the DoD to prevent, prepare for, and respond to the pandemic.

### ***Federal Acquisition Regulation (FAR) Requirements***

The FAR provides contracting guidance and requirements, and also outlines contracting officer responsibilities. In addition, certain emergency contracting authorities were put in place during the COVID-19 pandemic. For example, the President made an emergency determination on March 13, 2020, which authorized Emergency Acquisition Flexibilities. The Emergency Acquisition Flexibilities increased the micro-purchase threshold and the simplified acquisition threshold for DoD acquisitions of supplies or services funded by DoD appropriations and determined to be used to support COVID-19 emergency assistance activities.<sup>2</sup>

<sup>2</sup> Office of the Under Secretary of Defense, “Class Deviation – Micro-purchase Threshold, Simplified Acquisition Threshold, and Special Emergency Procurement Authority,” August 31, 2018.

In addition, the Defense Contract Management Agency Commercial Item Group identified certain types of supplies and services pertaining strictly to COVID-19 as commercial, allowing FAR Part 12 or FAR Part 13 procedures to be used accordingly.<sup>3</sup>

### ***Commercial Items***

The FAR defines a commercial item as any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities for purposes other than governmental purposes and has been sold, leased, or licensed to the general public; or has been offered for sale, lease, or license to the general public.<sup>4</sup> Contracting officers are not required to obtain certified cost or pricing data to support any action when a commercial item is being acquired.<sup>5</sup> At a minimum, contracting officers must use price analysis to determine whether prices are fair and reasonable when acquiring commercial items. All the items we reviewed were considered commercial items.

### ***Fair and Reasonable Determination***

According to the FAR, in acquisitions that do not require certified cost or pricing data, contracting officers are required to use all data available for determining a fair and reasonable price.<sup>6</sup> For example, the FAR states that whenever possible, price reasonableness should be based on competitive quotations or offers. However, if only one response is received, the FAR requires that the contracting officer include a statement on price reasonableness in the contract file, which can be based on a comparison of the proposed price with prices found reasonable on previous purchases or current price lists, catalogs, or advertisements.<sup>7</sup> Contracting officers also must ensure that the data used to support price negotiations are sufficiently current. When adequate price competition exists, no additional data are generally needed to determine a reasonable price.<sup>8</sup>

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<sup>3</sup> Defense Contract Management Agency, Cost and Pricing Regional Command, Commercial Item Group, "Commercial Item Determination for supplies and services procured in response to the Coronavirus Disease 2019 (COVID-19)," March 27, 2020.

FAR Part 12, "Acquisition of Commercial Items."

FAR Part 13, "Simplified Acquisition Procedures."

<sup>4</sup> FAR Part 2, "Definitions of Words and Terms," Subpart 2.1, "Definitions."

<sup>5</sup> FAR Part 15, "Contracting by Negotiation," Subpart 15.403-1, "Prohibition on Obtaining Certified Cost or Pricing Data."

<sup>6</sup> FAR part 15, Subpart 15.403-3, "Requiring Data Other Than Certified Cost or Pricing Data."

<sup>7</sup> FAR part 13, Subpart 13.106-3, "Award and Documentation."

<sup>8</sup> FAR part 15, subpart 15.403-3.

### ***Documentation of Fair and Reasonable Pricing***

Contracting officers are required to document the main elements of negotiated agreements in their contract files. Documentation includes the purpose of the negotiation; a description of the acquisition; and the name, position, and organization of each person representing the contractor and the Government in the negotiation. Additional required documentation includes a summary of the contractor's proposal and documentation of fair and reasonable pricing.<sup>9</sup>

### **Review of Internal Controls**

DoD Instruction 5010.40 requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls.<sup>10</sup>

We identified instances where the DoD did not pay fair and reasonable prices for some items needed in response to the COVID-19 pandemic. However, internal controls were generally effective and contracting personnel and their decisions were drastically impacted by urgent needs and supply shortages that prevented them from awarding some contracts for supplies at fair and reasonable prices.

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<sup>9</sup> FAR part 15, Subpart 15.406-3, "Documenting the Negotiation."

<sup>10</sup> DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013.

## Finding

### The DoD Paid Fair and Reasonable Prices for Most Items Needed in Response to COVID-19 Pandemic

The DoD paid fair and reasonable prices on 19 of 23 contracts, valued at \$4.1 million, for the eight items reviewed.<sup>11</sup> In addition, contracting personnel evaluated price reasonableness and determined that prices for all 23 contracts were fair and reasonable in accordance with DoD and FAR guidance. However, using commercially available and historical pricing, we identified items on four contracts for which the DoD did not pay fair and reasonable prices. This occurred because the COVID-19 pandemic caused an increase in demand for medical supplies that were not always available for purchase at the time contracting personnel made their determinations. Specifically, the DoD paid:

- \$13.75 per mask for N95 masks, while the price published by the manufacturer for the same model was between \$1.02 and \$1.31 per mask.
- \$4 per ounce for 8-ounce bottles of hand sanitizer (\$32 per bottle) and \$6 per ounce for 4-ounce bottles of hand sanitizer (\$24 per bottle), while comparable prices for other contracts we reviewed were between \$0.49 and \$0.70 per ounce of hand sanitizer.
- \$20 per viral transport tube, while comparable prices for other contracts we reviewed were between \$0.88 and \$3.68 per tube.
- \$8.99 per isolation gown, while comparable prices for other contracts we reviewed were between \$0.88 and \$2.80 per gown.

The DoD did not pay fair and reasonable prices for viral transport tubes and isolation gowns because there was an urgent need for these items and lower-priced options were not available due to the impact of the COVID-19 pandemic on supply availability. For N95 masks and hand sanitizer, we referred these contracts to the Defense Criminal Investigative Service (DCIS) for possible investigation and consequently cannot discuss in detail our oversight of these purchases.

As a result, the DoD paid between \$466,935 and \$530,263 more than the manufacturer's list prices or other comparable prices on four contracts for N95 masks, hand sanitizer, viral transport tubes, and isolation gowns. While the DoD did not pay fair and reasonable prices for these items, contracting personnel had

<sup>11</sup> DoD contracting officials executed 861 contract actions for the eight items reviewed, totaling \$27.8 million, in response to the COVID-19 pandemic. We reviewed 675 of the 861 contract actions, valued at \$5 million, consisting of 29 contracts. Seven contract actions, consisting of six contracts, valued at \$150,556, were canceled with no purchases completed.



to purchase these urgently needed items, the availability of which was drastically impacted by supply shortages. Though the DoD was not able to spend these funds on other equipment and supplies, contracting personnel were able to procure the items to combat the pandemic and ensure the health and safety of service members, their families, and other frontline health care workers.

## **The DoD Paid Fair and Reasonable Prices for Most Contracts for Laboratory Equipment and Medical Supplies, Including PPE**

The DoD paid fair and reasonable prices for 19 of 23 contracts we reviewed for laboratory equipment and medical supplies, including PPE. For example, the DoD paid fair and reasonable prices for all the contracts we reviewed for nitrile gloves, coveralls, non-contact infrared thermometers, and reagents.<sup>12</sup>

Additionally, the Defense Logistics Agency (DLA) had several contracts in place for seven of the eight items reviewed prior to the pandemic, which allowed the DLA to procure needed supplies in a timely manner at a fair price.<sup>13</sup> For example, the DLA had two contracts in place prior to the COVID-19 outbreak. For one contract, the DLA awarded a 10-year contract in 2014 that enabled the agency to procure 1,607,640 N95 masks at a predetermined price of \$0.46 per mask directly from the manufacturer after the pandemic began. Having this contract in place enabled the DLA to purchase these masks at a lower price than the manufacturer's published list price, which was \$1.27 per mask. In addition, the DLA awarded a 10-year contract in 2019 that enabled the agency to procure 242,110 nitrile gloves at a predetermined price of \$0.18 per glove, which again was a lower price than the manufacturer's list price of \$0.25 per glove. The DoD Office of Inspector General (OIG) previously identified using advance contracts and previously awarded contracts, such as the contracts above, as a best practice to meet urgent needs related to COVID-19.<sup>14</sup>

Furthermore, the DoD needed to acquire each of the items we reviewed to quickly respond to the pandemic. Even though contracting personnel evaluated price reasonableness and determined that prices for all contracts we reviewed were fair and reasonable, we identified items on four contracts for which the DoD did not pay fair and reasonable prices.

<sup>12</sup> Reagents are the substances used to test specimens for the presence of the virus that causes COVID-19.

<sup>13</sup> We did not identify any DLA contracts for reagents in place prior to the pandemic.

<sup>14</sup> Report No. DODIG-2020-085, "Special Report on Best Practices and Lessons Learned for DoD Contracting Officials in the Pandemic Environment," June 2, 2020.

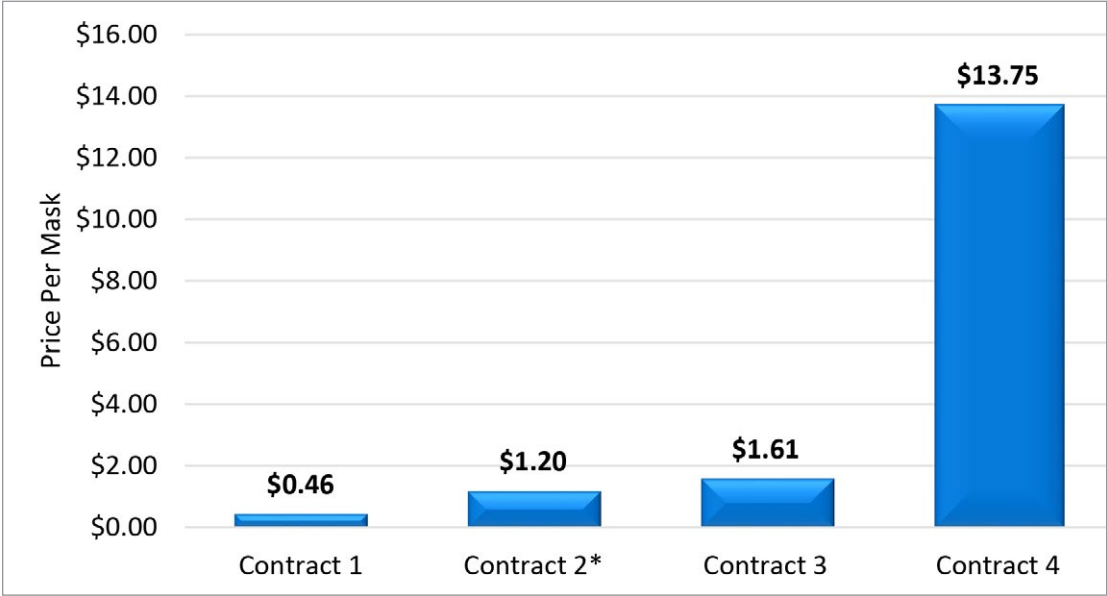
## The DoD Did Not Pay a Fair and Reasonable Price for N95 Masks



While the DoD paid fair and reasonable prices on two of three contracts for N95 masks we reviewed, the DoD paid \$13.75 per mask—at least 10.5 times more per mask (950 to 1,248 percent more per mask) than the manufacturer’s listed price—on one contract.<sup>15</sup> See Figure 1 for an example of an N95 mask. In an effort to prevent price gouging and other fraudulent activity, the manufacturer published the list of prices for the most common N95 mask models sold in the United States. According

to the publication, the list price for the mask model purchased was between \$1.02 and \$1.31 per mask. We referred this contract to DCIS for possible investigation.<sup>16</sup> Therefore, we did not make any recommendations in response to this purchase. See Figure 2 for a comparison of price per mask on the contracts we reviewed.

Figure 2. Price per Mask for Four Contracts Reviewed



\*Contracting personnel canceled the delivery order under this contract after award and no purchase was completed.

Source: The DoD OIG.

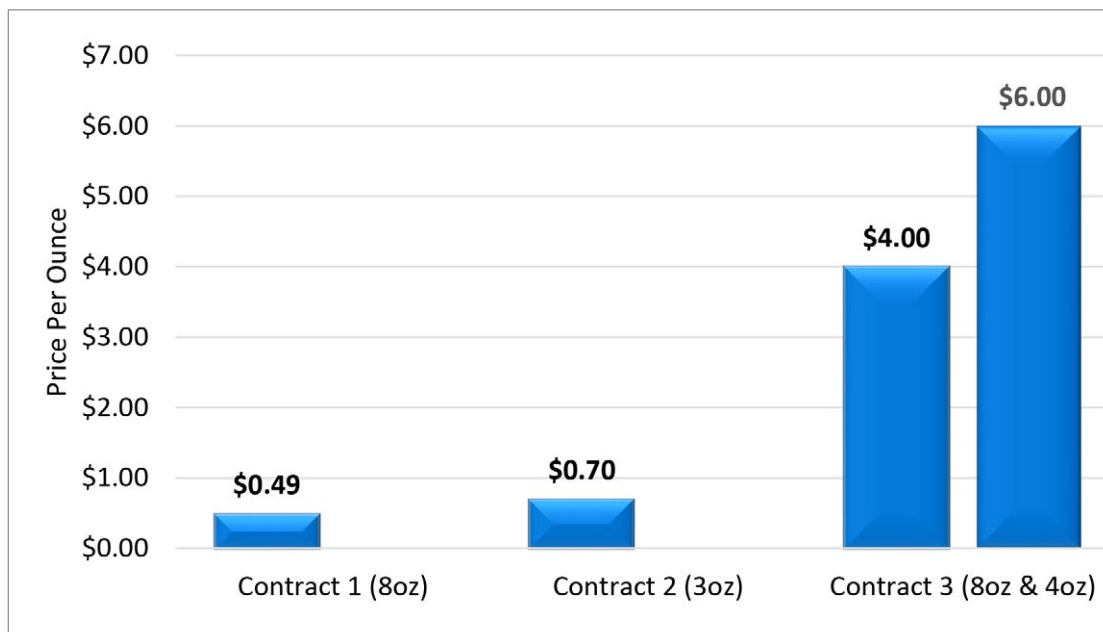
<sup>15</sup> We reviewed one additional N95 mask contract and identified that the contract was canceled and no purchase was completed; therefore, we determined a detailed review of that contract was not applicable.

<sup>16</sup> During our review of this contract, we identified another vendor that quoted high prices on N95 masks and subsequently obtained another contract from the DoD. This contractor charged 11 times more per mask than the published manufacturer’s list price. Therefore, we also referred that contract to DCIS for possible investigation.

## The DoD Did Not Pay a Fair and Reasonable Price for Hand Sanitizer

While the DoD paid fair and reasonable prices on two of the three contracts for hand sanitizer we reviewed, on one contract, the DoD paid \$4 per ounce (\$32 per bottle) for 1,500 bottles of 8-ounce hand sanitizer and \$6 per ounce (\$24 per bottle) for 4,010 bottles of 4-ounce hand sanitizer, totaling \$144,240. The DoD paid around 5.7 times more per ounce (571 percent more per ounce) for the 8-ounce bottles and around 8.6 times more per ounce (857 percent more per ounce) for the 4-ounce bottles than the next-highest awarded contract. We identified similar commercially available 8-ounce bottles of hand sanitizer that ranged in price between \$4.92 and \$6.99 per bottle, and similar commercially available 4-ounce bottles of hand sanitizer that ranged in price between \$2.68 and \$3.67 per bottle. We referred this contract to DCIS for possible investigation. Therefore, we did not make any recommendations in response to this purchase. See Figure 3 for a comparison of the price per ounce on the contracts we reviewed.

*Figure 3. Price per Ounce of Hand Sanitizer for Three Contracts Reviewed*



Source: The DoD OIG.

## The DoD Did Not Pay a Fair and Reasonable Price for Viral Transport Tubes

While the DoD paid fair and reasonable prices on one of two contracts for viral transport tubes we reviewed, on contract FA486120P0097, the DoD paid \$20 per viral transport tube for 3,000 tubes, totaling \$60,000—at least seven times more per tube (700 percent) than other commercially available viral transport tubes.<sup>17</sup> Viral transport tubes are collection tubes that typically have screw caps, are filled with a viral transport medium, and are used to transfer specimens between the testing location and the processing location. See Figure 4 for a comparison of the price per tube on the contracts we reviewed.

Figure 4. Price per Transport Tube for Six Contracts Reviewed



\*Contracting personnel canceled these contracts after award and no purchases were completed.

Source: The DoD OIG.

<sup>17</sup> Our universe of transport tube acquisitions included collection kits. Collection kits include a transport tube and collection swab.

We reviewed four additional tube contracts and identified that the contracts were canceled and no purchases were completed; therefore, we determined that a detailed review of those contracts was not applicable.





Figure 5. Viral Transport Tube  
Source: VWR (TM).

On contract FA486120P0097, the DoD did not pay a fair and reasonable price for the viral transport tubes purchased because commercially

available transport tubes were unavailable and the contracting official contracted with a compounding pharmacy to create the urgently needed tubes. In addition, contracting personnel used two dissimilar vials as comparisons to justify the price as fair and reasonable. See Figure 5 for an example of a viral transport tube.

For the contract, the customer required a 3-milliliter transport tube with a screw cap. In the fair and reasonable justification memorandum, the contracting officer stated that she conducted a general Internet search of similar products. The contracting officer's price justification memorandum stated that even though a majority of the products similar to this requirement did not have listed prices, a separate attachment to the memorandum provided a similar product with pricing; however, all the related products were sold out without an availability date. The similar products (universal transport mediums without swabs) were priced between \$2.19 and \$2.53 each for 3-milliliter transport tubes with screw caps and would meet the customer's requirement.<sup>18</sup> However, due to a lack of stock and an availability date, and an urgent need for transport tubes, the contracting officer solicited a single compounding pharmacy to manufacture the vials because of the impact the COVID-19 pandemic had on supply levels nationwide for medical and laboratory supplies.

In the fair and reasonable justification memorandum, the contracting officer sought similar or like products through GSA Advantage, whose prices are deemed fair and reasonable in accordance with FAR 8.404(d)).<sup>19</sup> An attachment to the memo identified vials distributed by two separate companies that were used for the price comparison. The first distributor's pricing was \$15.97 per vial with an estimated delivery of 29 days, while the other distributor's pricing was \$18.87 per vial with an estimated delivery of 70 days. The contracting officer stated that considering the cost per vial and the delivery timeframe, a price of \$20 per vial provided with an estimated delivery of 14 days was fair and reasonable. The contracting officer stated that the contracting specialist spent several hours on market research, and selected the two similar items for comparison based on the size

<sup>18</sup> The similar items were described as transport tubes used for the collection and preservation of virus, chlamydia, mycoplasma, and ureaplasma specimens.

<sup>19</sup> GSA Advantage is an online shopping and ordering system that provides Federal Government employees access to thousands of contractors and millions of supplies and services.

of the vials (3 milliliters) as specified by the customer and the screw-cap feature to secure the samples while being transported. While these two specifics met the customer's initial requirement of size and a screw cap, the vials are used for different purposes. Specifically, the two vials used for comparison were not a similar product to a viral transport tube or universal transport medium, because both were reaction vials and not viral transport tubes. The website of the manufacturer of these two vials notes that the small reaction vials have a thick glass wall that magnifies the sample, making these vials ideal for observing chemical reactions.

As a result, the DoD did not pay a fair and reasonable price for the 3,000 transport tubes and paid up to \$52,410 more for the transport tubes than the DoD would have paid comparable sources, had they been available.<sup>20</sup> Despite using two dissimilar tubes to justify the price of the transport tubes, and given the impact of the COVID-19 pandemic on supply availability, contracting personnel identified a way to procure transport tubes when commercial supplies were not available. Because the contracting officer contracted with a compounding pharmacy to create the transport tubes, and because we did not identify other contracts that arranged for tubes to be created, we were not able to compare this contract against other contracts for which the tubes were created. Instead, we used commercial prices of similar transport tubes, since they were commercial items that contracting personnel noted in the contracting file. Based on comparison against prices the contracting personnel noted in the contracting file, \$20 per transport tube does not appear fair and reasonable. However, contracting personnel at Nellis Air Force Base could not control the circumstances of the transport tube shortages and took immediate action to procure urgently needed supplies to prevent the spread of disease and possible loss of life to Nellis Air Force Base airmen, dependents, civilians, retirees, and contractors. Therefore, we did not make any recommendations in response to this purchase.

## The DoD Did Not Pay a Fair and Reasonable Price for Isolation Gowns

While the DoD paid fair and reasonable prices on two of three contracts for medical gowns we reviewed, on contract FA486120P0093, the DoD paid \$8.99 per gown for 27,800 isolation gowns, totaling \$249,922—at least 3.2 times more (321 percent) per gown than the next-highest-priced (\$2.80) contract we reviewed.<sup>21</sup> Isolation gowns

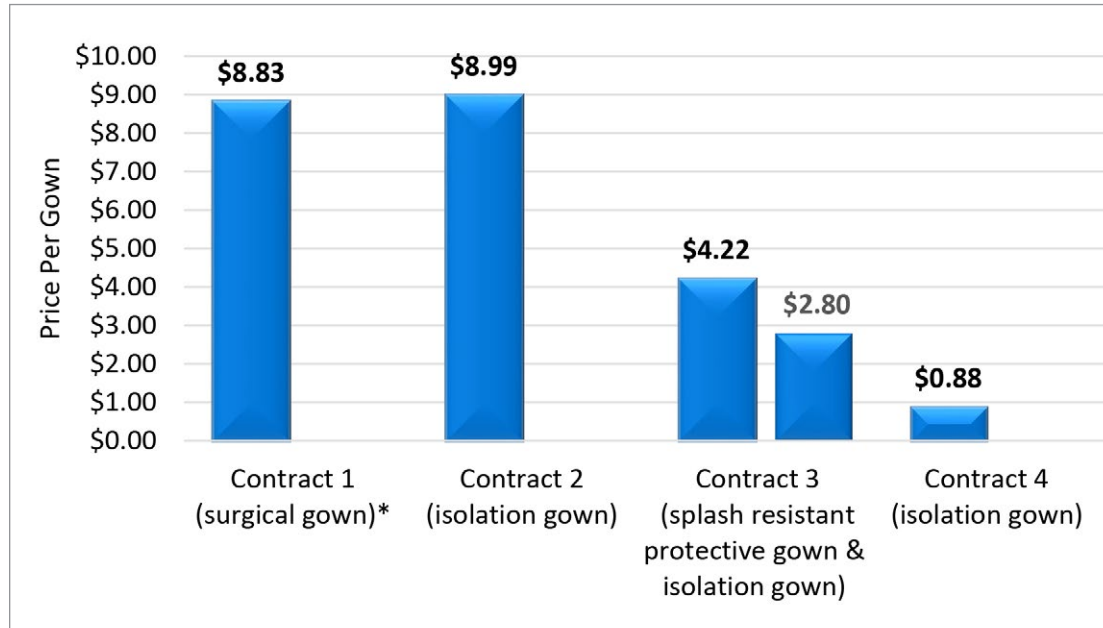
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<sup>20</sup> The difference between the price paid of \$20 per unit and the highest priced similar item identified at \$2.53 per unit was \$17.47; this total multiplied by the 3,000 units acquired equals \$52,410. Since the contract file did not identify the price of a manufactured transport tube, we used the commercial item price noted in the file and identified the range that may have been paid in excess.

<sup>21</sup> We reviewed one additional medical gown contract and identified that the contract was canceled and no purchase was completed; therefore, we determined that a detailed review of that contract was not applicable.

are designed to protect both the patient and health care personnel from the transfer of microorganisms and body fluids. See Figure 6 for a comparison of the price per gown on contracts we reviewed.

Figure 6. Price per Gown for Four Contracts Reviewed



\*Contracting personnel canceled this contract after award and no purchase was completed.

Source: The DoD OIG.



Figure 7. Isolation Gown  
Source: WB Mason.

On contract FA486120P0093, the DoD did not pay a fair and reasonable price for isolation gowns purchased because the 99th Medical Group urgently needed the bulk order of gowns and the 99th Contracting Squadron had to choose the second-lowest-priced offer, as it could not find another vendor to meet the contract requirements at an acceptable price. See Figure 7 for an example of an isolation gown. On March 20, 2020, the 99th Contracting Squadron posted a sources sought notice for isolation gowns and it received three quotes that met the contract requirements.<sup>22</sup> The lowest-priced quote offered prices per gown between \$1.85 and \$2.70, while the other two quotes offered prices per gown at \$8.99 and between \$19.50 and \$20.80, respectively. The 99th Medical Group evaluated the three offers that met the requirements and decided to accept the lowest-priced

<sup>22</sup> A sources sought notice is a Government market research tool to determine whether there are two or more capable businesses or small businesses that can perform the requirements of a planned contract.

offer. Shortly after the offer was accepted, the vendor notified the 99th Medical Group that stock had run out. Therefore, the 99th Contracting Squadron decided to award the contract to the next-lowest-priced offeror, who had stock available and the ability to meet the urgent shipping deadline. The lowest-priced offer would have had fair and reasonable prices per gown between \$1.85 and \$2.70 based on size. However, because of stock availability, the 99th Contracting Squadron awarded the contract to the next-lowest-priced offer at a price of \$8.99 per gown.

As a result, the DoD did not pay a fair and reasonable price for the 27,800 isolation gowns and paid between \$172,082 and \$225,458 more for the gowns than the DoD would have paid comparable sources, had they been available. However, given the impact of the COVID-19 pandemic on supply availability, contracting personnel took necessary actions to procure the urgently needed gowns. Contracting personnel could not control the circumstances impacting supply shortages that prevented the office from awarding the contract to the lowest-priced offeror. Therefore, we are not making a recommendation in response to this purchase.

## Conclusion

The DoD paid fair and reasonable prices on 19 of 23 contracts, valued at \$4.1 million, for laboratory equipment and medical supplies, including PPE, needed to combat the COVID-19 pandemic. In addition, DoD contracting officials successfully performed their duties by procuring the majority of these items at fair and reasonable prices during a time of urgent need and severe shortages. However, since contracting officials needed to procure items quickly to meet mission requirements related to COVID-19, in some instances the DoD did not pay fair and reasonable prices for necessary items. Specifically, the DoD paid between \$466,935 and \$530,263 more than the manufacturers' list prices or other comparable sources on four contracts for N95 masks, hand sanitizer, viral transport tubes, and isolation gowns. Again, while prices for tubes and isolation gowns were not fair and reasonable, contracting personnel had to make urgent purchases for supplies drastically impacted by supply shortages. While the DoD was not able to spend these funds on other equipment and supplies, DoD officials were able to procure items to combat the pandemic and ensure the health and safety of service members, their families, and other frontline health care workers.



## Appendix

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### Scope and Methodology

We conducted this review from April 2020 through November 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We obtained a universe of 9,162 DoD contract actions, with a total contract value of \$207.7 billion, that were related to the COVID-19 pandemic from the Federal Procurement Data System–Next Generation as of May 1, 2020.

We focused our review on laboratory equipment and medical supplies, including PPE. Specifically, we nonstatistically selected eight items to review contracts for based on these items' high demand and significance in COVID-19 support efforts, as well as the number of contracts these items accounted for in our universe. We identified a total of 861 contract actions, valued at \$27.8 million, for these eight items.

### *Laboratory Equipment and Medical Supplies*

- Reagents (15 contract actions, valued at \$17.4 million)
- Transport tubes (49 contract actions, valued at \$0.4 million)
- Thermometers (52 contract actions, valued at \$3.6 million)
- Hand sanitizer (9 contract actions, valued at \$2.8 million)

### *PPE*

- N95 masks (451 contract actions, valued at \$1.1 million)
- Coveralls (35 contract actions, valued at \$1.8 million)
- Gloves (224 contract actions, valued at \$0.2 million)
- Gowns (26 contract actions, valued at \$0.5 million)

## ***Review of Documentation and Interviews***

After selecting the eight items to review, we obtained contract documentation from the Electronic Data Access system for each contract action in the above categories and identified outliers for further review as part of a nonstatistical sample. Outliers included higher costs per unit, missing cost data, numerous modifications, or potentially excessive costs such as shipping. We then nonstatistically selected 675 contract actions, valued at \$5 million, for further review.<sup>23</sup>

### ***Laboratory Equipment and Medical Supplies***

- Reagents (2 contract actions, valued at \$0.2 million)
- Transport tubes (6 contract actions, valued at \$0.4 million)
- Thermometers (7 contract actions, valued at \$1 million)
- Hand sanitizer (3 contract actions, valued at \$1.9 million)

### ***PPE***

- N95 masks (439 contract actions, valued at \$0.9 million)
- Coveralls (18 contract actions, valued at \$0.1 million)
- Gloves (196 contract actions, valued at \$0.2 million)
- Gowns (4 contract actions, valued at \$0.3 million)

These 675 contract actions consisted of 29 unique contracts, 11 of which had a total of 657 delivery orders.<sup>24</sup> For these contracts and delivery orders, we requested, obtained, and reviewed contract files and met with contracting personnel to determine whether the DoD paid fair and reasonable prices.

To determine whether the prices were fair and reasonable, we identified whether any other vendors that bid on the contracts offered lower prices for the same or comparable products. Furthermore, we compared several contracts for each item against each other or identified a general range of reasonable purchase prices based on historical or commercially available pricing. We also reviewed contract documentation to determine whether contracting officials evaluated price reasonableness.

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<sup>23</sup> Seven of the 675 contract actions, consisting of six unique contracts, valued at \$150,556, were canceled with no purchases completed.

<sup>24</sup> Of the 657 delivery orders, 433 were awarded under one mask contract, while 193 were awarded under two nitrile glove contracts.

## Criteria

We evaluated documentation provided by contracting personnel according to the following Federal criteria:

- Public Law 116-136, “Coronavirus Aid, Relief, and Economic Security Act” (CARES Act), March 27, 2020
- Federal Acquisition Regulation (FAR) Part 2, “Definitions of Words and Terms”
- FAR Part 12, “Acquisition of Commercial Items”
- FAR Part 13, “Simplified Acquisition Procedures”
- FAR Part 15, “Contracting by Negotiation”
- FAR Part 32, “Contract Financing”

## Use of Computer-Processed Data

We used computer-processed data from the Federal Procurement Data System–Next Generation to perform this audit. To test the reliability and validate the accuracy of the data, we obtained contract documentation from Electronic Data Access and requested contract files for the contracts in our sample. We determined that the data were sufficiently reliable for our purposes.

## Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) and the DoD OIG issued four reports discussing price reasonableness for various items or contracting in the pandemic environment. Unrestricted GAO reports can be accessed at <https://www.gao.gov/>. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

## GAO

Report No. GAO-18-530, “Improved Information Sharing Could Help DoD Determine Whether Items are Commercial and Reasonably Priced,” July 31, 2018

The GAO found that DoD personnel have taken steps to share more information across the DoD to inform commercial item and price reasonableness determinations, but efforts to date are in early stages of development or happening informally across the DoD. The report also stated that contracting officers were still facing challenges in obtaining adequate information to make informed commercial item and price reasonableness determinations.

Furthermore, the GAO identified the following four interrelated factors that influenced how DoD personnel determine whether an item is commercial and whether the price is fair and reasonable: (1) the availability of marketplace information, (2) the ability to obtain contractor data, (3) the extent of modifications to an item, and (4) the reliability of prior commercial item determinations.

### **DoD OIG**

Report No. DODIG-2020-085, "Special Report on Best Practices and Lessons Learned for DoD Contracting Officials in the Pandemic Environment," June 2, 2020

The DoD OIG found that contracting officials have taken several steps to improve processes, based on lessons learned from past emergencies, that should be considered during the COVID-19 pandemic, such as identifying areas where indefinite-delivery indefinite-quantity or requirements contracts can be awarded to meet potential needs during an emergency.

Report No. DODIG-2019-060, "Review of Parts Purchased from TransDigm Group, Inc.," February 25, 2019

The DoD OIG found that TransDigm, Inc. earned excess profit on 46 of 47 parts purchased by the Defense Logistics Agency and the Army even though contracting officers followed the FAR and Defense Acquisition Regulation Supplement procedures for determining that prices were fair and reasonable.

Report No. DODIG-2018-108, "TRICARE Payments for Standard Electric Breast Pumps and Replacement Parts," April 25, 2018

The DoD OIG found that the Defense Health Agency overpaid for standard electric breast pumps and replacement parts for beneficiaries in the TRICARE program because the Defense Health Agency did not require contractors to use only suppliers that had fixed reimbursement rates for breast pumps and replacement parts.



## Acronyms and Abbreviations

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<b>CDC</b>	Centers for Disease Control and Prevention
<b>COVID-19</b>	Coronavirus Disease–2019
<b>DCIS</b>	Defense Criminal Investigative Service
<b>DLA</b>	Defense Logistics Agency
<b>FAR</b>	Federal Acquisition Regulation
<b>GAO</b>	Government Accountability Office
<b>PPE</b>	Personal Protective Equipment



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**For more information about DoD OIG  
reports or activities, please contact us:**

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703.604.8324

**Media Contact**  
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4800 Mark Center Drive  
Alexandria, Virginia 22350-1500  
[www.dodig.mil](http://www.dodig.mil)  
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