



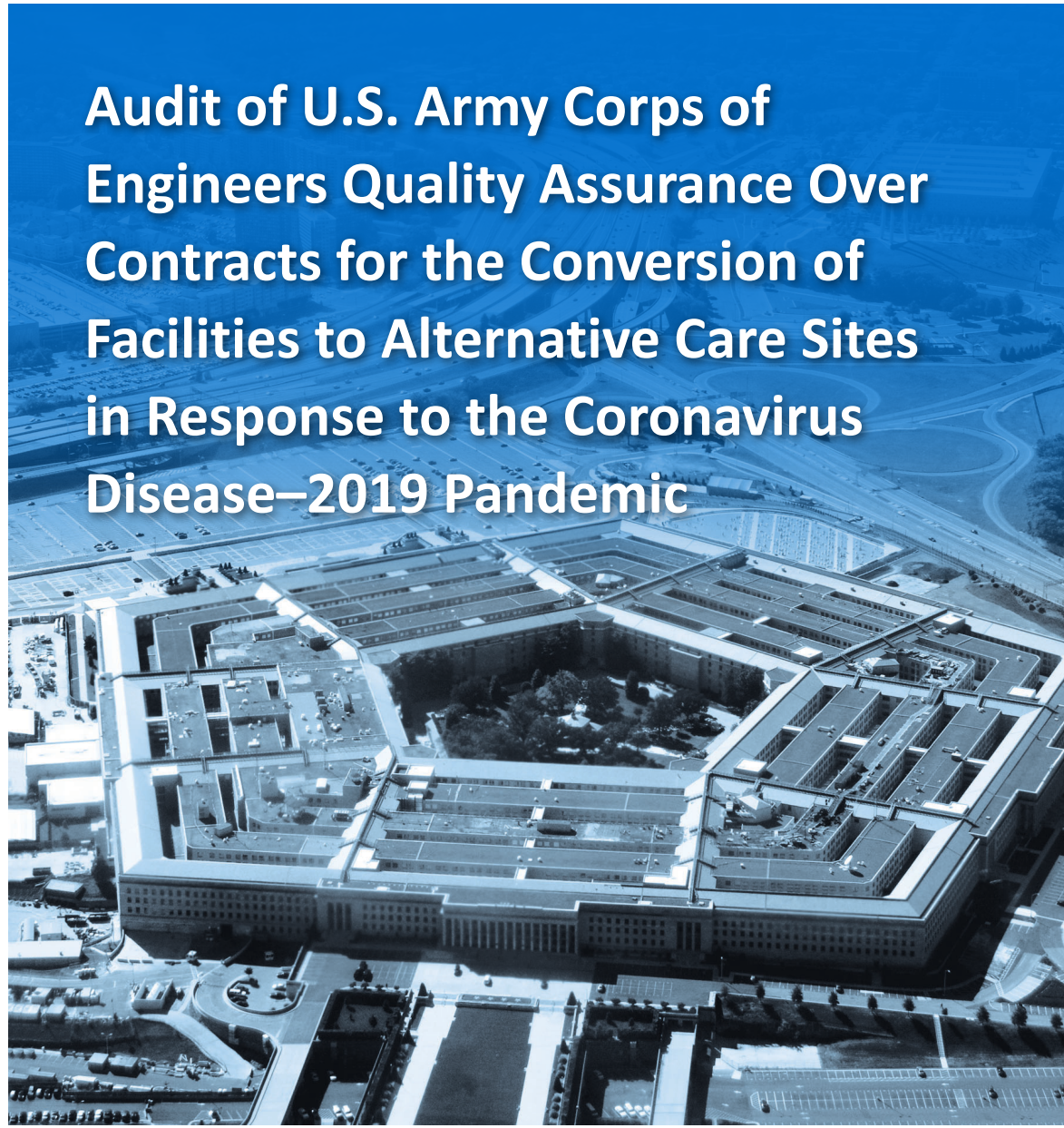
INSPECTOR GENERAL

U.S. Department of Defense

JULY 16, 2021



Audit of U.S. Army Corps of Engineers Quality Assurance Over Contracts for the Conversion of Facilities to Alternative Care Sites in Response to the Coronavirus Disease—2019 Pandemic



INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE





Results in Brief

Audit of U.S. Army Corps of Engineers Quality Assurance Over Contracts for the Conversion of Facilities to Alternative Care Sites in Response to the Coronavirus Disease–2019 Pandemic

July 16, 2021

Objective

The objective of this audit was to determine to what extent U.S. Army Corps of Engineers (USACE) officials conducted appropriate quality assurance and contract administration related to alternative care site (ACS) facilities. We determined whether USACE officials appropriately developed quality assurance control plans (or used appropriate waivers), designated properly trained personnel to conduct quality assurance, coordinated the process, completed contractor assessments, and initiated contract closeout procedures in a timely manner.

Background

An ACS is a facility that is temporarily converted for healthcare use during a public health emergency. ACS facilities are intended to reduce the burden on hospitals and other permanent healthcare facilities, help infected patients maintain isolation, and allow low acuity patients to be monitored, minimally treated, and quickly moved to other facilities if their condition worsens.

USACE officials appoint one or more contracting officer's representatives (COR) to each contract to review work completed, provide updates on the progress and quality assurance of the work, and accept closeout information. The COR must provide quality assurance, preferably daily, in the form of written reports or pictures of progress. CORs are to stay up-to-date on training.

Background (cont'd)

A quality assurance surveillance plan (QASP) prescribes policies and procedures to ensure that supplies and services acquired under Government contract conform to the contract's quality and quantity requirements. If the contracting officer waives the QASP requirement, they must state the reason for the waiver. We considered waivers, because of the urgency of the ACS requirement, a valid justification given the coronavirus disease–2019 (COVID-19) pandemic conditions officials were operating under.

The Contractor Performance Assessment Reporting System (CPARS) is the official source for past performance information. Contracting officers are required to prepare past performance evaluations at the time the contracted work or order is completed.

Finding

Considering that contracting officials were operating in a pandemic environment, USACE contracting officers conducted the following appropriate quality assurance and contract administration actions for the 35 contracts and contract actions, valued at \$686.6 million, used for ACS conversions.

- Developed or appropriately completed a waiver for the QASP for 33 of the 35 contracts. USACE contracting officers issued the remaining two contracts as construction contracts, which are exempt from QASP requirements by the Federal Acquisition Regulation.
- Designated CORs to conduct quality assurance oversight for 34 of the 35 contracts. The contracting officer for the remaining contract elected not to appoint a COR and retained quality assurance responsibilities.
- Completed CPARS reports for 33 of the 35 contracts to evaluate contractor performance. Contracting officers were not required to complete a CPARS report for one of the contracts because the dollar value of the acquisition was below the threshold requiring a CPARS report. A USACE official stated that the CPARS report for the second contract was expected to be completed by the end of June 2021.



Results in Brief

Audit of U.S. Army Corps of Engineers Quality Assurance Over Contracts for the Conversion of Facilities to Alternative Care Sites in Response to the Coronavirus Disease–2019 Pandemic

Finding (cont'd)

- Performed steps to close out contracts by obtaining a final invoice or contractor release of claims for 33 of the 35 contracts. Although USACE contracting officers were unable to fully close out two of the ACS contracts, officials have taken actions to obtain missing contractor documentation. Contractors have been unable to provide final invoices and releases of claims because of labor pricing disputes, pricing change orders during the conversion, and subcontractor billing issues.

As a result, USACE personnel were able to ensure that controls were in place to conduct quality assurance and contract administration because they had personnel available during the conversions to oversee contractors, coordinate changes in site conditions and Government requirements with the contractors, and ensure the contract files contained the necessary documents. Furthermore, USACE personnel were able to complete the ACS conversions and determine through the quality assurance conducted that the Government obtained the services established by the contract terms. USACE personnel completed actions after the conversions to document contractor performance to ensure that contracting personnel can assess past performance during any future potential contracting opportunities.



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

July 16, 2021

**MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION
AND SUSTAINMENT
COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS
AUDITOR GENERAL, DEPARTMENT OF THE ARMY**

**SUBJECT: Audit of U.S. Army Corps of Engineers Quality Assurance Over Contracts
for the Conversion of Facilities to Alternative Care Sites in Response to
the Coronavirus Disease-2019 Pandemic (Report No. DODIG-2021-101)**

This final report provides the results of the DoD Office of Inspector General's audit. We considered management's comments on the discussion draft copy of this report when preparing the 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 cursive script, reading "Theresa S. Hull", is positioned above the typed name.

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

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Introduction

Objective

The objective of this audit was to determine to what extent U.S. Army Corps of Engineers (USACE) officials conducted appropriate quality assurance (QA) and contract administration related to alternative care site (ACS) facilities. We determined whether USACE officials appropriately developed quality assurance control plans (or used appropriate waivers), designated properly trained personnel to conduct QA, coordinated the process, completed contractor assessments, and initiated contract closeout procedures in a timely manner. See Appendix A for scope and methodology and prior coverage.

Background

Coronavirus disease–2019 (COVID-19) is an infectious disease that can cause a wide spectrum of symptoms. On March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, and on March 13, 2020, the President declared the COVID-19 pandemic a national emergency.¹ Under the Coronavirus Aid, Relief, and Economic Security Act enacted on March 27, 2020, the DoD received \$10.5 billion to prevent, prepare for, and respond to COVID-19, domestically and internationally.²

USACE’s Role in COVID-19 Response

The DoD provides disaster relief for situations like the COVID-19 pandemic through Defense Support of Civil Authorities operations, in which DoD Components provide support for domestic emergencies. DoD resources may be committed to these operations when requested by another Federal agency and approved by the Secretary of Defense or when directed by the President. Under the National Response Framework, USACE is the primary agency for Emergency Support Function Number 3, Public Works and Engineering. USACE assists the Department of Homeland Security through the Federal Emergency Management Agency (FEMA) by coordinating Federal public works and engineering-related support, as well as providing technical assistance, engineering expertise, and construction management to prevent, prepare for, respond to, and recover from domestic incidents. Following the recognition of the COVID-19 emergency, USACE organized hundreds of engineers and staff to provide technical engineering expertise as part of USACE’s duty under the National Response Framework.

¹ A pandemic is a global outbreak of a disease that occurs when a new virus emerges to infect people and can spread between people sustainably.

² Public Law 116-136, “The Coronavirus Aid, Relief, and Economic Security Act,” March 27, 2020.

FEMA officials assigned USACE with the task of converting facilities to ACS through mission assignments; FEMA officials at the regional level initiated the development of specific sites to ACS under a Direct Federal Assistance mission; and FEMA provided a mission assignment to USACE officials for conversion of the facilities for medical purposes. FEMA assigned the construction mission to a USACE district and USACE district officials employed emergency contracting authorities using businesses in the region that were capable of quickly performing the work.

Alternative Care Sites

An ACS is a facility that is temporarily converted for healthcare use during a public health emergency. ACS facilities are intended to reduce the burden on hospitals and other healthcare facilities, help infected patients maintain isolation, and allow low acuity patients to be monitored, minimally treated, and quickly moved to other facilities if their condition worsens. USACE officials published “ACS Implementation Support Materials,” dated March 22, 2020, which described two general configurations of ACS facilities that may be adapted to a wide variety of situations. The first is conversion of facilities with individual rooms, such as hotels, dormitories, or barracks. Figure 1 shows an example of a hotel converted into an ACS facility.

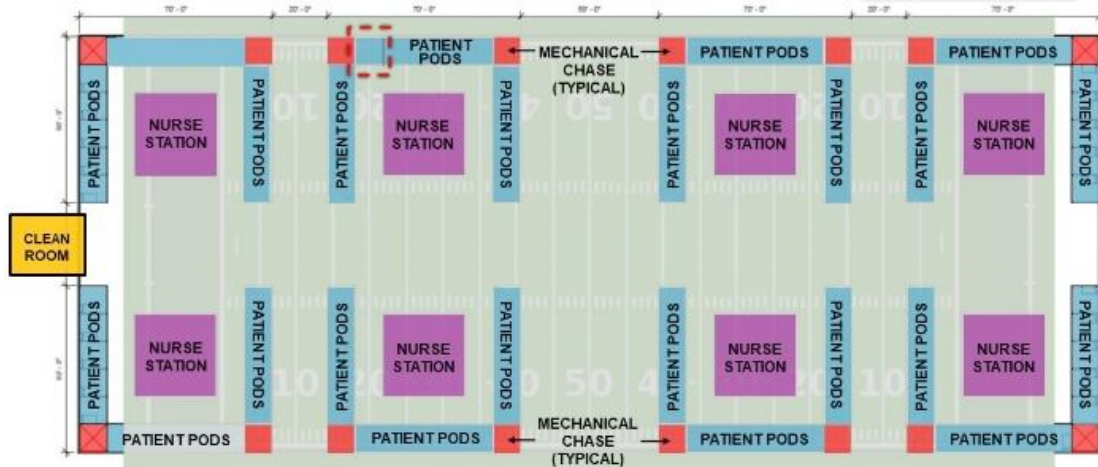
Figure 1. ACS Configuration with Individual Rooms



Source: USACE “ACS Implementation Support Materials,” March 22, 2020.

The second conversion is for open spaces such as football stadiums or convention centers where individual pods provide a barrier around each patient. Figure 2 shows how an open space might be converted into an ACS.

Figure 2. ACS Configuration of an Open Space



Source: USACE “ACS Implementation Support Materials,” March 22, 2020.

According to “ACS Implementation Support Materials,” the USACE district commander and senior staff may meet with State Emergency Management offices or governors to identify a state’s expectations regarding state medical requirements and USACE’s role and responsibilities for the mission. It is the states’ responsibility to identify and obtain sites to be used for ACS; however, states may ask USACE to support their site assessments. USACE officials stated that the requirements to convert ACS dramatically and frequently shifted, changing several times a day, and even within the hour. Every site was customized and each design was adapted accordingly to address the variety of different requirements such as state and local regulations, medical requirements, varying infection rates, and site conditions.

Quality Assurance Surveillance Plan

Contracting officials are required by Federal Acquisition Regulation (FAR) subpart 46.103, “Contracting Office Responsibilities,” to verify that the contractor fulfills the contract quality requirements and ensure that nonconformances are identified. A quality assurance surveillance plan (QASP) prescribes policies and procedures to ensure that supplies and services acquired under Government contract conform to the contract’s quality and quantity requirements.³ The QASP includes policies and procedures related to inspection, acceptance, warranty, and other measures

³ A QASP is only required for performance based service contracts. Construction contracts are not required by the FAR to be performance-based and therefore exempt from the QASP requirement.

associated with quality requirements.⁴ If the contracting officer waives the QASP requirement, the “DoD Contracting Officer Representative Tracking Tool – User Guide” states that the contracting officer must state the reason for the waiver. Given the nature of urgent requirements for the pandemic, contracting officers entered various reasons such as “national emergency” and “COVID-2019 contract” which were appropriate justifications.⁵

Contracting Officer’s Representatives

USACE contracting officers appoint one or more contracting officer’s representatives (CORs) to each contract to review work completed, provide updates on the progress and quality assurance of the work, and accept closeout information.⁶ The COR must provide documentation of quality assurance to the contracting officer, preferably daily, in the form of written reports or pictures of progress. CORs are required by DoD Instruction 5000.72, “DoD Standard for Contracting Officer’s Representative Certification,” to stay up-to-date on training, which can be shown by provided certificates for Continuous Learning Credits. DoD Instruction 5000.72 requires CORs to have either 8 or 16 hours (dependent on appointment type) of applicable training within the past 3 years.

Contract Closeout

Contract administration office personnel are responsible under FAR subpart 4.804, “Closeout by the Office Administering the Contract,” for initiating administrative closeout of the contract after receiving evidence of its physical completion. At the outset of this process, contract administration office personnel must review the contract funds status and notify the contracting office of any excess funds the contract administration office might deobligate.

Contractor Performance Assessment Reporting System

Contracting officers are required by FAR subpart 42.15, “Contractor Performance Information,” to prepare past performance evaluations at the time the contracted work or order is completed. Agencies shall monitor their own compliance with the past performance evaluation requirements, and use Contractor Performance Assessment Reporting System (CPARS) metric tools to measure the quality and timely reporting of past performance information. CPARS is the official source for past performance information. In addition, the Office of the Under Secretary

⁴ FAR subpart 46, “Quality Assurance.”

⁵ “Contracting Officer Representative Tracking (CORT) Tool - User Guide,” April 1, 2015.

⁶ FAR 46.103, “Contracting office responsibilities.”

of Defense for Acquisition, Technology, and Logistics issued a memorandum, “Past Performance Assessment Reporting,” on January 9, 2009, requiring that assessments are completed within 120 days of the end of the performance period.⁷

ACS Contract Actions

USACE contracting officers issued 35 contracts and contract actions to convert 36 ACS facilities during the COVID-19 pandemic response. USACE contracting officers from 17 districts awarded the contracts, with a definitized value of \$686.6 million, to construct ACS facilities in response to the COVID-19 pandemic. USACE contracting officers issued 30 of these 35 contracts as undefinitized contract actions (UCA), also known as letter contracts, which allow a contractor to begin construction on ACS facilities without establishing the full terms and conditions of the contract. See Appendix B for more information on the 35 contracts reviewed.

We reviewed actions related to the use of UCAs for ACS conversions in a prior audit report and concluded that during the conversion of ACS facilities, USACE contracting personnel experienced delays in definitizing UCAs within the scheduled timeframes, resulting in the period of performance being almost complete at the time of definitization.⁸ However, officials generally justified the reasons for delays in the contract files. Additionally, contracting officials determined that they obtained a fair and reasonable price on each of the 30 UCAs. Conversely, USACE contracting officials did not implement Defense Federal Acquisition Regulation Supplement (DFARS) guidance to consider the portion of the work completed in an undefinitized status as part of the profit negotiation.

Although operating in a pandemic environment, USACE officials needed to provide incentive to contractors to control costs and limit Government risk by adjusting profit based on the work performed before and after the contract action was definitized. Otherwise, contractors had little incentive not to delay definitization and complete as much work as possible without bearing significant cost risk. According to USACE officials, USACE and its stakeholders understood that the short periods of performance would increase contractor costs; however, because of the life, health, and safety risks associated with any delays, the parties assumed some cost risks, worked to mitigate these risks during the construction phase, and considered these impacts during negotiations.

⁷ The Office of the Under Secretary of Defense for Acquisition and Sustainment was known as the Office of the Under Secretary for Acquisition, Technology, and Logistics at the time the memorandum was issued.

⁸ DODIG-2021-074, “Audit of the U.S. Army Corps of Engineers’ Use of Undefinitized Contract Actions for the Conversion of Alternate Care Sites in Response to the Coronavirus Disease–2019 Pandemic,” April 7, 2021.

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.⁹ USACE internal controls over quality assurance and contract administration were effective as they applied to the audit objectives.

⁹ DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013.

Finding

USACE Personnel Performed Sufficient Quality Assurance and Contract Administration for ACS Contracts in a Pandemic Environment

Considering contracting officials were operating in a pandemic environment, USACE contracting officers conducted the following appropriate quality assurance and contract administration actions for the 35 contracts and contract actions, valued at \$686.6 million, used for ACS conversions.

- Developed or appropriately completed a waiver for the QASPs for 33 of the 35 contracts. USACE contracting officers issued the remaining two contracts as construction contracts, which are exempt from QASP requirements by the FAR.
- Designated CORs for 34 of the 35 contracts to conduct quality assurance oversight. The contracting officer for the remaining contract elected not to appoint a COR and retained quality assurance responsibilities.
- Completed CPARS reports for 33 of the 35 contracts to evaluate contractor performance. Contracting officers were not required to complete a CPARS report for one of the contracts because the dollar value of the acquisition was below the threshold requiring a CPARS report. A USACE official stated that the CPARS report for the second contract was expected to be completed by the end of June 2021.
- Performed steps to closeout contracts by obtaining a final invoice or contractor release of claims for 33 of the 35 contracts. Although USACE contracting officers were unable to fully close out two of the ACS contracts, officials have taken actions to obtain missing contractor documentation. Contractors have been unable to provide final invoices and releases of claims because of labor pricing disputes, pricing change orders during the conversion, and subcontractor billing issues.

As a result, USACE personnel were able to ensure that the controls were in place to conduct quality assurance and contract administration because they had personnel available during the conversions to oversee contractors, coordinate changes in site conditions and Government requirements with the contractors, and ensure the contract files contained the necessary documents. Furthermore, USACE personnel were able to complete ACS conversions and determine through the QA conducted that the Government obtained the services established by the contract terms. USACE personnel completed actions after the conversions to document contractor performance to ensure that contracting personnel can assess past performance during any future potential contracting opportunities.

Contracting Officers Established or Properly Waived QASPs

USACE contracting officers properly developed a QASP or appropriately completed a waiver to establish a QASP for 33 of the 35 contracts. Contracting officials are required by the FAR to

verify that the contractor fulfills the contract quality requirements and ensure that nonconformances are identified.¹⁰ Contracting officers developed a QASP for 21 contracts to ensure that supplies and services acquired under Government contract conform to the contract's quality and quantity requirements. In some instances, such as a national emergency like the COVID-19 pandemic, contracting officers can waive the requirement for a written QASP through the COR tool; contracting officers did this for 12 contracts. A complete QASP contains four elements: purpose, roles and responsibilities, performance requirements and assessments, and performance reporting.

USACE contracting officers properly developed a QASP or appropriately completed a waiver to establish a QASP for 33 of the 35 contracts.

USACE officials did not provide a QASP or a waiver for two of the contracts, both of which were construction type contracts and therefore exempt from QASP requirements by the FAR.¹¹ For the two contracts without a QASP or waiver, USACE contracting officials provided evidence of QA oversight either in the contract file or through a CPARS entry.

Contract Type Influenced the Use of QASPs or QASP Waivers

According to USACE officials, contracting personnel selected the quality assurance methodology based on whether the ACS was set up using a service contract or built using a construction contract. USACE contracting officers issued ACS contracts as either service contracts or construction contracts depending on the ACS location specifics. Contracting officers issued service contracts for locations such as arenas or conference areas with an existing contractor in place who was responsible for setting up and tearing down events. Conversely, contracting officers issued a two-phase design-build construction contract when the entire standalone facility was constructed or where an existing facility, such as an eldercare facility or non-operational hospital, was remodeled. When a service contract was established with existing contractors, USACE officials implemented a QASP; when contracting officials issued construction contracts, USACE employed a different QA process. Contracting personnel generally use QASPs in service contracts as a method to conduct routine surveillance as the contractor performs the service. Conversely,

¹⁰ FAR 46.103, "Contracting office responsibilities."

¹¹ W911XK-20-C-0001 and W912P5-20-C-0005.

contracting personnel conduct quality assurance for construction contracts via inspections and acceptance of the work after various stages of the construction are completed.

According to the USACE Acquisition Support Division Chief, USACE officials did not issue USACE-level guidance on developing waivers for QASPs. However, USACE personnel performed quality assurance on the construction contracts. The Chief further explained that because of the urgent nature of ACS requirements, the short construction durations did not support the standard submittal process; therefore, USACE field office personnel used various methods of surveillance, such as daily reports and photographs to ensure a quality project.

Contracting Officers Used Existing QASPs and Templates When Possible

USACE contracting officials issued 5 of the 35 contracts as delivery orders on existing contracts. For these awards, contracting officials established QASPs as part of the basic contract and incorporated the task order details of the ACS conversion into the existing QASP. Additionally, contracting officers managed the QA through memorandums for the record to demonstrate that QA was being conducted.

Contracting officers incorporated QASPs to establish how and when the COR would monitor, evaluate, and document the contractor's performance on 21 contracts. For example, a USACE District - Tulsa contracting officer incorporated the QASP for the Guymon, Oklahoma, ACS to accomplish the following requirements in accordance with the contract terms.

- Ensure pipe fencing is installed in accordance with the drawing. All gates shall have tamper-proof locking mechanism that would not allow access to cut or break the lock.
- Welds shall be continuous around each joint/area, be neat, uniform, and form a smooth continuous bead.
- Warranty 1-year requirements.
- Government will inspect the welding and grinding, and any deficiencies shall be corrected by the contractor.¹²

Contracting Officers Justified Issuing Waivers for QASPs Related to the Urgent Nature of the Conversions

USACE contracting officials waived the requirement for a written QASP on 12 of the 35 contracts and 3 waivers cited the urgent need of the pandemic response

¹² W912BV-20-C-0006.

as the justification for issuing the waivers.¹³ However, for these contracts we determined that USACE personnel conducted adequate quality assurance without the presence of the written plan.

A written QASP can be waived in certain cases, and a QASP waiver put in place. Contracting officers create a QASP waiver in the DoD COR tracking tool as the method of communicating to the COR that a QASP was not developed for the contract and that the QA process has no set plan. The waiver does not change the responsibilities of the contracting officer or COR to conduct appropriate quality assurance.¹⁴ The QASP waiver process offers flexibility to contracting officials to accommodate the various situations that may warrant waiving QASP requirements by adding an option for the contracting officer to write their own justification for the waiver. Contracting officers' justifications in the waivers related to the urgent requirements for the COVID-19 pandemic were appropriate justification. In situations where the QASP is waived, the contracting officer must still ensure that QA is conducted, and the waiver issuance is communication to the COR that a QASP is not in place for the award. For example, a USACE District – Albuquerque contracting officer for the Albuquerque, New Mexico, ACS waived the QASP, stating the reason as “other” and commenting “National Emergency.”¹⁵ The COR performed QA procedures in lieu of a written QASP.

Contracting Officials Designated CORs to Perform Quality Assurance

USACE contracting officers transferred quality assurance oversight by assigning trained personnel as CORs to provide reports to the contracting officers describing the contractor oversight back to the contracting officers. Contracting officers delegated specific authority to the CORs to conduct contract surveillance to verify that the contractor fulfilled contract delivery and quality requirements and documented contractor performance. The CORs functioned as the eyes and ears of the contracting officer and liaison between the Government and contractor when executing surveillance responsibilities.

Contracting Officers Designated and Trained Personnel to Perform ACS Conversion Quality Assurance

Generally, USACE contracting officers appropriately designated, in writing, qualified personnel to conduct quality assurance. USACE designated personnel as CORs on 34 of the 35 contracts reviewed. The contracting officer in USACE

¹³ Contracting officers used other reasons as justification for issuing waivers for the remaining contracts.

¹⁴ FAR 46.103, “Contracting office responsibilities.”

¹⁵ W912PP-20-C-0007.

District – Alaska, who issued the contract for ACS in Anchorage Alaska, retained COR duties because of the short term and urgent nature of the requirement.¹⁶ USACE officials were able to provide training certificates for CORs assigned to all contracts; however, for six personnel assigned as CORs, contracting officers were unable to provide training certificates for courses completed within the 3-year period from March 2017 through the start of the conversions in March 2020.¹⁷ While each of the CORs completed initial COR training, USACE contracting officials did not always verify that personnel completed the requirements for 8 hours of continuous learning every 3 years after taking initial COR training. Because of the urgency of the requirements in the ongoing pandemic, we understand that USACE officials were tasked with an unprecedented requirement to convert ACS facilities across the country in a short timeframe and had to assign individuals who were previously trained as CORs, but lacked the continuous learning training required to complete oversight responsibilities.

For example, a USACE District – Sacramento contracting officer properly designated a COR for the Porterville, California, ACS by completing a four-page memorandum for the designation of a COR.¹⁸ Within the memorandum, the contracting officer identified the applicable contract, the name of the contractor, and the person designated as the primary COR. The contracting officer also included an overview of the responsibilities that the COR must agree to. The designated COR was required to prepare memorandums for the record, complete training, adhere to standards of conduct, and avoid conflicts of interest; authorized to perform designated actions; and prohibited from certain actions. The contracting officer signed the memorandum certifying that the COR met the training requirements. The COR, COR’s supervisor, and contractor signed the acknowledgements.

CORs and Contracting Officers Adequately Communicated Conversion Progress and Issues

USACE personnel designated as CORs provided adequate documentation to the contracting officers of QA conducted at the conversion sites for 31 of the 35 contracts reviewed. The CORs communicated changes required for proper conversion, contractor progress, and performance issues to the contracting officers via daily situation reports, photos of conversion progress, and similar

¹⁶ W111KB-20-C-0012. FAR 42.302, “Contract Administration Functions,” allows a contracting officer to retain QA responsibilities.

¹⁷ Although COR training includes annual compliance training on topics such as ethics, security, and human trafficking, we did not assess these training requirements as part of our audit. We verified that personnel were trained in the technical requirements related to performing COR duties. The focus of the audit was on conducting QA for the ACS program, not a detailed assessment of the USACE training process.

¹⁸ W91238-20-F-0058.

memorandums describing contractor performance. USACE personnel did not provide COR reports for the four remaining contracts.

The contracting officer in USACE District – Alaska, who issued the contract for ACS in Anchorage, Alaska, retained COR duties because of the short term and urgent nature of the requirement. Because the contracting officer retained the duties to perform quality assurance by not appointing a COR, the contracting officer had firsthand knowledge of the contractor’s compliance with the contract terms and the additional step of having a COR report to the contracting officer was not necessary.

USACE COR personnel provided contracting officers documentation of ongoing QA at the ACS conversion locations. For example, a USACE District – Chicago COR for the Melrose Park, Illinois, ACS maintained progress photos to demonstrate adherence to one of the reporting standards listed in the QASP.¹⁹ The COR provided photos that showed a room comprised of at least three patient pods and a nurse station. While the COR obtained the photos before the room was stocked with medical equipment, the photos showed renovation progress toward a completed medically-oriented room.

Additionally, a USACE District – Jacksonville COR for the Miami Beach, Florida, ACS produced a quality assurance report for April 12, 2020, that listed general information about the work site for the day, including the temperature, wind, number of Government employees on site, and findings of fact.²⁰ The COR also included a “QA Narrative” section for the COR to record QA activities. In the April 12, 2020 quality assurance report, the COR listed Results of QA Activities Tests and Actions, Progress of Work, Causes and Extent of Delays, Safety Comments/Observations and Corrective Actions, Remarks (to include a list of visitors and miscellaneous remarks), Electrical QA Comments, Contractor/Subcontractor and Area of Responsibilities, and Material Received. Each quality assurance report reviewed varied in subject and level of detail.

USACE officials did not provide evidence of QA review for 4 of the 35 contracts. However, USACE officials provided positive QA feedback in CPARS for the contractors thereby showing that ultimately the contractors met the intent of the contract and the contracting officer was satisfied with the contractor’s performance. USACE officials were operating under the pressures of the pandemic; therefore, we consider the omission of QA evidence in the contract file a documentation issue only.

¹⁹ W912P6-20-C-0004.

²⁰ W912EP-20-C-0003.

Contracting Personnel Completed Contractor Performance Assessment Reports in a Timely Manner

USACE personnel completed timely CPARS reports for 33 of the 35 contracts. By completing CPARS reports, USACE personnel allowed the contractors' performance for the conversion to be assessed for future contingency operations. A completed CPARS report also informs other Federal agencies of the contractor's ability to perform in a pandemic environment and potentially eliminates future issues relating to a contractor that may or may not be able to perform future requirements.

USACE personnel completed timely CPARS reports for 33 of the 35 contracts.

For example, a USACE District – Omaha contracting officer issued a contract on May 5, 2020, to retrofit Kalispell Regional Medical Center in Kalispell, Montana, into an ACS to serve ambulatory, vented, and non-vented COVID-19 patients.²¹ The contracting officer properly issued a CPARS on October 29, 2020, as part of the closeout package. As part of the CPARS process, USACE personnel are required to provide a final assessment of the contractor, which includes a section on quality. Specifically, for the Kalispell ACS, the CPARS report preparer stated, “Quality on this project met the contractual requirements. The team worked with the subcontractors to check and double check the quality of work. When deficiencies were observed, they were noted and corrected quickly.”

USACE officials did not provide a CPARS entry for the Washington, D.C., United Medical Center and Memphis, Tennessee, Gateway Center Site ACS locations.²² For the Washington, D.C., United Medical Center location, USACE contracting officers were not required to complete a CPARS entry because the dollar value of the acquisition was \$275,000. The FAR only requires past performance evaluations to be prepared for construction contracts of \$750,000 or more.²³ According to a USACE official, the CPARS entry for the Memphis, Tennessee, Gateway Center Site location will be completed by the end of June 2021. In addition, contracting officials did provide evidence that adequate QA was conducted for this location.

²¹ W9128F-19-D-0035.

²² W912DR-20-C-0018 and W912EQ-20-C-0004.

²³ FAR 42.1502, “Policy.”

Contracting Officers Performed Adequate Steps to Initiate Contract Closeout

USACE contracting officers successfully initiated steps to close out 33 of the 35 contracts as of March 18, 2021. USACE contracting personnel obtained either a release of claims, a final invoice, or a completed Engineering Form 93, "Payment Estimate – Contract Performance," for each of the 33 contracts. For the two remaining contracts, USACE personnel provided evidence that they are working with contractors to complete the process. However, the contractors have been unable to provide final invoices because of disputed labor rates, pricing of change orders required during the conversion, and subcontractor billing to the prime contractors for the conversions.

USACE contracting personnel obtained a final invoice or contractor release of claims on 33 of the 35 contracts, which allowed contracting personnel to initiate the steps to close out ACS contracts. As of March 18, 2021, contracting personnel had obtained both a contractor release of claims, and a final invoice for 24 contracts, while contractors provided only a final invoice for 7 contracts and only a contractor release of claims for the 2 remaining contracts.²⁴ USACE officials have not obtained either a final invoice or contractor release of claims for the two remaining contracts because of various issues, including a Department of Labor dispute.²⁵

Summary

USACE officials faced the unique and challenging task of establishing ACS facilities across the country in a short timeframe during the COVID-19 pandemic. According to USACE officials, in March 2020, Federal officials believed that hospitals would imminently be over capacity and that ACS construction work was critical to save many thousands of lives. Although USACE is experienced with responding to disasters and other urgent requirements, pandemic-related requirements were unprecedented. USACE officials were faced with rapidly changing requirements from state and local officials, as well as supply chain issues, during the pandemic. We understand the challenges this mission presented to USACE officials, and therefore are not making a recommendation for the documentation issues we uncovered during the audit. Given the urgency and nature of the requirements, USACE officials performed appropriate and sufficient quality assurance and contract administration over the contracts for the conversion of ACS facilities. USACE contracting officials established QASPs or issued QASP waivers, appropriately assigned and trained COR personnel, and obtained documentation

²⁴ A release of claims in contract law refers to one party releasing the other party from all potential claims it could bring in exchange for adequate consideration.

²⁵ W912QR-20-C-0018 and W9128F-20-D-0008.

of surveillance conducted by COR personnel. Contracting officials completed performance evaluations in the Government-wide CPARS, allowing officials both within the DoD and other Federal agencies to determine past performance before issuing future contracts. Ultimately, USACE officials and contractors provided the needed facilities to state and local authorities to respond to an ever-changing pandemic situation.

Appendix A

Scope and Methodology

We conducted work used as a basis for this performance audit from June 2020 through December 2020 under DoD IG Project No. D2020-D000AV-0144.000. In August 2020, we decided to issue two reports based on those efforts. From August 2020 through December 2020, we primarily performed work that resulted in DODIG-2021-074, “Audit of the U.S. Army Corps of Engineers’ Use of Undefinitized Contract Actions for the Conversion of Alternate Care Sites in Response to the Coronavirus Disease-2019 Pandemic.” From December 2020 through July 2021, we continued this work using the same announcement memorandum, but created DoD IG Project No. D2021-D000AV-0041.000 specifically for this report. We completed both projects 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.

Internal Control Assessment and Compliance

We assessed internal controls and compliance with laws and regulations necessary to satisfy the audit objective. In particular, we assessed internal controls as they related to USACE officials’ quality assurance and contract administration over contracts issued for the conversion of ACS facilities in response to the COVID-19 pandemic. However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

Universe Information

We downloaded a list of ACS conversion locations from the USACE website on April 29, 2020. Based on the data provided on the USACE website, we determined that USACE officials converted 38 locations to ACS. We used the 38 locations for our universe. We determined the contract action to convert one ACS was not awarded by a USACE contracting officer and it was removed from the universe, leaving 37 ACS. USACE contracting officers awarded the conversion for 2 of the remaining 37 ACS locations from the same contract action, bringing the total number of USACE awarded contract actions to 36 for the 38 locations.

USACE contracting officers from 17 different USACE districts awarded the 36 contract actions for \$503,508,285 to convert ACS in response to the COVID-19 pandemic. USACE contracting officers awarded the contract actions from March 25, 2020, through May 24, 2020. Of the 36 contract actions, USACE contracting officers awarded 30 as UCAs. For the other six, USACE contracting officers terminated one contract for convenience, which we removed from our scope, and awarded five contracts that were not considered UCAs. In total, we reviewed 35 contracts. Appendix B lists each ACS contract reviewed and our analysis of the contract documentation.

Review of Documentation and Interviews

We obtained and reviewed contracts and documentation issued by USACE personnel for the conversion of ACS in response to the COVID-19 pandemic. We selected the universe of contract actions to review using ACS conversion information on the USACE website. The documents we reviewed for each contract action included a QASP (or an applicable waiver), COR designation letters, COR training certificates, COR reports provided to contracting officers, final invoices, contractor release of claims, and other documentation related to contract closeout.

We reviewed the documentation to determine if USACE contracting officials established a QASP for contract oversight or issued a waiver for the QASP. In addition, we reviewed each contract to determine if contracting officials assigned a COR to the contract and if so, whether the COR training was current. We also reviewed correspondence from the CORs to the contracting officers outlining contract performance. We reviewed the performance evaluations entered into CPARS. Lastly, we reviewed contract documentation including the final invoice and contractor release of claims to determine if USACE officials were making progress toward contract closeout and deobligation of excess funding.

We also reviewed the following criteria and guidance.

- The Coronavirus Aid, Relief, and Economic Security Act
- FAR 4.8, “Government Contract Files”
- FAR Part 46, “Quality Assurance”
- DFARS 201.6, “Career Development, Contracting Authority and Responsibilities”

- FAR 42.15, “Contractor Performance Information”
- FAR 42.1501, “General”
- FAR 42.1502, “Policy”
- FAR 42.302, “Contract Administration Functions”
- DFARS 246.402, “Government Contract Quality Assurance at Source”
- DoD Instruction 5000.72, “DoD Standard for Contracting Officer’s Representative Certification”
- Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics memorandum, “Past Performance Assessment Reporting,” January 9, 2009

We met with USACE officials involved in the award of ACS conversion contract actions including personnel from contracting, acquisition, general counsel, procurement, and construction.

Use of Computer-Processed Data

We did not use computer-processed data to perform this audit.

Use of Technical Assistance

We did not receive technical assistance during this audit.

Prior Coverage

From June 2, 2020, through April 7, 2021, the Government Accountability Office (GAO) and the DoD Office of Inspector General (DoD OIG) issued 7 reports discussing contracting in the COVID-19 pandemic environment.

Unrestricted GAO reports can be accessed at <http://www.gao.gov>. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

GAO

Report No. GAO-20-632, “Observations on Federal Contracting in Response to the Pandemic,” July 2020

Government-wide contract obligations in response to the COVID-19 pandemic totaled \$17.8 billion as of June 11, 2020. Four agencies accounted for 85 percent of total COVID-19 contract obligations. About 62 percent of Federal contract obligations were for goods to treat COVID-19 patients and protect health care workers, including ventilators, gowns, and N95 respirators. Less than half of total contract obligations were identified as competed.

Report No. GAO-20-685t, "COVID 19 FEMA's Role in the Response and Related Challenges," July 14, 2020.

The GAO's report on the COVID-19 pandemic response and past work on other disasters has identified potential challenges FEMA faces in responding to the pandemic and any future nationally significant biological incidents. The following challenges may be further complicated by the rise in COVID-19 cases and additional expected case increases in the fall.

- Contracting
- Medical supply acquisition and distribution
- Deploying the disaster workforce
- After-action reporting
- Interagency planning for biological incidents

The GAO made recommendations for each identified potential challenge.

DoD OIG

Report No. DODIG-2021-074 , "Audit of the U.S. Army Corps of Engineers' Use of Undefinitized Contract Actions for the Conversion of Alternate Care Sites in Response to the Coronavirus Disease–2019 Pandemic," April 7, 2021

During the conversion of ACS facilities, USACE contracting personnel experienced delays in definitizing UCAs within scheduled timeframes, resulting in the period of performance being almost complete at the time of definitization. However, officials generally justified the reasons for delays in the contract files. Additionally, contracting officials determined that they obtained a fair and reasonable price on all 30 UCAs. Conversely, USACE contracting officials did not implement DFARS guidance to consider the portion of the work completed in an undefinitized status as part of the profit negotiation. Although USACE officials were operating in a pandemic environment, officials needed to provide incentive to contractors to control costs and limit Government risk by adjusting profit for the length of the undefinitized portion of the contract action. Otherwise, contractors had little incentive not to delay definitization and complete as much work as possible without bearing significant cost risk. According to USACE officials, USACE and its stakeholders understood that the short periods of performances would increase contractor costs; however, because of the life, health, and safety

risks associated with any delays, the parties assumed some cost risks, worked to mitigate these risks during the construction phase, and considered these impacts during negotiations.

Report No. DODIG-2021-050, “Audit of Contracts for DoD Information Technology Products and Services Procured by DoD Components in Response to the Coronavirus Disease–2019 Pandemic,” February 12, 2021

The Army, Navy, Air Force, Defense Health Agency, and Defense Information Systems Agency procured information technology products and services in accordance with the Coronavirus Aid, Relief, and Economic Security Act and other Federal and DoD requirements. As a result, DoD stakeholders have assurance that the Army, Navy, Air Force, Defense Health Agency, and Defense Information Systems Agency procured \$81.5 million in information technology products and services in response to the COVID-19 pandemic at reasonable prices and reduced the risk of cybersecurity vulnerabilities associated with those procurements. Continued DoD efforts to comply with the Coronavirus Aid, Relief, and Economic Security Act and other Federal and DoD requirements will ensure that the American public has visibility of DoD spending on contract actions associated with the response to the COVID-19 pandemic.

Report No. DODIG-2021-045, “Audit of Contracts for Equipment and Supplies in Support of the Coronavirus Disease–2019 Pandemic,” January 15, 2021

The DoD paid fair and reasonable prices on 19 of 23 contracts, valued at \$4.1 million, for laboratory equipment and medical supplies, including personal protective equipment, 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. 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.

Report No. DODIG-2021-042, "Evaluation of Defense Logistics Agency Contracts for Ventilators in Response to the Coronavirus Disease-2019 Outbreak,"
December 23, 2020

The DoD's evaluation of the Defense Logistics Agency (DLA) was conducted to determine if the DLA properly contracted to obtain ventilators in response to the COVID-19 pandemic. In determining the effectiveness of the DLA's response, the DoD analyzed whether sufficient numbers of ventilators were provided to meet demand, if ventilators were obtained in a timely manner, and if ventilators met demand. According to the Centers for Disease Control and Prevention, ventilators can be used to push air with increased oxygen levels into the lungs of a patient. The DoD conducted this evaluation from May 2020 through December 2020 in accordance with "Quality Standards for Inspection and Evaluation," published in January 2012 by the Council of Inspectors General on Integrity and Efficiency. In review of the appointed contracting personnel, the team reviewed contract officer warrants, unofficial academic transcripts of training completion at the Defense Acquisition University, training records from the DLA learning management system, and Defense Acquisition Workforce and Improvement Act career field certification documentation.

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 report recognizes that DoD officials and contracting personnel are in a unique, ever-changing situation; however, the best practices, tips, issues identified, and lessons learned from past reports identified in the report can assist DoD officials in avoiding fraudulent activity and provide better contractor oversight. To avoid scrutiny by Congress and the public, DoD officials should ensure their response to COVID-19 relief funding is deliberate and accurate. DoD officials should use past experiences from disaster recovery while applying best practices in the COVID-19 pandemic response.

Appendix B

ACS Contracts Reviewed

Contract Number	Award Date	USACE District	Final Definitized Amount	QASP or Waiver in Place	COR Appointed in Writing	COR Training Evidence Provided	QA Reports Provided to Contracting Officer	CPARS Report Provided	Final Invoice or Release of Claims Provided
W911XK-20-C-0001	March 31, 2020	Detroit	\$9,452,813	No ¹	Yes	Yes	No	Yes	Yes
W912P9-20-C-0009	April 8, 2020	St. Louis	924,657	QASP	Yes	Yes	Yes	Yes	Yes
W911KB-20-C-0012	April 9, 2020	Alaska	1,263,776 ²	QASP	No ³	No ³	No	Yes	Yes
W912QR-20-C-0018	April 7, 2020	Louisville	14,887,818	Waiver	Yes	Yes	Yes	Yes	No
W912PP-20-C-0007	April 3, 2020	Albuquerque	3,600,000	Waiver	Yes	Yes	Yes	Yes	Yes
W912PP-20-C-0008	April 5, 2020	Albuquerque	2,621,899	Waiver	Yes	Yes	Yes	Yes	Yes
W912EP-20-C-0003	April 6, 2020	Jacksonville	25,925,692	QASP	Yes	No	Yes	Yes	Yes
W911XK-20-C-0004	April 5, 2020	Detroit	11,999,747	QASP	Yes	No	No	Yes	Yes
W91238-20-F-0058	April 2, 2020	Sacramento	2,095,987	QASP	Yes	Yes	Yes	Yes	Yes
W912DS-20-C-0010	March 26, 2020	New York	42,950,000	Waiver	Yes	Yes	Yes	Yes	Yes
W912DR-20-C-0018	April 8, 2020	Baltimore	275,000	QASP	Yes	No	Yes	No	Yes
W912BU-20-C-0020	April 8, 2020	Philadelphia	3,927,544	QASP	Yes	Yes	Yes	Yes	Yes
W912P6-20-C-0003	March 29, 2020	Chicago	14,300,000	Waiver	Yes	No	No	Yes	Yes
W912P6-20-C-0005	March 29, 2020	Chicago	18,339,524	QASP	Yes	Yes	Yes	Yes	Yes
W912P6-20-C-0002	March 28, 2020	Chicago	64,999,597	Waiver	Yes	Yes	Yes	Yes	Yes
W912P6-20-C-0004	April 4, 2020	Chicago	16,391,366	QASP	Yes	Yes	Yes	Yes	Yes
W912DS-20-C-0008	March 28, 2020	New York	155,500,000	Waiver	Yes	Yes	Yes	Yes	Yes
W9128F-20-D-0006	April 5, 2020	Omaha	19,609,792 ²	QASP	Yes	Yes	Yes	Yes	Yes
W912DS-20-C-0009	March 29, 2020	New York	118,504,737	QASP	Yes	No	Yes	Yes	Yes
W912BU-20-C-0021	April 13, 2020	Philadelphia	1,533,333	QASP	Yes	Yes	Yes	Yes	Yes

ACS Contracts Reviewed (cont'd)

Contract Number	Award Date	USACE District	Final Definitized Amount	QASP or Waiver in Place	COR Appointed in Writing	COR Training Evidence Provided	QA Reports Provided to Contracting Officer	CPARS Report Provided	Final Invoice or Release of Claims Provided
W912PP-20-C-0011	April 17, 2020	Albuquerque	1,574,502	Waiver	Yes	Yes	Yes	Yes	Yes
W912DS-20-C-0007	March 25, 2020	New York	11,364,953	QASP	Yes	Yes	Yes	Yes	Yes
W9128F-20-D-0008	April 8, 2020	Omaha	13,331,415 ²	Waiver	Yes	Yes	Yes	Yes	No
W912PP-20-C-0012	April 17, 2020	Albuquerque	1,916,807	Waiver	Yes	Yes	Yes	Yes	Yes
W912BU-20-C-0017	April 7, 2020	Philadelphia	10,279,098	QASP	Yes	Yes	Yes	Yes	Yes
W912DR-20-C-0021	April 16, 2020	Baltimore	31,624,786	QASP	Yes	No	Yes	Yes	Yes
W912HN-20-C-3003	April 17, 2020	Savannah	6,380,251	Waiver	Yes	Yes	Yes	Yes	Yes
W912BV-20-C-0008	April 26, 2020	Tulsa	8,300,000	QASP	Yes	Yes	Yes	Yes	Yes
W9127N-20-C-0012	April 17, 2020	Portland	2,600,000	QASP	Yes	Yes	Yes	Yes	Yes
W912QR-20-C-0017	April 30, 2020	Louisville	4,455,897	QASP	Yes	Yes	Yes	Yes	Yes
W9128F-19-D-0035	May 5, 2020	Omaha	2,577,206 ²	QASP	Yes	Yes	Yes	Yes	Yes
W912P5-20-C-0005	May 1, 2020	CELRN-RC-N Contracting Branch	7,217,218	No ¹	Yes	Yes	Yes	Yes	Yes
W9128F-20-D-0003	April 11, 2020	Omaha	3,106,780 ²	Waiver	Yes	No	Yes	Yes	Yes
W912BV-20-C-0006	May 24, 2020	Tulsa	1,375,000	QASP	Yes	Yes	Yes	Yes	Yes
W912EQ-20-C-0004	April 6, 2020	Memphis	51,326,283	QASP	Yes	Yes	Yes	No	Yes
Totals			\$686,533,478	Yes ⁴ – 33 No – 2 ¹	Yes – 34 No – 1	Yes – 28 No – 7	Yes – 31 No – 4	Yes – 33 No – 2	Yes – 33 No – 2

Source: The DoD OIG.

1 Construction type contracts exempt from a QASP or waiver by the FAR.

2 Contracts were not UCAs and therefore definitized at the time of the award.

3 No COR appointed. The contracting officer determined that it would be more efficient to forgo a representative given the urgent nature of the pandemic. A “no” response in this case does not imply a lack of documentation.

4 QASP or waiver completed.

Acronyms and Abbreviations

ACS	Alternate Care Site
COR	Contracting Officer's Representative
CPARS	Contractor Performance Assessment Reporting System
COVID-19	Coronavirus Disease 2019
DFARS	Defense Federal Acquisition Regulation Supplement
DLA	Defense Logistics Agency
FAR	Federal Acquisition Regulation
FEMA	Federal Emergency Management Agency
QA	Quality Assurance
QASP	Quality Assurance Surveillance Plan
UCA	Undefinitized Contract Action
USACE	United States Army Corps of Engineers

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