



July 2021

# COVID-19 CONTRACTING

## Opportunities to Improve Practices to Assess Prospective Vendors and Capture Lessons Learned

Accessible Version

## Why GAO Did This Study

In response to COVID-19, agencies awarded contracts for goods and services to vendors from a range of industries and with varying levels of federal contracting experience, but some vendors have been unable to deliver under those contracts.

The CARES Act included a provision for GAO to review COVID-19-related federal contracting under the act. This report addresses (1) COVID-19 contract obligations and characteristics of vendors, (2) contracting challenges, including with agency assessments of vendors, and (3) whether lessons learned efforts reflect those challenges.

GAO analyzed federal procurement data on agencies' reported COVID-19 contract obligations through May 31, 2021. GAO examined a nongeneralizable sample of 28 contracts with high dollar values or other characteristics from four agencies—DOD, HHS, USDA, and DHS. GAO interviewed officials, including Office of Management and Budget (OMB) officials about their agency acquisition guidance.

## What GAO Recommends

GAO is making 10 recommendations, including that agencies establish processes to better collect and communicate contracting lessons learned during emergencies such as COVID-19. Agencies agreed with nine recommendations. OMB did not agree to establish time frames for updating its guidance. GAO continues to believe OMB should do so, as discussed in this report.

View [GAO-21-528](#). For more information, contact Marie A. Mak at (202) 512-4841 or [makm@gao.gov](mailto:makm@gao.gov).

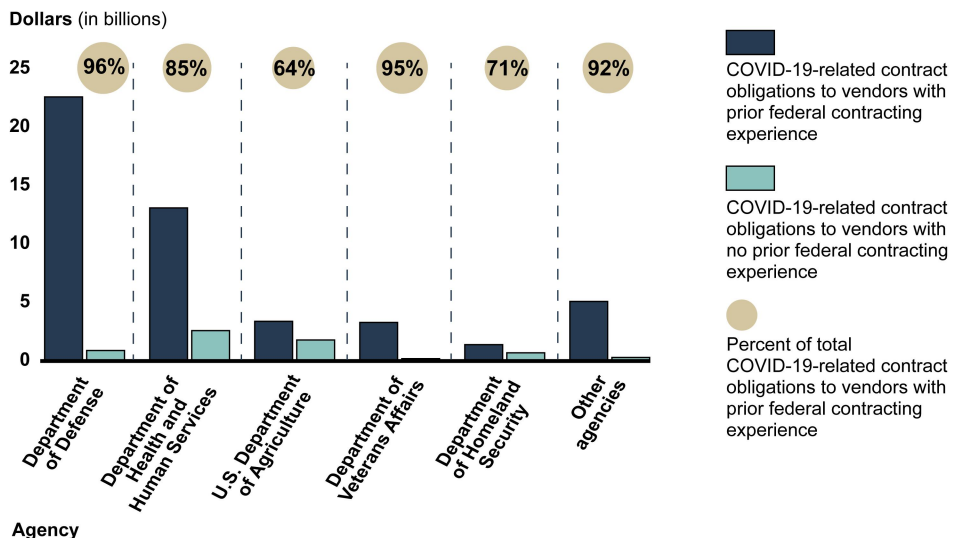
# COVID-19 CONTRACTING

## Opportunities to Improve Practices to Assess Prospective Vendors and Capture Lessons Learned

### What GAO Found

As of May 31, 2021, agencies obligated \$61.4 billion for contracts in response to the COVID-19 pandemic. Agencies cancelled \$4 billion in obligations, in some cases due to contract terminations. The proportion of obligations to vendors with prior federal experience government-wide was 88 percent but varied by agency (see figure). In calendar year 2020, agencies awarded about 5 times as many contracts to vendors without prior federal contracting experience for COVID-19, as compared to contracts awarded overall in preceding calendar years.

**COVID-19-Related Contract Obligations to Vendors with or without Prior Federal Contracting Experience for the Five Agencies with the Most Obligations, as of May 31, 2021**



Source: GAO analysis of Federal Procurement Data System data. | GAO-21-528

**Accessible Data for COVID-19-Related Contract Obligations to Vendors with or without Prior Federal Contracting Experience for the Five Agencies with the Most Obligations, as of May 31, 2021**

Agency	COVID-19 obligations to vendors with prior federal contracting experience	COVID-19 obligations to vendors with no prior federal contracting experience	Percent of total COVID-19 obligations to vendors with prior federal contracting experience
DOD	23.4	1.0	96
HHS	14.9	2.7	85
USDA	3.9	2.2	64
VA	4.0	0.2	95
DHS	1.8	0.7	71
Other agencies	6.1	0.5	92

For the selected contracts GAO reviewed across four agencies—the Departments of Defense (DOD), Health and Human Services (HHS), Agriculture (USDA), and Homeland Security (DHS)—contracting officials identified a number of challenges, including:

- working with vendors new to federal contracting or vendors supplying products they had not previously provided;
- operating under limited time frames to make awards; and
- contracting for supplies and services the agency does not typically buy.

The four agencies are collecting and sharing lessons learned related to their COVID-19 response. However, HHS and DHS have not included contracting lessons learned, even though they identified contracting challenges. Collecting contracting lessons learned could inform future emergency response efforts. Furthermore, although interagency coordination was critical to the response, contracting lessons learned are at risk of not being reflected in formal interagency lessons learned efforts. Without a process to do so, federal agencies risk missing an opportunity to memorialize contracting and coordination practices that were successful, as well as those that were not, for future emergencies.

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### Abbreviations

AMS	Agricultural Marketing Service
ASPR	Office of the Assistant Secretary for Preparedness and Response
BARDA	Biomedical Advanced Research and Development Authority
COVID-19	Coronavirus Disease 2019
CPARS	Contractor Performance Assessment Reporting System
DHS	Department of Homeland Security
DLA	Defense Logistics Agency
DOD	Department of Defense
E2A2	Exercise, Evaluation and After Actions Division
FAPIIS	Federal Awardee Performance and Integrity Information System
FAR	Federal Acquisition Regulation
FEMA	Federal Emergency Management Agency
FPDS	Federal Procurement Data System
HHS	Department of Health and Human Services
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
SAM	System for Award Management
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture

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July 29, 2021

### Congressional Addressees

Since the declaration of Coronavirus Disease 2019 (COVID-19) as a national emergency on March 13, 2020, the United States has reported more than 30 million confirmed cases, and there have been significant effects from the pandemic on public health and the economy. To help mitigate these effects, agencies awarded contracts to thousands of vendors from a wide range of industries and with varying levels of federal contracting experience for critical goods and services, such as N95 respirators, ventilators, and the development and production of vaccines. However, during the course of the pandemic, some vendors have been unable to deliver those goods and services as promised.

Our prior work found that contracts play a key role in federal emergency response efforts, and that contracting during an emergency can present a unique set of challenges as officials endeavor to provide critical goods and services as expeditiously and efficiently as possible.<sup>1</sup> For example, our work following the 2017 and 2018 hurricanes and wildfires identified challenges managing, planning, and executing contracts and monitoring purchase card use.<sup>2</sup> These challenges were due, in part, to shortcomings in agency contracting guidance and in efforts to assess fraud risks in a disaster response environment. We have also reported on challenges agencies face identifying and sharing interagency contracting lessons learned following an emergency to improve future response efforts.<sup>3</sup>

The CARES Act included a provision for GAO to provide a comprehensive audit and review of federal contracting pursuant to

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<sup>1</sup>GAO, *Disaster Contracting: FEMA Continues to Face Challenges with Its Use of Contracts to Support Response and Recovery*, [GAO-19-518T](#) (Washington, D.C.: May 9, 2019); *2017 Disaster Contracting: Actions Needed to Improve the Use of Post-Disaster Contracts to Support Response and Recovery*, [GAO-19-281](#) (Washington, D.C.: Apr. 24, 2019); and *2017 Disaster Contracting: Action Needed to Better Ensure More Effective Use and Management of Advance Contracts*, [GAO-19-93](#) (Washington, D.C.: Dec. 6, 2018).

<sup>2</sup>GAO, *Disaster Response: Agencies Should Assess Contracting Workforce Needs and Purchase Card Fraud Risk*, [GAO-21-42](#) (Washington, D.C.: Nov. 24, 2020); [GAO-19-281](#); and [GAO-19-93](#).

<sup>3</sup>[GAO-19-281](#).



authorities provided in the act.<sup>4</sup> This report is one in a series of reports examining federal agencies' contracting in response to COVID-19.<sup>5</sup> This report examines (1) contract obligations and characteristics of vendors; (2) the information selected agencies used to assess prospective vendors and the extent to which the agencies communicated available information to contracting officers; and (3) the extent to which selected agencies experienced challenges and established processes to collect and share contracting lessons learned.

To identify contract obligations and characteristics of vendors involved in the response to the COVID-19 pandemic, we analyzed data available in the Federal Procurement Data System (FPDS) as of May 31, 2021. Though agencies may obligate dollars through various other vehicles such as grants or cooperative agreements, this report is focused specifically on contract obligations.<sup>6</sup> We primarily identified these contract actions and associated obligations related to the COVID-19 response by using the National Interest Action code.<sup>7</sup> We took additional steps to ensure contract actions and obligations included in our analysis were related to COVID-19. For a detailed description of these actions, see appendix I. We assessed the reliability of FPDS data by reviewing

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<sup>4</sup>Pub. L. No. 116-136, div. B, tit. IX, § 19010, 134 Stat. 281, 579 (2020). We regularly issue government-wide reports on the federal response to COVID-19. For the latest report, see GAO, *COVID-19: Continued Attention Needed to Enhance Federal Preparedness, Response, Service Delivery, and Program Integrity*, [GAO-21-551](#) (Washington, D.C.: July 19, 2021). Our next government-wide report will be issued in October 2021 and will be available on GAO's website at <https://www.gao.gov/coronavirus>.

<sup>5</sup>GAO, *COVID-19 Contracting: Contractor Paid Leave Reimbursements Could Provide Lessons Learned for Future Emergency Response*, [GAO-21-475](#), (Washington, D.C.: July 28, 2021); *COVID-19 Contracting: Actions Needed to Enhance Transparency and Oversight of Selected Awards*, [GAO-21-501](#) (Washington, D.C.: July 26, 2021); *Defense Production Act: Opportunities Exist to Increase Transparency and Identify Future Actions to Mitigate Medical Supply Chain Issues*, [GAO-21-108](#) (Washington, D.C.: Nov. 19, 2020); *COVID-19 Contracting: Observations on Contractor Paid Leave Reimbursement Guidance and Use*, [GAO-20-662](#) (Washington, D.C.: Sept. 3, 2020); and *COVID-19 Contracting: Observations on Federal Contracting in Response to the Pandemic*, [GAO-20-632](#) (Washington, D.C.: July 29, 2020).

<sup>6</sup>For the purposes of this report, "contract obligations" means obligations on contracts that are subject to the Federal Acquisition Regulation, and does not include, for example, grants, cooperative agreements, loans, other transactions for research, real property leases, or requisitions from federal stock.

<sup>7</sup>National Interest Action codes were established in 2005 after Hurricane Katrina with the purpose of tracking federal procurements for specific disasters, emergencies, or contingency events. A National Interest Action code was established on March 13, 2020, for the COVID-19 pandemic, and contract actions and their associated obligations are coded as related to the COVID-19 response in a field in FPDS.

existing information about the system and the data it collects—specifically, the data dictionary and validation rules—and performing electronic testing. We determined the FPDS data were sufficiently reliable for the purposes of describing agencies' reported contract obligations to vendors in response to COVID-19.

We analyzed the FPDS data to identify the agencies with the highest COVID-19 contract obligations, the types of goods and services procured, and vendor characteristics, such as whether a vendor had prior federal contracting experience and whether the vendor was a small or large business. We augmented data from FPDS with data from the System for Award Management (SAM) and the Federal Awardee Performance and Integrity Information System (FAPIIS) to identify additional information about vendors receiving COVID-19 contracts. This information included whether or not vendors were registered in SAM and whether or not there was a record in FAPIIS identifying prior performance or integrity concerns.

To determine what information selected agencies used to assess prospective vendors that were awarded contracts in response to COVID-19, we selected four of the top five departments with the highest COVID-19 contract obligations as of August 31, 2020—the Departments of Defense (DOD), Health and Human Services (HHS), Agriculture (USDA), and Homeland Security (DHS).<sup>8</sup> Within these departments, we selected the agencies that collectively accounted for at least two-thirds of each department's COVID-19 contract obligations:

- DOD's Defense Logistics Agency (DLA) and Department of the Army;
- HHS's Office of the Assistant Secretary for Preparedness and Response (ASPR);
- USDA's Agricultural Marketing Service (AMS); and
- DHS's Federal Emergency Management Agency (FEMA).

We collected and reviewed contract files for a nongeneralizable sample of 28 contracts and task or delivery orders (hereafter referred to as

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<sup>8</sup>We selected August 31, 2020 as it was the time we were beginning and scoping our review. The other agency with the highest contract obligations was the Department of Veterans Affairs, which we did not include due to other ongoing work on the department's contracting response to COVID-19. See GAO, *VA COVID-19 Procurements: Pandemic Underscores Urgent Need to Modernize Supply Chain*, [GAO-21-280](#) (Washington, D.C.: June 15, 2021).

contracts, unless otherwise specified), seven from each department awarded between January 2020 and August 31, 2020.<sup>9</sup> We selected the contracts based on a variety of factors, including dollar amount and whether the contract was awarded to a vendor with prior federal contracting experience.<sup>10</sup> For our selected contracts, we gathered and reviewed contract documentation related to agency assessments of prospective vendors' responsibility and capability, such as vendor proposals, responsibility determinations (where available), and source selection evaluation reports. We also conducted semi-structured interviews with contracting officials responsible for the 28 selected contracts to discuss the resources they used to assess prospective vendors.

To assess the extent to which selected agencies communicated available information to contracting officers to assess prospective vendors, we reviewed agency, department, and government-wide guidance and regulations related to assessing prospective vendors and emergency acquisitions. This included the Federal Acquisition Regulation (FAR), department and agency supplements to the FAR, agency guidance and job aids, and the Office of Federal Procurement Policy's (OFPP) Emergency Acquisitions Guide. We also reviewed federal internal control standards on risk assessment, information, and communication.<sup>11</sup> We interviewed acquisition policy and contracting officials responsible for our selected contracts to determine the contracting officers' awareness of information and resources available to assess prospective vendors during an emergency. We also interviewed OFPP staff to identify efforts, if any, underway to update or revise the Emergency Acquisitions Guide.

To determine the extent to which selected agencies experienced challenges when contracting in response to COVID-19 and established processes to collect and share contracting lessons learned, we

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<sup>9</sup>For DOD, we selected three contracts from DLA and four from the Department of the Army. Within the Department of the Army, we selected one contract from Army Contracting Command and three contracts from the U.S. Army Corps of Engineers.

<sup>10</sup>We initially selected eight contracts and task orders per department for a total of 32 contracts. However, we removed three contracts because they were potentially the subject of an ongoing Office of Inspector General or other federal investigation. We also removed one contract that was reported as awarded in FPDS, but that agency officials told us had, in fact, never been awarded.

<sup>11</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

interviewed DOD, HHS, USDA, and DHS contracting officials for our 28 selected contracts. We reviewed available COVID-19 after-action reports at DOD, USDA, and DHS to identify agencies' lessons learned and proposed actions to address these lessons.<sup>12</sup> We also interviewed contracting officials at each agency or department and officials responsible for gathering and reporting on lessons learned to assess their efforts to collect and share lessons against leading practices GAO and others have previously identified.<sup>13</sup> Appendix I provides more information about our scope and methodology.

We conducted this performance audit from August 2020 to July 2021 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.

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## Background

Agencies have contracted to obtain the goods and services needed to respond to COVID-19 within the context of their specific roles and responsibilities. According to DHS's National Response Framework—a guide to how the federal government, states and localities, and other public and private sector institutions should respond to disasters and

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<sup>12</sup>HHS had not completed an after-action report at the time of our review.

<sup>13</sup>GAO, *Army Modernization: Army Should Improve Use of Alternative Agreements and Approaches by Enhancing Oversight and Communication of Lessons Learned*, [GAO-21-8](#) (Washington, D.C.: Oct. 1, 2020); *DOD Utilities Privatization: Improved Data Collection and Lessons Learned Archive Could Help Reduce Time to Award Contracts*, [GAO-20-104](#) (Washington, D.C.: Apr. 2, 2020); *Project Management: DOE and NNSA Should Improve Their Lessons-Learned Process for Capital Asset Projects*, [GAO-19-25](#) (Washington, D.C.: Dec. 21, 2018); and *Federal Real Property Security: Interagency Security Committee Should Implement a Lessons-Learned Process*, [GAO-12-901](#) (Washington, D.C.: Sept. 10, 2012). [GAO-19-25](#) identified some lessons learned practices from reports by both the Project Management Institute and Department of the Army, Combined Arms Center, Center for Army Lessons Learned. Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition, 2017; Project Management Institute, Inc., *Implementing Organizational Project Management: A Practice Guide*, First Edition, 2014; and Center for Army Lessons Learned, *Establishing a Lessons Learned Program: Observations, Insights, and Lessons* (Fort Leavenworth, KS: June 2011). PMBOK is a trademark of Project Management Institute, Inc.

emergencies—the Secretary of Homeland Security is responsible for ensuring that federal preparedness actions during a national emergency are coordinated to prevent gaps in the federal government’s response.<sup>14</sup> The framework designates FEMA to lead the coordination of disaster response efforts across federal agencies. FEMA coordinates disaster response efforts through mission assignments—work orders that FEMA issues to direct other federal agencies to use the authorities and the resources granted to it under federal law. Mission assignments are authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act and can consist of federal operations support or direct federal assistance, which includes federal contracts.<sup>15</sup> During the response to COVID-19, HHS was designated as the lead federal agency to address the public health and medical portion of the response, and FEMA was designated to co-lead the overall federal response.

Federal agencies are designated as coordinating agencies across 15 Emergency Support Functions—specific functional areas for the most frequently needed capabilities during an emergency. The National Response Framework states that when an Emergency Support Function is activated in response to an incident, the primary agency and other support agencies for that emergency support function are responsible for delivering core capabilities that can include contracting. For example:

- The U.S. Army Corps of Engineers (USACE) within DOD is responsible for the provision of assets and services related to public works and engineering. To fulfill this role during the response to COVID-19, the agency awarded contracts for the construction of alternate care facilities to treat COVID-19 patients.<sup>16</sup> In addition, DLA has a standing arrangement with FEMA to acquire goods and services, and received mission assignments to contract for personal protective equipment like gloves, surgical masks, and gowns in support of the pandemic response.
- HHS is the coordinating agency responsible for public health and medical services, which can include the assessment of public health and medical needs, provision of medical equipment and supplies, and public health communication, among other responsibilities. Within

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<sup>14</sup>Department of Homeland Security, *National Response Framework* (October 2019).

<sup>15</sup>See 42 U.S.C. § 5192(a)(1).

<sup>16</sup>An alternate care facility is a facility that is temporarily converted for health care use during a public health emergency to reduce the burden on hospitals and established medical facilities.

HHS, ASPR leads the nation's medical and public health preparedness for, response to, and recovery from disasters and public health emergencies. ASPR awarded contracts for a variety of COVID-19 medical response needs, including vaccine manufacturing capacity and medical equipment and supplies such as ventilators, N95 respirators, and gloves to replenish the Strategic National Stockpile. Rebuilding the stockpile, which is designed to supplement state and local supplies during public health emergencies, falls under ASPR's responsibilities.

- USDA is the coordinating agency for agriculture and natural resources, which includes functions to protect the nation's food supply and provide nutrition assistance through programs like the Farmers to Families Food Box Program. AMS implemented the Farmers to Families Food Box program in May 2020 to assist commodity suppliers affected by the pandemic and provide food assistance to the public. Through the program, AMS contracted with hundreds of distributors to purchase billions of dollars in fresh fruits, vegetables, dairy, and meat products. These products were then packaged into family-sized food boxes for delivery to food banks, community and faith based organizations, and other non-profit entities around the country.

Given the unprecedented nature of the response to COVID-19, some federal agencies relied on interagency agreements to obtain needed supplies or services from another agency. For example, in April 2020, ASPR established memorandums of understanding with DOD and FEMA for those agencies to provide contracting services and support for the acquisition of medical supplies and services. These supplies and services included personal protective equipment, testing supplies, and construction and renovation of facilities for the production of vaccines and therapeutics. Under the memorandums of understanding, ASPR provided the acquisition requirements to DOD or FEMA, which then contracted for the supply or service, and were subsequently reimbursed by HHS pursuant to the Economy Act.<sup>17</sup>

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<sup>17</sup>Economy Act, 31 U.S.C. §§ 1535-1536. The Economy Act authorizes agencies to enter into agreements for the interagency provision of goods and services.

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## FAR Requirements Related to Assessing Prospective Vendors

The FAR requires that agencies take certain steps before awarding contracts to prospective vendors:

**Contractor responsibility determinations.** The FAR requires that no purchase or award be made from a prospective vendor unless the contracting officer has made an affirmative determination of responsibility.<sup>18</sup> To be determined responsible, a prospective contractor must:

- have adequate financial resources to perform the contract, or the ability to obtain them;
- be able to comply with the required or proposed delivery or performance schedule;
- have a satisfactory performance record;
- have a satisfactory record of integrity and business ethics;
- have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;
- have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and
- be otherwise qualified and eligible to receive an award under applicable laws and regulations.<sup>19</sup>

In general, the determination of a prospective contractor's responsibility is within the broad discretion of the contracting officer, and contracting officers may collect or review a variety of information to assess a particular element of contractor responsibility. Financial capability, for instance, may be assessed by reviewing documentation from a vendor's lender about their line of credit or by reviewing the vendor's financial statements. Contracting officers have less flexibility in some of the other resources used to assess prospective vendors. For example, the FAR requires contracting officers to review the performance and integrity

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<sup>18</sup>FAR § 9.103(b).

<sup>19</sup>FAR § 9.104-1.

information available in certain government-wide databases when determining contractor responsibility. Specifically:

- **Federal Awardee Performance and Integrity Information System (FAPIS):** FAPIS is designed to assist contracting officers with making a responsibility determination by providing integrity and performance information on federal contractors. Specifically, FAPIS provides a prospective contractor “Report Card” that includes information pertaining to the contractor’s past performance on government contracts (if applicable). This information includes nonresponsibility determinations, exclusions, and, if a contract was terminated, whether the termination was considered to be at the fault of the contractor.<sup>20</sup> Before awarding any contract over the simplified acquisition threshold, a contracting officer must review prospective contractor’s performance and integrity information in FAPIS and document in the contract file how the information in FAPIS was used to determine responsibility.<sup>21</sup>
- **System for Award Management (SAM):** SAM is managed by the General Services Administration and is the primary government repository for prospective federal awardee information. Subject to certain exceptions, a vendor must be registered in SAM to comply with mandatory reporting requirements, which can include providing ownership, business size, and tax liability information. The exceptions include contracts awarded without full and open competition due to unusual and compelling urgency and contracts awarded in emergency

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<sup>20</sup>Contractors may be determined nonresponsible if they do not have a satisfactory record of performance, integrity, or business ethics. For example, failing to make a sufficient effort to perform acceptably on a prior contract is strong evidence of nonresponsibility. According to SAM, exclusions identify those parties excluded from receiving federal contracts, certain subcontracts, and from certain types of federal financial and non-financial assistance and benefits, and they are also commonly known as “suspensions” and “debarments.”

<sup>21</sup>FAR § 9.104-6. Agencies generally must use simplified acquisition procedures for purchases of goods or services at or below the simplified acquisition threshold. The simplified acquisition threshold generally is \$250,000, but it increases to \$800,000 for acquisitions in the U.S. determined by the head of the agency to support a response to an emergency or major disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. FAR § 2.101.



operations, such as responses to national emergencies like COVID-19.<sup>22</sup>

- **Contractor Performance Assessment Reporting System (CPARS):** CPARS is an evaluation reporting tool for all past performance reports on government contracts and orders. Past performance reports in CPARS reflect ratings and supporting narratives for various factors, including quality of goods and services, management and business relations, and adherence to schedules. Agencies are generally required to prepare performance evaluations on contracts and orders at least annually, and when the work under a contract is completed.<sup>23</sup>

Vendors that are new to federal contracting may not have information reported in the government's databases. The FAR instructs agencies to conduct, to the maximum extent practicable, market research on an ongoing basis to effectively identify the capabilities of small businesses and new entrants into federal contracting that are available to meet agency requirements for disaster or emergency relief activities, among other things.<sup>24</sup>

While documents and reports supporting a determination of responsibility, such as the use of FAPIIS, must be included in the contract file, the contracting officer's signature on a contract constitutes the determination that a prospective vendor is responsible with respect to the contract.

**Source selection.** The FAR describes several contracting methods that can vary based on the circumstances of the procurement. For example, a request for proposals is used in negotiated procurements to communicate the government's requirements to prospective vendors and to solicit proposals.<sup>25</sup> Following the receipt of proposals in competitive negotiated procurements, agencies are responsible for evaluating the proposals

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<sup>22</sup>FAR § 4.1102(a)(3), (5). For contracts awarded in emergency operations, the FAR instructs contracting officers to modify, if practical, the contract to require SAM registration, FAR § 4.1102(b).

<sup>23</sup>FAR § 42.1502(a).

<sup>24</sup>FAR § 10.001(a)(2)(vi).

<sup>25</sup>FAR § 15.203(a). At a minimum, requests for proposals for competitive negotiated procurements must describe the government's requirement, the anticipated terms and conditions that will apply to the contract, the information required to be in the prospective vendor's proposal, and the factors and significant subfactors that will be used to evaluate the proposal and their relative importance.

based solely on the factors and significant subfactors identified in the solicitation. While the selection of these factors and their relative importance are at the discretion of agency acquisition officials, price or cost, the quality of the good or service, and past performance are generally required to be evaluated in competitive negotiated procurements.<sup>26</sup> For example, regarding proposal evaluation for negotiated procurements, the FAR states that past performance is one indicator of a prospective vendor's ability to successfully perform the contract, and that prospective vendors without a record of relevant past performance cannot be evaluated favorably or unfavorably on that basis.<sup>27</sup>

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## Agency Regulations and Guidance

Agencies may issue agency-specific acquisition regulations and internal guidance that implements or supplements the FAR.<sup>28</sup> For example, DHS relies on the Homeland Security Acquisition Regulation and Homeland Security Acquisition Manual—issued by DHS's Chief Procurement Officer—to implement and supplement the FAR. Together, these documents provide more specific department-wide policies and procedures for implementing acquisition requirements laid out by the FAR, such as competition, acquisition planning, and market research. Similarly, within DOD, the Defense Federal Acquisition Regulation Supplement implements and supplements the FAR, and the companion Procedures, Guidance, and Information contains mandatory and non-mandatory internal procedures and guidance. In addition to these resources, DLA and the Department of the Army rely on the Defense Logistics Acquisition Directive and Army Federal Acquisition Regulation Supplement, respectively, to further implement and supplement federal and DOD-wide acquisition regulations. Subject to certain authorities, agencies may issue internal guidance at any organizational level to designate and delegate authorities, assign responsibilities, and identify internal reporting requirements.<sup>29</sup> For example, FEMA's contracting activity issued a Disaster Contracting Desk Guide that it uses internally to

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<sup>26</sup>FAR § 15.304(c).

<sup>27</sup>FAR § 15.305(a)(2).

<sup>28</sup>Whether agencies communicate information in internal guidance will depend on the agencies' determination that legal requirements do not necessitate more formal regulations.

<sup>29</sup>See FAR § 1.301(a)(2).

supplement the emergency acquisition process and ensure its contracting staff are equipped with the necessary information to conduct its mission.

Government-wide, OFPP provides overall direction for procurement policies, regulations, and procedures, and promotes economy, efficiency, and effectiveness in acquisition processes. For example, OFPP issued an Emergency Acquisitions Guide to supplement agency specific guidance and to be used in conjunction with the FAR and the National Response Framework.<sup>30</sup> The guide is intended to assist the federal contracting community with planning and executing procurement activities during contingency operations, major disaster declarations, or other emergencies by providing strategies for effective acquisition planning and best practices agencies have developed in response to contracting during natural disasters and other emergencies.

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## Leading Practices for Lessons Learned

Our prior work has shown that the use of lessons learned—an approach of an organizational culture committed to continuous improvement—can increase communication and coordination. Collecting and sharing lessons learned—both positive and negative—allows agencies to communicate knowledge more effectively and to ensure that beneficial information is factored into planning, processes, and activities. This approach also provides a powerful method of sharing ideas for improving current and future operations. Collecting lessons learned throughout the course of an event, rather than just at the end, can help to ensure that lessons learned are captured as close as possible to the learning opportunity. Leading practices of a lessons learned process we and others identified include collecting, analyzing, validating, saving or archiving, and disseminating and sharing information and knowledge gained on positive and negative experiences.<sup>31</sup>

These leading practices generally build upon each other. For example, an organization with robust data collection methods is better able to gather enough information to effectively identify critical issues, analyze root

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<sup>30</sup>Executive Office of the President, Office of Management and Budget, Office of Federal Procurement Policy, *Emergency Acquisitions Guide* (January 2011).

<sup>31</sup>[GAO-21-8](#), [GAO-20-104](#), [GAO-19-25](#), and [GAO-12-901](#). Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)* and *Implementing Organizational Project Management: A Practice Guide*. Center for Army Lessons Learned, *Establishing a Lessons Learned Program*.

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causes, and develop recommendations. Further, an agency with a consistent, coordinated archiving mechanism, such as an electronic database, is better able to demonstrate the leading practice for sharing lessons learned through access to such an archive.

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## Federal Agencies Obligated More Than \$61 Billion on COVID-19-Related Contracts

As of May 31, 2021, federal agencies obligated about \$61.4 billion in response to the COVID-19 pandemic. Most obligations (88 percent or \$54.0 billion) were on contracts to vendors with prior federal contracting experience. Almost all vendors that received contract obligations in response to COVID-19 were registered in SAM at the time of award, and less than 1 percent of total COVID-19-related contract obligations went to vendors with documented records in FAPIIS, the repository for contractor performance and integrity information. Agencies cancelled or deobligated about 6 percent of the obligations for various reasons.<sup>32</sup>

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### Agencies Obligated Most COVID-19 Dollars to Vendors with Prior Federal Contracting Experience

As of May 31, 2021, federal agencies obligated about \$61.4 billion in response to the COVID-19 pandemic. Most obligations (88 percent or \$54.0 billion) were for contracts with vendors having prior federal contracting experience. Those vendors also accounted for 88 percent, or approximately 11,200, of the almost 12,800 vendors that received contract awards related to COVID-19. Although most contract obligations went to vendors with prior federal contracting experience, agencies awarded contracts to vendors without prior federal contracting experience at a higher percentage than they do in a typical year. In calendar year 2020, 16 percent of contracts awarded by agencies for the COVID-19 response were to vendors without prior federal contracting experience. In contrast, in the 5 most recent calendar years, between 2.7 to 3.8 percent of contracts were awarded to vendors without prior federal contracting experience.

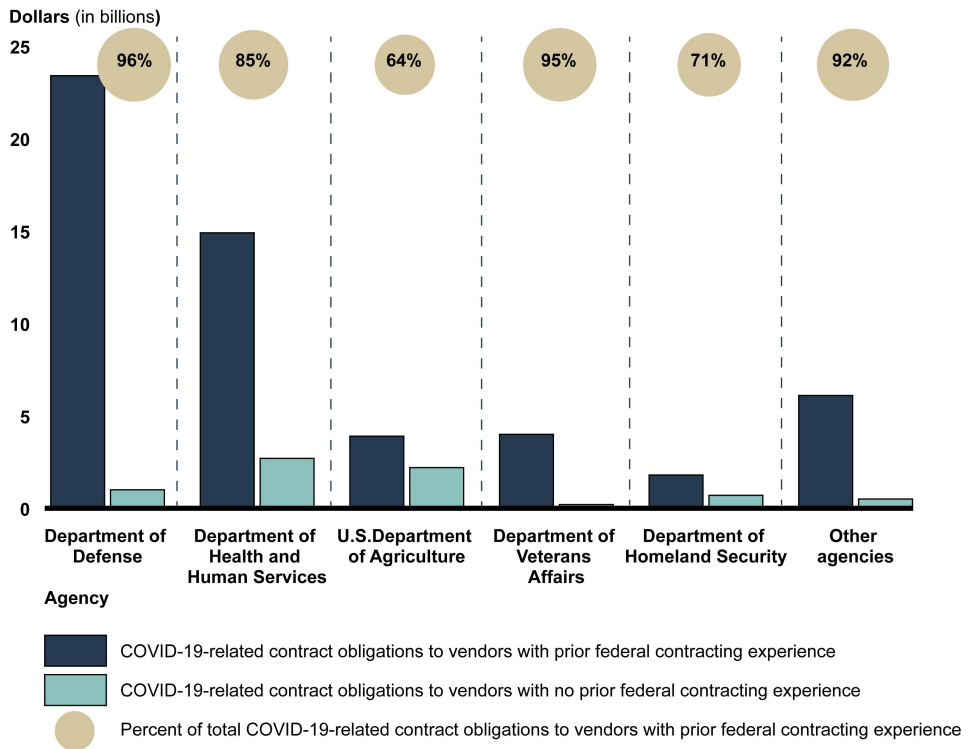
Five agencies—DOD, HHS, USDA, the Department of Veterans Affairs, and DHS—accounted for the vast majority (89 percent) of the total

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<sup>32</sup>A deobligation is a cancellation or reduction of previously incurred obligations.

COVID-19-related contract obligations. DOD had the highest obligations, accounting for 40 percent (\$24.4 billion) of government-wide COVID-19-related contract obligations. The obligations by the top five agencies to vendors with prior federal contracting experience varied by agency. For example, DOD had the highest percentage of obligations to vendors with prior federal contracting experience, at 96 percent. USDA relied less on vendors with prior federal contracting experience, with only 64 percent of obligations going to such vendors. Figure 1 shows total obligations by agency, and the proportion of obligations going to vendors with or without prior federal contracting experience within each agency.

**Figure 1: COVID-19-Related Contract Obligations and Proportion of Obligations to Vendors with Prior Federal Contracting Experience, by Federal Agency, as of May 31, 2021**



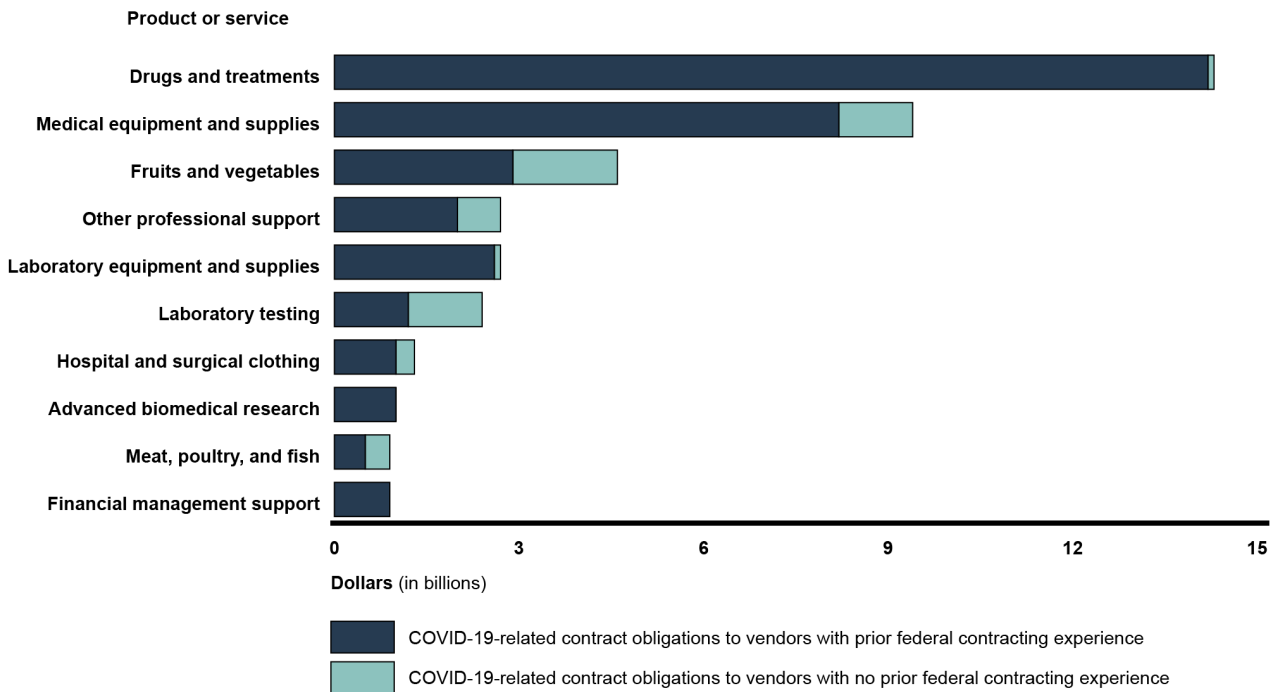
Source: GAO analysis of Federal Procurement Data System data. | GAO-21-528

**Accessible Data for Figure 1: COVID-19-Related Contract Obligations and Proportion of Obligations to Vendors with Prior Federal Contracting Experience, by Federal Agency, as of May 31, 2021**

Agency	COVID-19 obligations to vendors with prior federal contracting experience	COVID-19 obligations to vendors with no prior federal contracting experience	Percent of total COVID-19 obligations to vendors with prior federal contracting experience
DOD	23.4	1.0	96
HHS	14.9	2.7	85
USDA	3.9	2.2	64
VA	4.0	0.2	95
DHS	1.8	0.7	71
Other agencies	6.1	0.5	92

Contract obligations and the extent to which agencies relied on vendors with prior federal contracting experience also varied by the type of good or service. Government-wide, obligations on drugs and treatments, which include vaccines and therapeutics, were the highest of any good or service at \$14.3 billion, and 99 percent of these obligations were on contracts to vendors with prior federal contracting experience (see fig. 2). The percentage of obligations to vendors with prior federal contracting experience, however, was lower for other goods or services. For example, of the \$2.4 billion obligated for laboratory testing—which includes services related to diagnostic testing for COVID-19—48 percent of obligations were on contracts to vendors with prior federal contracting experience.

**Figure 2: COVID-19-Related Contract Obligations and Proportion of Obligations to Vendors with Prior Federal Contracting Experience, by Top Goods and Services, as of May 31, 2021**



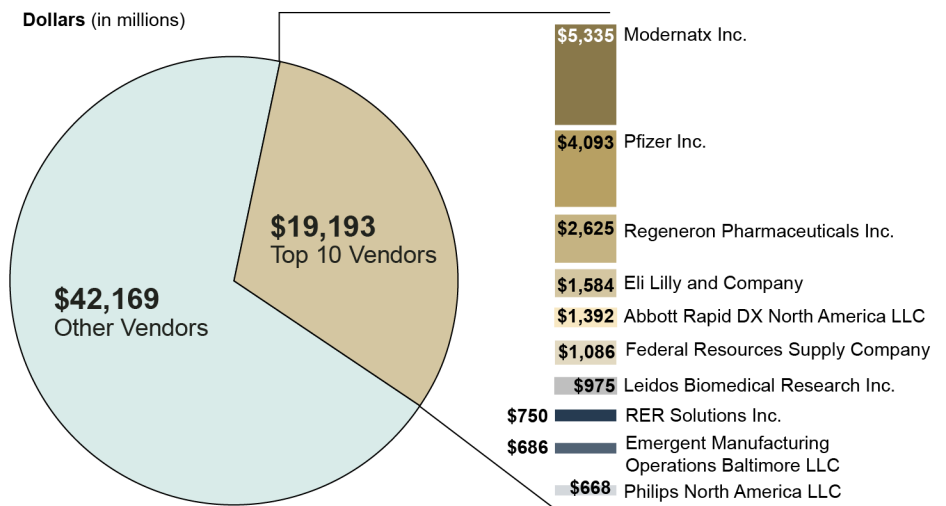
Source: GAO analysis of Federal Procurement Data System data. | GAO-21-528

**Accessible Data for Figure 2: COVID-19-Related Contract Obligations and Proportion of Obligations to Vendors with Prior Federal Contracting Experience, by Top Goods and Services, as of May 31, 2021**

Product or Service	COVID-19 obligations to vendors with prior federal contracting experience	COVID-19 obligations to vendors with no prior federal contracting experience
Drugs and treatments	14.2	0.1
Medical equipment and supplies	8.2	1.2
Fruits and vegetables	2.9	1.7
Other professional support	2.0	0.7
Laboratory equipment and supplies	2.6	0.1
Laboratory testing	1.2	1.2
Hospital and surgical clothing	1.0	0.3
Advanced biomedical research	1.0	0.0
Meat, poultry, and fish	0.5	0.4
Financial management support	0.9	0.0

Agencies obligated a majority of COVID-19-related dollars to a small number of vendors. Seventy-one percent of obligations were for contracts awarded to 130 vendors, or 1 percent of the roughly 12,800 vendors receiving COVID-19-related contracts government-wide. Furthermore, as shown in figure 3, the top 10 vendors accounted for nearly one-third of the obligations.

**Figure 3: Government-wide COVID-19-Related Contract Obligations to Top 10 Vendors, as of May 31, 2021**



Source: GAO analysis of Federal Procurement Data System data. | GAO-21-528

Overall, agencies awarded contracts to over 8,100 small business vendors—nearly double the number of vendors awarded contracts that were not considered small businesses.<sup>33</sup> Small business vendors received 25 percent of the total COVID-19 contract obligations. Table 1 shows that a majority of small business vendors received less than \$1 million in contract obligations.

<sup>33</sup>For the purposes of this report, a small business vendor is a vendor that was determined to be a small business for all of its COVID-19-related contract awards.



**Accessible Data for Figure 3a: Government-wide COVID-19-Related Contract Obligations to Top 10 Vendors, as of May 31, 2021**

<b>Vendor Name</b>	<b>Total Obligated to Vendor (dollars in millions)</b>
Other Vendors	42169
Top 10 Vendors	19193

**Accessible Data for Figure 3b: Government-wide COVID-19-Related Contract Obligations to Top 10 Vendors, as of May 31, 2021**

<b>Vendor Name (top 10 vendors)</b>	<b>Total Obligated to Vendor (dollars in millions)</b>
Moderna Inc.	5335
Pfizer Inc.	4093
Regeneron Pharmaceuticals Inc.	2625
Eli Lilly and Company	1584
Abbott Rapid DX North America LLC	1392
Federal Resources Supply Company	1086
Leidos Biomedical Research Inc.	975
RER Solutions Inc.	750
Emergent Manufacturing Operations Baltimore LLC	686
Philips North America LLC	668

**Table 1: COVID-19 Small Business Vendors by Obligation Range, as of May 31, 2021**

Amount Obligated to Vendors (Obligation range in dollars)	Number of Small Business Vendors	Percent of Obligations to Small Business Vendors (within obligation range)
Over 1 billion	1	33
500 million-1 billion	1	10
100 million-499 million	14	14
10 million-99 million	169	30
1 million-9 million	719	47
Less than 1 million <sup>a</sup>	7,226	65
<b>Total</b>	<b>8,130</b>	<b>25</b>

Source: GAO analysis of Federal Procurement Data System data. | GAO-21-528

<sup>a</sup>This includes vendors obligated zero or negative dollars due to cancelled contract obligations.

### Almost All COVID-19 Vendors Were in the Government’s Primary Contractor Registration System and Had No Prior Reports of Unsatisfactory Performance or Integrity

Almost all contract obligations in response to COVID-19 went to vendors registered in SAM at the time of award. Agencies have the flexibility to award contracts to vendors that are not registered in SAM during an emergency, among other circumstances, and 162 of the approximately 12,800 vendors receiving COVID-19-related contract obligations were not registered at the time of award, representing about 1 percent of the total number of vendors and of the \$61 billion in total COVID-19 obligations.<sup>34</sup>

A small portion of COVID-19 contract obligations went to vendors with documented records in FAPIIS, the repository for contractor performance

<sup>34</sup>With certain exceptions—such as contracts awarded as responses to national emergencies—vendors must be registered in SAM at the time an offer or quotation is submitted to comply with annual representations and certifications requirements. FAR § 4.1102(a). For contracts awarded in emergency operations, the FAR provides that, if practical, contracting officers should modify the contract or agreement to require SAM registration. FAR § 4.1102(b).

and integrity information.<sup>35</sup> Such vendors (119 in total) received about \$507 million, less than 1 percent of total COVID-19-related contract obligations. HHS accounted for 52 percent of the \$507 million, the Department of Veterans Affairs 24 percent, DOD 12 percent, and USDA 1 percent.<sup>36</sup> Contracting officers must document how the information in FAPIIS was considered when determining responsibility, and any action taken as a result of the information.

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### Agencies Cancelled \$4 Billion in COVID-19-Related Contract Obligations

Approximately \$4 billion, or 6 percent, of the COVID-19-related contract obligations were cancelled or deobligated, and these deobligations varied depending on the agency or good and service involved.<sup>37</sup> In some instances, agencies may modify a contract to deobligate funds to accommodate changes in the contract requirement, or to terminate a contract if a vendor does not fulfill the terms of the contract. For example, the federal government can partially or fully end a government contract before the contractor completes performance by partially or fully terminating the contract. Depending on the circumstances, the government can terminate the contract either (1) for the convenience of the government or (2) for cause or default. A variety of factors can lead to the government's decision to terminate a contract. For example, when the government's requirements change, rendering continued performance unnecessary, the government may choose to terminate the contract for convenience. On the other hand, when a contractor fails or is anticipated to fail to perform its contractual obligations, the government may terminate the contract for default or, in the case of commercial item contracts, cause. DOD and HHS had the highest overall deobligations at

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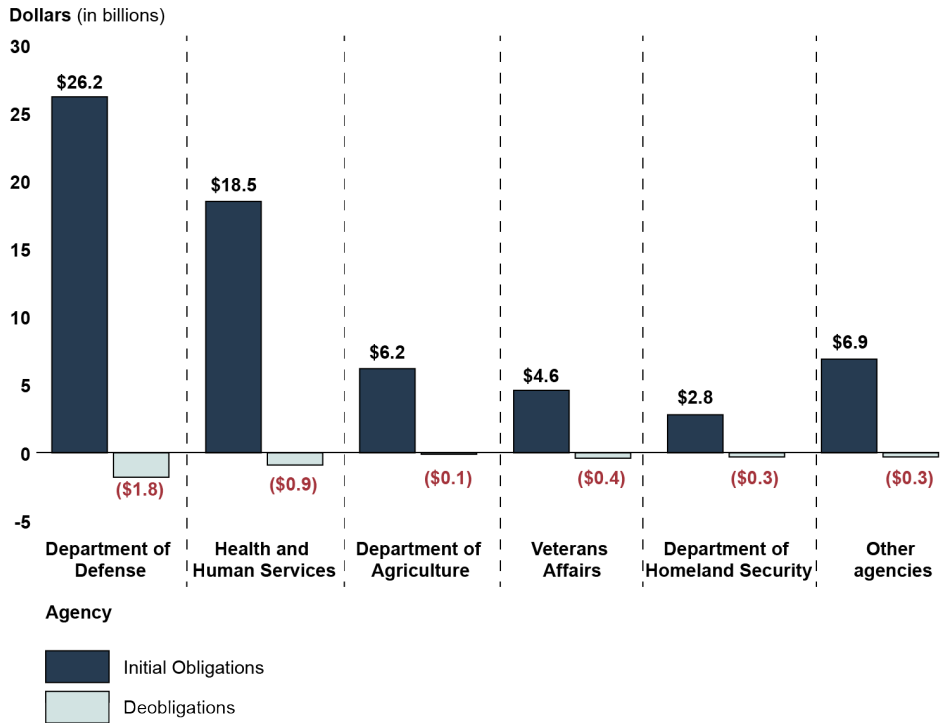
<sup>35</sup>Documented records of unsatisfactory performance or integrity of a vendor in FAPIIS may include one or more of the following: criminal, civil, or administrative proceedings in connection with the award or performance of a government contract; terminations for default or cause; determinations of nonresponsibility because the vendor does not have a satisfactory performance record or a satisfactory record of integrity and business ethics.

<sup>36</sup>DHS accounted for 0.3 percent of obligations, which rounds to zero. Across the agencies, HHS awarded contracts to 19 vendors with documented records of unsatisfactory performance, the Department of Veterans Affairs to 37 vendors, DOD to 49 vendors, USDA to three vendors, and DHS to 11 vendors. Some vendors with unsatisfactory records of performance received COVID-19 contracts from multiple agencies.

<sup>37</sup>Agencies initially obligated \$65 billion; however, \$4 billion (6 percent) was cancelled. Given this, the net amount of total obligations was \$61 billion.

\$1.8 billion and \$938 million, respectively. See figure 4 for a comparison of initial obligations and deobligations by agency.

**Figure 4: Initial COVID-19-Related Contract Obligations and Subsequent Deobligations, by Agency, as of May 31, 2021**



Source: GAO analysis of Federal Procurement Data System data. | GAO-21-528

**Accessible Data for Figure 4: Initial COVID-19-Related Contract Obligations and Subsequent Deobligations, by Agency, as of May 31, 2021**

Agency	Initial Obligations (dollars in billions)	Deobligations (dollars in billions)
DOD	26.2	(1.8)
HHS	18.5	(0.9)
USDA	6.2	(0.1)
VA	4.6	(0.4)
DHS	2.8	(0.3)
Other agencies	6.9	(0.3)

Our analysis of FPDS data identified a variety of reasons for agencies' deobligations. The majority of the approximately \$4 billion in deobligations were coded as "Other Administrative Action." This code may be used due to, for example, a contract being modified to change the period of performance or decrease the requirements. Eleven percent of deobligations were due to contract terminations, with about one-third (\$144 million) of these obligations related to contracts terminated for cause or default, and the other two-thirds (\$276 million) related to contracts terminated for convenience. For example, some of the selected contracts we reviewed were terminated for cause after the vendor failed to deliver contracted medical supplies, such as N95 respirators. Other contracts we reviewed—such as contracts for ventilators or alternate care facilities—were terminated for convenience because the government no longer needed the good or service.

The percentage of contract deobligations varied by good or service. Generally, deobligations among the top goods and services were below 5 percent. For example, agencies deobligated about 1 percent, or \$63 million, of initial obligations on fruits and vegetables. However, agencies deobligated about 13 percent, or \$1.4 billion, of initial obligations on medical equipment and supplies—including personal protective equipment such as N95 respirators, isolation gowns, and medical gloves.

Government-wide there was little difference between deobligations on contracts to vendors with prior federal contracting experience compared to vendors without prior federal contracting experience. About \$3.5 billion, or 6 percent, of the \$57.4 billion in initial obligations to vendors with prior federal contracting experience was deobligated, compared to about \$379

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million, or 5 percent, of the \$7.8 billion in initial obligations to vendors without prior federal contracting experience.

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## Contracting Officers Did Not Always Have Access to or Were Not Aware of Resources Available to Assess Prospective Vendors

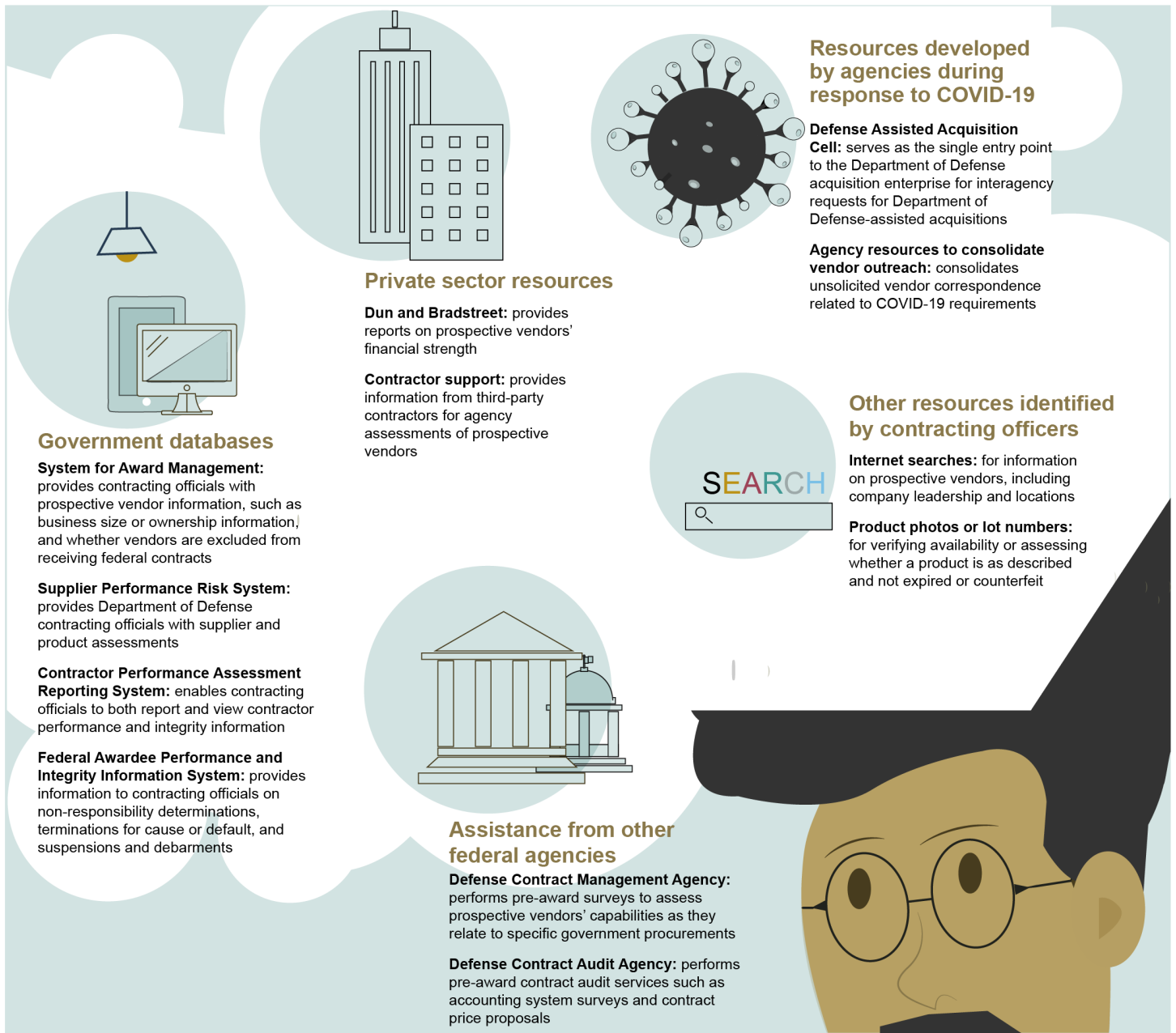
Contracting officers rely on a variety of resources to assess prospective vendors. However, some agencies we reviewed did not have, or did not communicate to contracting officials, the resources available to assess prospective vendors during an emergency. Contracting officials we spoke with identified obstacles to assessing prospective vendors during the COVID-19 response. Further, available government-wide guidance provides limited information for assessing prospective vendors in an emergency.

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## Contracting Officials at Selected Agencies Used a Variety of Resources to Assess Prospective Vendors

We found that contracting officials at agencies across our four selected departments used a variety of resources to assess prospective vendors for our selected 28 contracts. These resources included government databases, private sector resources, assistance from other federal agencies, specific resources created by agencies in response to COVID-19, and information identified by the contracting officers based on their own knowledge and experience. Figure 5 details examples of the resources that contracting officers responsible for our selected contracts said they used.

Figure 5: Examples of Resources Used by Contracting Officers to Assess Prospective Vendors for COVID-19-Related Contracts



Source: GAO analysis of selected contracts and interviews with contracting officials. | GAO-21-528



Overall, the number of contracting officers that used each of these resources across the contracts we selected varied. Table 2 provides details on how many of the 28 contracts leveraged each resource.

**Table 2: Resources that Contracting Officials Identified Using to Assess Prospective Vendors Across Selected Contracts**

Contracting officers used a variety of resources to assess prospective vendors across the seven contracts we selected at each agency.

Resource	Department of Defense (DOD)	Department of Health and Human Services (HHS)	U.S. Department of Agriculture (USDA)	Department of Homeland Security (DHS)
<b>Government databases:</b> System for Award Management (prospective vendor business information)	7	6	7	7
<b>Government databases:</b> Contractor Performance Assessment Reporting System (past performance information)	6	4	7	5
<b>Government databases:</b> Federal Awardee Performance and Integrity Information System (past performance and integrity information)	7	5 <sup>d</sup>	7	7
<b>Government databases:</b> Supplier Performance Risk System (supplier and product assessments) <sup>a</sup>	2	N/A	N/A	N/A
<b>Private sector information:</b> Dun and Bradstreet (financial strength information)	3	2	2	3
<b>Private sector information:</b> Third party contractor (additional information for vendor assessments)	0	2	0	0
<b>Assistance from other federal agencies:</b> Defense Contract Management Agency (pre-award surveys)	2	0	0	1
<b>Assistance from other federal agencies:</b> Defense Contract Audit Agency (pre-award audit services)	3	0	0	0
<b>Other resources:</b> Internet searches	0	4	0	1
<b>Other resources:</b> Product photos <sup>b</sup>	0	0	0	2
<b>Other resources:</b> Lot numbers <sup>b</sup>	0	1	0	0
<b>Other resources:</b> Other resources <sup>c</sup>	1	2	0	1

Source: GAO analysis of selected contract files and interviews with contracting officials. | GAO-21-528

<sup>a</sup>The Supplier Performance Risk System is a DOD specific system, and therefore not applicable to contracts not awarded by DOD contracting officers.

<sup>b</sup>Product photos and lot numbers are not applicable to contracts for services.

<sup>c</sup>Other resources include support provided by the Defense Assisted Acquisition Cell and the White House.

<sup>d</sup>HHS officials were unable to locate documents to confirm whether they reviewed information in the Federal Awardee Performance and Integrity Information System for two of the selected contracts.

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## DOD and FEMA Have and Are Making Contracting Officers Aware of Resources for Assessing Prospective Vendors

Both DOD and FEMA have resources available to contracting officers to assist them in assessing prospective vendors. We found that contracting officers responsible for the DOD contracts we reviewed used resources the department had in place. We found limitations in the communication of available resources at FEMA; however, it is currently taking steps to update its guidance to better communicate the availability of these resources.

### DOD Contracting Officers Used Agency-Specific Guidance to Assess Prospective Vendors

In relation to the seven contracts we reviewed at DOD, officials at DLA and the Department of the Army leveraged guidance and resources developed to support contracting officers' efforts to assess prospective vendors. For example:

- **DLA:** DLA's Defense Logistics Acquisition Directive instructs contracting officials to review the Defense Contractor Review List, which helps identify and communicate contractor performance, capability, and integrity issues for making a responsibility determination. The list contains treatment codes with recommended actions that contracting officials can take to mitigate risks. For example, the list includes codes that identify whether the contracting officer should consider requesting a pre-award survey for the vendor, whether the vendor has experienced financial difficulties that could jeopardize its ability to complete the contract, or whether the contracting official should request additional performance history information.<sup>38</sup> Contracting officers responsible for all three of the DLA COVID-19-related contracts we selected used the Defense Contractor Review List in their determinations of vendor responsibility, which some DLA contracting officials said allowed them to access notes and information from other DLA contracting officers' experiences working with a vendor.
- **Army:** In December 2019, the Department of the Army released guidance mandating use of the Contractor Responsibility

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<sup>38</sup>Pre-award surveys can be used to evaluate a prospective contractor's capability, experience, and performance history.

Determination Bot. The bot is an automated tool that streamlines the process to collect responsibility information from government sources, including SAM and FAPIIS, allowing contracting officials to focus on making responsibility determinations more quickly and accurately by collecting relevant information into a memorandum that can be supplemented with additional vendor information. According to guidance issued by the Deputy Assistant Secretary of the Army for Procurement, the tool is intended to reduce the amount of time needed to make a responsibility determination, which is particularly important since contracting officers told us they operated under expedited time frames during the COVID-19 response. For the three Army contracts in our sample where use of the tool was required, contracting officials indicated they did so, allowing them to streamline the collection of required information to determine vendor responsibility.<sup>39</sup>

Additionally, USACE released further guidance and tools to assist contracting officers in assessing prospective vendors for their COVID-19 alternate care facility missions. Specifically, based on work performed for these missions early in the pandemic, USACE developed a standardized set of 10 questions to include in solicitations to help provide contracting officers across USACE districts with key information to assess prospective vendors' abilities. USACE contracting officials we spoke with said that using the previously developed and approved solicitation questions allowed them to award contracts faster.

### DHS Is in the Process of Better Communicating Its Resources to Assess Prospective Vendors

DHS and FEMA have developed several resources to assist contracting officers in assessing prospective vendors. For example:

- Following Hurricanes Harvey, Irma, and Maria in 2017—which occurred nearly back-to-back and affected nearly 47 million people or 15 percent of the U.S. population—FEMA developed a disaster contract verification tool. The tool is a checklist to ensure contracting officers complete contracting steps, including documenting elements of responsibility, like satisfactory record of business ethics and

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<sup>39</sup>For one of the three Army contracts in our sample, the contracting officer told us that they used the tool. However, the contracting officer has since left, and the agency was unable to provide supporting documentation. The fourth Army contract in our sample was awarded prior to the issuance of the December 2019 guidance requiring use of the tool for all Army contracts.

integrity, and ability to comply with proposed delivery or performance schedules.

- In March 2020, FEMA also began requiring the use of a contractor assurance statement for prospective vendors to attest to their capabilities to perform a contract.
- In addition to FEMA's efforts, when the pandemic started, DHS Strategic Program Division officials explained that they vetted thousands of vendors offering goods and services, like personal protective equipment or other medical supplies, through interviews using a vendor vetting questionnaire. FEMA contracting officers also used the questionnaire to assess prospective vendors' capabilities.
- DHS developed a job aid to assist in responsibility determinations in November 2020. The job aid states that the responsibility determination is a first line of defense in determining whether a vendor can successfully meet the terms of a contract, and notes that this determination is especially important when a contracting officer is awarding a contract to a vendor that has no record of successful past performance or relevant prior experience. The aid identifies specific considerations for contracting officers related to responsibility factors identified in the FAR, and examples of additional evidence to request or collect if concerns arise when assessing a prospective vendor against those factors.

However, we found inconsistencies in how FEMA contracting officers used some resources for assessing prospective vendors. For example, contracting officials were instructed—by email and acquisition alert, respectively—to use the disaster contract verification tool and insert the contractor assurance statement in solicitations and contracts. Yet based on our review of the contract files and interviews with the responsible contracting officers, none of the officials responsible for the six selected contracts required to leverage the verification tool did so, and only three of six contracts in our sample contained the contractor assurance statement, as required.<sup>40</sup>

Based in part on our earlier findings following the 2017 hurricanes and wildfires, FEMA's contracting activity is taking steps to better

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<sup>40</sup>One of the selected contracts was awarded in 2017, prior to the development of the disaster contract verification tool and contractor assurance statement. FEMA issued task orders under this contract during the response to COVID-19.

communicate the resources available to contracting officers.<sup>41</sup> Specifically, FEMA contracting activity officials said that, as of May 2021, they are finalizing the FEMA Acquisition Manual, which will consolidate guidance and resources for contracting officers at the agency. Officials told us that the manual will include guidance for contracting officers to use the contractor assurance statement and the disaster contract verification tool, and that they are reviewing the agency's Disaster Contracting Desk Guide to ensure consistency on the use of these resources.

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### Contracting Officers at HHS Did Not Always Have Access to or Awareness of Resources Available to Assess Prospective Vendors

Contracting officials we spoke with at HHS's ASPR identified challenges with the time frames for awarding contracts and with working with new vendors in response to COVID-19. However, based on our review of seven selected contracts, we identified limitations in the resources available to ASPR contracting officials for assessing prospective vendors during the COVID-19 emergency and how information about those resources was communicated to contracting officers. *Standards for Internal Control in the Federal Government* state that management should use and internally communicate the necessary quality information to achieve the entity's objectives.<sup>42</sup>

We found that several contracting officers responsible for the contracts we reviewed either did not have access to or were not aware of resources that could have been used to assess prospective vendors awarded contracts in response to COVID-19. For example, contracting officials responsible for three of our seven selected contracts told us that they did

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<sup>41</sup>Our prior work found that FEMA lacked an updated strategy and guidance on its use of advance contracts. We recommended that FEMA update the strategy identified in its 2007 Advance Contracting of Goods and Services Report to Congress to clearly define the objectives of advance contracts, how they contribute to FEMA's disaster response operations, and whether and how they should be prioritized in relation to new post-disaster contract awards. We also recommended that FEMA update its Disaster Contracting Desk Guide to include guidance for whether and under what circumstances contracting officers should consider using advance contracts prior to making new post-disaster contract awards. FEMA agreed with our recommendations and identified the development of a FEMA Acquisition Manual as a mechanism to communicate FEMA-specific acquisition policies and processes to contracting personnel. FEMA has since taken other actions to address these recommendations. See [GAO-19-93](#).

<sup>42</sup>[GAO-14-704G](#).

not think they had access to Dun and Bradstreet credit reports.<sup>43</sup> Some of these contracting officials said that access to this service would have helped them to more thoroughly assess prospective vendors during their COVID-19 response efforts.<sup>44</sup>

Additionally, ASPR contracting officers were not always aware of available resources to help them assess financial capability. For example, a senior ASPR contracting official stated that ASPR has an audit evaluation team that contracting officers can use to conduct reviews of a prospective vendor's accounting system and financial capabilities. However, contracting officers responsible for four of the seven contracts we selected were not aware of the types of assistance available from this team. Moreover, contracting officials responsible for one of our selected contracts determined that a prospective contractor had "necessary capacity and credit" to perform the contract, but could not cite any resources they used to assess whether the prospective vendor had adequate financial resources to perform the contract.<sup>45</sup>

Senior acquisition officials at ASPR told us that the resources available to contracting officers to determine responsibility were adequate, but that the agency had not reviewed the resources available to contracting officers to assess whether other resources could be useful. Yet as noted earlier, there was uncertainty among ASPR's contracting officers about what resources were available to them to assess prospective vendors, and the circumstances under which they should be used. These same senior ASPR officials added that they were not certain whether Dun and Bradstreet was still in use at federal agencies, and said the information available through Dun and Bradstreet was also available through SAM.gov. In fact, however, contracting officers at all of the other agencies we reviewed are using or requesting Dun and Bradstreet information as a

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<sup>43</sup>Dun and Bradstreet is a company that provides information on vendors' financial strength, among other things.

<sup>44</sup>A contracting officer within HHS's Biomedical Advanced Research and Development Authority (BARDA), which is housed within ASPR, stated that BARDA contracting officers may request Dun and Bradstreet reports for specific contracts, but that these are purchased on an ad hoc basis using purchase cards.

<sup>45</sup>Ultimately, the contract was terminated for cause after the vendor was unable to meet the required delivery schedule. We did not analyze whether there was any relationship between the contracting officer's determination regarding the contractor's "necessary capacity and credit" and the termination.

resource to help them assess prospective vendors' financial capabilities, supplementing the information that vendors report in SAM.gov.

Further, a senior ASPR acquisition official noted that the audit evaluation team's services are not typically needed for contracts awarded through the Strategic National Stockpile. Officials told us that this is because stockpile officials are generally working with contractors with whom HHS has historically worked. However, ASPR, which has responsibility for the stockpile, accounted for about half, or \$1.4 billion, of HHS's contract obligations for the COVID-19 response that went to vendors without prior federal contracting experience, and contracting officials associated with several of our selected contracts noted they were working with certain vendors for the first time. Without reviewing the resources that are available to contracting officers to assess prospective vendors to determine whether they are adequate and fully communicating the availability of such resources, ASPR increases the risk that its contracting staff will not have access to adequate resources to comprehensively assess prospective vendors during future emergencies.

In addition to lacking access to or awareness of resources to assess prospective vendors, several ASPR contracting officers we spoke with said they also did not have any ASPR-specific guidance or training they could leverage when assessing prospective vendors in an emergency. Contracting officers associated with two of our selected contracts noted the lack of ASPR-specific guidance as a challenge during the response. Moreover, contracting officers associated with several of our selected contracts said they relied on their experiences or guidance from working with other agencies—such as FEMA and the Centers for Disease Control and Prevention—to assess prospective vendors during the response to COVID-19.

Our prior work on the COVID-19 response effort has identified similar contracting issues related to ASPR's training and guidance for the use of Defense Production Act authorities—which can allow agencies to mitigate supply chain issues during an emergency. In November 2020, we reported that HHS planned to issue additional training and guidance on using Defense Production Act authorities to priority rate contracts, and that only three of 20 contracting officers had prior experience using the authority.<sup>46</sup> These challenges were also noted in a 2019 after-action report HHS conducted following an emergency exercise on the nation's

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<sup>46</sup>[GAO-21-108](#).

ability to respond to a large-scale outbreak of a novel virus. Further, in July 2021 we reported that ASPR did not have documented policies and procedures, including control and monitoring activities, related to its direct shipment procurement process.<sup>47</sup>

While ASPR has some acquisition guidance in place related to, for example, unsolicited proposals and ratification of unauthorized commitments, a majority of the policies ASPR officials identified as relevant to their emergency acquisition practices are still being developed or undergoing review. Further, while ASPR officials said they anticipate identifying additional policies based on the response to COVID-19, ASPR officials did not state that they plan to develop policies related to contracting or assessing prospective vendors during emergencies. Senior ASPR officials also noted that they did not think additional guidance related to assessing prospective contractors was necessary because contracting officials know what resources to look at when assessing prospective vendors based on the FAR. However, as we found, contracting officials were not always aware of available resources. Moreover, we found that the Health and Human Services Acquisition Regulation only addresses responsibility determinations as they relate to certain procurements made by Indian Health Services. As noted earlier, contracting officers at other agencies within DOD and DHS have benefited from specific guidance on resources to assess prospective vendors, particularly when awarding contracts to vendors without successful past performance or prior relevant experience.

*Standards for Internal Control in the Federal Government* state that management should identify, analyze, and respond to risks related to achieving their objectives.<sup>48</sup> ASPR's stated mission is to save lives and protect Americans from 21st century health security threats and to lead the nation's medical and public health preparedness for, response to, and recovery from disasters and public health emergencies. Without internal guidance on practices for assessing prospective vendors, particularly

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<sup>47</sup>[GAO-21-551](#). ASPR used the direct shipment procurement process in response to COVID-19 to expedite delivery of medical supplies during the pandemic by allowing vendors to directly ship supplies to state, local, and territorial governments rather than shipping supplies directly to replenish the Strategic National Stockpile. We recommended that the Assistant Secretary for Preparedness and Response should update the policies and procedures, including related control and monitoring activities, for the Strategic National Stockpile to document the direct shipment procurement process and payment integrity risks. HHS did not concur with the recommendation.

<sup>48</sup>[GAO-14-704G](#).



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during an emergency, ASPR contracting officials are at risk of not being aware of the information available to help them more effectively perform their responsibilities.

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## USDA Developed a Checklist to Help Assess Vendors but Does Not Plan to Finalize It

USDA's AMS developed a draft responsibility checklist for emergency acquisitions to assist contracting officers in assessing prospective vendors, but does not plan to formalize or distribute it. AMS contracting officials used elements of the checklist to develop the solicitation for the Farmers to Families Food Box Program. Specifically, a contracting officer in AMS's Commodity Procurement Program responsible for awards in support of the Farmers to Families Food Box Program said the checklist was developed for emergency acquisitions to identify information that contracting officers should reference or request from prospective vendors to make a responsibility determination. The contracting officer said that incorporating elements of the checklist into the solicitation for the Farmers to Families Food Box Program—which was the solicitation for the seven contracts we selected—ensured that vendors' proposals would explicitly address certain elements of responsibility.

Additionally, for purposes of evaluating the offers submitted in connection with the Farmers to Families Food Box Program, AMS developed a step-by-step guide and an evaluation rubric, and provided training to technical evaluators on how to consistently assess prospective vendors for the program. According to AMS officials, they designed these new processes at the outset of the Farmers to Families Food Box Program to streamline the procurement process. Further, officials told us that these processes differed from their regular contracting activities for commodity procurement, which typically rely on a qualified bidders list.<sup>49</sup>

AMS officials said that they will maintain some of the tools, such as the evaluation rubric and step-by-step guide as reference materials, but that they do not anticipate the need to use them for future emergencies. AMS does not plan to formalize or distribute the draft responsibility checklist developed to assist contracting officers in assessing prospective vendors.

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<sup>49</sup>The FAR defines a qualified bidders list as a list of bidders who have had their products examined and tested and who have satisfied all applicable qualification requirements for that product or have otherwise satisfied all applicable qualification requirements. FAR § 9.201.

Officials told us that AMS is not typically involved in emergency response activities, and said that the Farmers to Families Food Box Program was always intended to be a temporary program to address agricultural supply chain issues and increased joblessness during the COVID-19 response. Given these circumstances, officials did not provide the checklist as a tool to all AMS contracting officers, and officials said that it will not be formally adopted by the agency.

However, the official responsible for developing the checklist also said that the checklist was intended to help AMS award contracts during any declared emergency or disaster, not only during the COVID-19 response. Further, AMS officials told us they are in the process of determining next steps for future food distribution efforts following the additional \$4 billion in funding for pandemic response USDA received as part of the American Rescue Plan Act of 2021 for purchasing and distributing food to individuals in need.<sup>50</sup>

Departmental guidance—such as the USDA contracting desk guide—addresses procedures for reporting determinations of non-responsibility but does not contain information to assist contracting officers in assessing prospective vendors. Additionally, AMS officials said they do not have any other regulations or guidance for contracting during emergencies. According to a 2018 workforce analysis, AMS’s Commodity Procurement Program previously identified the need to better align contracting processes across its branches, but staffing shortages and changes limited its efforts to do so.<sup>51</sup>

*Standards for Internal Control in the Federal Government* state that management should identify, analyze, and respond to risks related to achieving its objectives and should internally communicate necessary

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<sup>50</sup>American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 1001, 135 Stat. 4.

<sup>51</sup>GAO, *COVID-19: Sustained Federal Action Is Crucial as Pandemic Enters Its Second Year*, [GAO-21-387](#) (Washington, D.C.: Mar. 31, 2021). In [GAO-21-387](#), we identified challenges reporting contract obligations and managing contract documentation associated with USDA’s Farmers to Families Food Box Program. We recommended, among other things, that the Administrator of AMS assess the contracting personnel needed to fully execute the award and administration of contracts in support of the Farmers to Families Food Box Program or successor future food distribution program, and take the necessary steps to ensure it has adequate contracting staff in place to award and administer any future contracts for the program. USDA neither agreed nor disagreed with our recommendation.

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quality information, which would include contracting tools and guidance.<sup>52</sup> Although AMS is not typically involved in emergency response activities, not identifying and incorporating relevant contracting practices used to procure more than \$6 billion worth of food into guidance puts the agency at risk of losing the knowledge it has gained assessing vendors during an emergency, particularly as it considers future food distribution efforts.

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### Government-wide Emergency Acquisition Guidance Provides Limited Information on Resources for Assessing Prospective Vendors

OFPP's Emergency Acquisitions Guide outlines a number of management and operational best practices that agencies should consider when contracting during emergencies, but provides limited information on resources and practices agencies can use to assess prospective vendors prior to contract award.<sup>53</sup> In the course of our review, contracting officials identified obstacles to assessing prospective vendors during an emergency. Specifically, contracting officials cited urgent time frames and working with new vendors as factors that challenged their efforts to assess prospective vendors and that sometimes resulted in changes from their regular contracting processes. For example:

- **Urgent time frames:** AMS contracting officials told us that they had to operate under expedited time frames to award contracts, and that processes to assess vendors, such as determining responsibility and evaluating proposals, were sometimes conducted concurrently during the COVID-19 response rather than sequentially. Similarly, contracting officials at FEMA and ASPR said that under normal circumstances they would contact a prospective vendor's references to verify its performance information. However, officials said that they were unable to take this step because of the expedited time frames they were operating under during the COVID-19 response.
- **Working with new vendors:** A contracting officer from FEMA described challenges obtaining information on vendors providing goods or services during an emergency that differed significantly from the vendors' regular line of business. For example, the contracting

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<sup>52</sup>[GAO-14-704G](#).

<sup>53</sup>The OFFP guide is intended to supplement, not supplant, agency-specific guidance and the FAR. It is to be read in conjunction with parts 18 and 26 of the FAR, which address emergency acquisitions and other socioeconomic programs, respectively, and the National Response Framework documents published by FEMA.

officer noted this was the case when searching for information on a vendor that regularly provided furniture but began offering personal protective equipment at the beginning of the pandemic. Regarding the contract we selected, the contracting officer told us that given the market conditions for personal protective equipment at the beginning of the pandemic, they obtained the prospective vendor's business credit report—which the contracting officer said is not typical for procuring a commercial item or low dollar value contracts—to mitigate potential risks.

As previously mentioned, some agencies developed practices or resources to help address these obstacles, such as the Army's Contractor Responsibility Determination Bot and DHS's job aid for making responsibility determinations. Further, throughout the pandemic, OFPP officials explained that they maintained two websites—one publicly accessible and another strictly for government personnel—to convey COVID-19 acquisition related information, resources, and guidance. OFPP's Emergency Acquisitions Guide also offers a number of resources and practices for agencies to consider during pre-emergency planning and in contract management and oversight during an emergency. These include identifying the products and services the agency required in previous emergencies, anticipating workforce needs before an emergency arises, adjusting internal processes to ensure flexibility during an emergency, and assessing emergency acquisitions following an emergency.

However, the OFPP guide does not include the practices or resources contracting officers can use to address obstacles they said they experienced related to assessing prospective vendors during COVID-19 or other recent emergencies. Specifically, the guide reiterates FAR requirements that contracts may only be awarded to responsible vendors and that such requirements are not waived during an emergency, but provides no additional guidance or best practices related to addressing potential obstacles contracting officers may encounter when assessing prospective vendors during an emergency. Furthermore, as previously discussed, not all agencies had or communicated resources available to contracting officers to assess prospective vendors during COVID-19, and some agencies that were involved in contracting for the COVID-19 response have not typically been involved in contracting in response to other recent disasters and emergencies, particularly AMS and ASPR.

Further, the Emergency Acquisitions Guide has not been updated since 2011, and, as of June 2021, several resources linked in the guide are no

longer active or accessible. For example, the guide references a community of practice for emergency response—established by the Chief Acquisition Officers Council Emergency Response and Recovery Working Group—intended for agencies to share information about their policies and procedures, best practices, training resources, and other information of interest. However, OFPP staff told us the group is no longer operational. OFPP officials also stated that updates to the guide are driven by periodic discussions with senior procurement executives and by the rate of inquiries OFPP receives regarding emergency acquisitions, rather than on a regular schedule.

Our prior work following the 2017 hurricanes also identified other limitations in the available government-wide guidance on emergency acquisitions. In April 2019, we found that agencies experienced difficulty in determining whether a vendor resides or primarily does business in the local set-aside area after a disaster and recommended that OFPP provide clarifying information regarding contracting with local vendors after a disaster.<sup>54</sup> In May 2021, OFPP staff told us they plan to update the Emergency Acquisitions Guide to provide such clarifying information, but stated they could not provide a time frame for when the guide would be updated.

The intent of the Emergency Acquisitions Guide is to assist with planning and carrying out procurement activities during contingency operations, major disaster declarations, or other emergencies. *Standards for Internal Control in the Federal Government* state that management should use and externally communicate quality information that is current and accurate to achieve the entity's objectives on a timely basis.<sup>55</sup> The Emergency Acquisitions Guide does not account for obstacles contracting officers said they face when performing their responsibilities during an emergency, or more recent positive practices and resources that individual agencies have developed to address them. Without updating the Emergency Acquisitions Guide—including information on the resources and practices available to contracting officers to assess prospective vendors during an emergency—OFPP may miss the opportunity to provide agencies the information they need to mitigate the types of obstacles they faced during COVID-19 and other recent emergencies. Moreover, the lack of a regular process for updating the Emergency Acquisitions Guide leaves agencies, including those not

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<sup>54</sup>[GAO-19-281](#).

<sup>55</sup>[GAO-14-704G](#).

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typically involved in emergency response, without knowledge of the most current information on resources and practices they can use to mitigate obstacles during future emergencies.

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## Agencies Identified Contracting Challenges and Positive Practices, but Shortfalls Exist in Lessons Learned Processes

Contracting officials from across our selected agencies identified a number of challenges and positive practices with contracting in response to COVID-19. While the agencies in our review are collecting and sharing lessons learned related to COVID-19, we identified shortfalls in these efforts, such as not including contracting personnel and contracting observations in lessons learned processes at some selected agencies and government-wide.

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### Agencies Identified Challenges and Positive Practices Related to Contracting Response to COVID-19

Contracting officials we spoke with in relation to the 28 contracts we reviewed identified a number of contracting challenges and positive practices that they experienced during the response to COVID-19. For example, contracting officials at DOD, HHS, and DHS said that the response to COVID-19 was unprecedented, and, as previously discussed, contracting officials at the agencies in our review stated that the limited time frames and urgency with which they had to assess prospective vendors and award contracts presented challenges. Table 3 describes challenges contracting officials identified across selected agencies, and the outcomes contracting officials associated with those challenges.

**Table 3: Challenges and Outcomes Identified by Contracting Officials at the Departments of Defense (DOD), Health and Human Services (HHS), Agriculture (USDA) and Homeland Security (DHS)**

<b>Challenges</b>	<b>DOD (DLA and Army)</b>	<b>HHS's ASPR</b>	<b>USDA's AMS</b>	<b>DHS's FEMA</b>	<b>Examples of Outcomes Highlighted by Officials</b>
Lack of contracting personnel in relation to volume of contract awards	challenge not identified	challenge identified	challenge identified	challenge not identified	ASPR officials said that as a result of limited contracting personnel, ASPR had to contract for support functions, like compiling contract file documentation. ASPR officials also said they relied heavily on interagency agreements with DOD and FEMA to procure goods and services and address contracting workforce shortfalls.
Working with vendors new to federal contracting or vendors supplying products they had not supplied before	challenge identified	challenge identified	challenge identified	challenge identified	DLA officials said that they often had to explain the federal contracting process—such as System for Award Management requirements or payment terms—when working with vendors that did not have prior federal experience, which can add time to the contracting process. A FEMA contracting official noted that one of the biggest challenges was determining whether vendors new to federal contracting or supplying a product for the first time were responsible and able to meet the delivery or performance terms of the contract.
Volume of communication from prospective vendors	challenge identified	challenge identified	challenge identified	challenge identified	FEMA officials said that the volume of prospective vendor communication they received was overwhelming and that contracting officials needed to work overtime to review vendor information, and in some cases it still delayed contract award.
Limited time frames and urgency to make contract awards	challenge identified	challenge identified	challenge identified	challenge identified	An AMS official said the speed with which contracts for the Farmers to Families Food Box Program were awarded and the sheer volume of awards affected contracting officials' ability to ensure accurate contract reporting and the compilation of complete contract files. <sup>a</sup>
Supply chain issues	challenge identified	challenge identified	challenge not identified	challenge identified	According to DLA and ASPR officials, supply chain challenges related to the availability of supplies and raw materials and having to ship goods and materials from abroad led to delays in delivery and the ability to receive contracted goods.
Contracting for supplies and services the agency does not typically buy	challenge identified	challenge identified	challenge not identified	challenge identified	FEMA officials said they did not have expertise contracting for medical supplies, so were unfamiliar with some vendors and technical requirements for things like N95 respirators or gowns. As a result, officials said they relied heavily on technical expertise from DOD and HHS to determine whether vendor proposals met certain requirements.

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Challenges	DOD (DLA and Army)	HHS's ASPR	USDA's AMS	DHS's FEMA	Examples of Outcomes Highlighted by Officials
Differing sources of contract requirements (e.g., other agencies, White House)	challenge identified	challenge identified	challenge not identified	challenge identified	ASPR officials identified challenges receiving contract requirements from other agencies or the White House. For one selected contract, ASPR officials said that following changes in a White House requirement to deliver cloth masks to U.S. households, approximately 40 million masks are currently in storage at the Strategic National Stockpile or other locations. For two other selected contracts, ASPR contracting officials said that due to challenges with interagency communication about the number of ventilators needed for a contract, they ultimately had to partially terminate one of the contracts because not all of the ventilators ordered were needed.

Legend:

DLA = Defense Logistics Agency

Army = Department of the Army

ASPR = Office of the Assistant Secretary for Preparedness and Response

AMS = Agricultural Marketing Service

FEMA = Federal Emergency Management Agency

X = challenge identified by agency contracting officials

- = challenge not identified by agency contracting officials

Source: GAO summary of DLA, Army, ASPR, AMS, and FEMA information. | GAO-21-528

<sup>3</sup>In March 2021, we reported that USDA faced data reporting and contract management challenges for its Farmers to Families Food Box Program. We recommended that USDA issue guidance to contracting officials on the use of the National Interest Action code for the Farmers to Families Food Box Program and assess the contracting personnel needed to fully execute the award and administration of existing contracts in support of the program or a successor food distribution program. USDA neither agreed nor disagreed with our recommendation. See GAO, *COVID-19: Sustained Federal Action Is Crucial as Pandemic Enters Its Second Year*, GAO-21-387 (Washington, D.C.: Mar. 31, 2021).

Officials also identified positive contracting practices that were established in response to COVID-19 or that assisted them in their ability to effectively respond during the pandemic.

- Mechanisms to consolidate vendor communication:** Officials at DLA and USACE said they benefitted from their agencies establishing mechanisms to consolidate vendor communication about availability of goods and services. For example, officials at both agencies said they used centralized inboxes for vendors to communicate available goods and services. In some instances, these agencies “pre-vetted” vendors by asking for additional information on product availability, delivery terms, and pricing, before forwarding this information to contracting officials. According to USACE contracting officials, this vendor information was put into a repository that was accessible to



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their 43 districts, and having a list of available vendors helped them when performing market research.

- **Pre-existing contract vehicles:** Officials at DLA, USACE, ASPR, and FEMA were able to leverage some contracts that were awarded prior to the pandemic, which officials said allowed them to provide needed goods and services quicker. For example, following Hurricane Katrina in 2005, FEMA was required to establish advance contracts for goods and services typically needed following a disaster.<sup>56</sup> While FEMA's advance contracts are not specific to medical equipment and supplies, FEMA officials were able to leverage an advance contract for ambulance services during the response to COVID-19. The contracting officer associated with this contract said using the advance contract allowed the acquisition process to be streamlined, in part because the contractor was already vetted and familiar with the contract requirement and FEMA's processes. Similarly, following the H1N1 pandemic, the Biomedical Advanced Research and Development Authority (BARDA), within ASPR, awarded contracts to establish Centers for Innovation in Advanced Development and Manufacturing to support vaccine and other medical countermeasure manufacturing needs in support of future pandemics.<sup>57</sup> BARDA officials said that being able to leverage the already-established Centers allowed them to be responsive to COVID-19 vaccination needs during the pandemic.<sup>58</sup>

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<sup>56</sup>Pub. L. No. 109-295, § 691 (codified at 6 U.S.C. § 791). We previously reported on challenges FEMA has faced using, managing, and coordinating advance contracts. See [GAO-19-93](#).

<sup>57</sup>We previously reported on BARDA's efforts to establish Centers for Innovation in Advanced Development and Manufacturing. See GAO, *National Preparedness: HHS Has Funded Flexible Manufacturing Activities for Medical Countermeasures, but It Is Too Soon to Assess Their Effect*, [GAO-14-329](#) (Washington, D.C.: Mar. 31, 2014).

<sup>58</sup>However, BARDA officials noted that limited funding for the Centers for Advanced Development and Manufacturing following the H1N1 pandemic posed challenges. Specifically, officials said that the Centers—operated by Texas A&M University Systems (which is one of our selected contracts) and Emergent Biosolutions (which was not one of our selected contracts)—faced staffing challenges due to limited funding that required them to quickly hire staff to support COVID-19 vaccine production. Recent Food and Drug Administration inspections at Emergent Biosolutions facilities responsible for COVID-19 vaccine production identified concerns related to cross-contamination of vaccine materials, the sanitation, size, and design of the facility, and staff adherence to process and production control procedures.

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## Agencies Are Collecting and Sharing COVID-19 Lessons Learned, but Some Agencies Have Not Included Contracting Issues

Agencies across the four selected departments in our review—DOD, HHS, USDA, and DHS—had in place or developed processes to collect and share lessons learned related to COVID-19, and these processes are ongoing or at various stages of completion. However, the lessons learned processes at HHS and DHS have not included contracting personnel or contracting observations.

- **DOD:** Within the Army and DLA, efforts to collect and share lessons learned in response to COVID-19 have been ongoing. For example, in addition to an “in-stride” review—completed while the alternate care facility mission was still ongoing in May 2020—USACE headquarters compiled a final after-action report on its COVID-19 response and alternate care facility mission in August 2020, which included after-action reports from across the districts and divisions. According to DLA officials, they collected acquisition lessons learned internally and completed a review of selected COVID-19 contracts to identify additional contracting lessons learned in May 2021.

In addition to these component specific efforts, in December 2020, DOD’s COVID-19 Task Force completed a strategic review of the department’s response to COVID-19.<sup>59</sup> According to task force officials, they collected and analyzed over 2,000 observations from across the department, including reviewing component specific after-action reports, based on the department’s existing guidance for the Chairman of the Joint Chiefs of Staff Joint Lessons Learned Program.<sup>60</sup> This analysis culminated in 84 recommendations related to DOD’s organization, people, mission, and support to national and international response efforts. According to DOD officials, these recommendations have been archived and shared over the Joint Lessons Learned Information System. DOD COVID-19 Task Force officials said they are still analyzing and validating lessons learned

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<sup>59</sup>DOD, *Strategic Review: The Department of Defense Response to the COVID-19 Pandemic* (December 2020). DOD’s Strategic Review also included observations from other federal agencies on the actions DOD took in response to COVID-19, but the review states it was not intended to provide a detailed examination of the actions taken by the department’s interagency partners in their response efforts.

<sup>60</sup>DOD, Chairman of the Joint Chiefs of Staff Instruction 3150.25G, *Joint Lessons Learned Program* (Jan. 31, 2018).

through the development of implementation and action plans for the recommendations, which they expect to complete in July 2021. DOD has also continued to gather observations to identify lessons learned as part of a Comprehensive Review focused on its COVID-19 response efforts through April 2021, which it anticipates completing in the fall of 2021.

- **HHS:** According to ASPR Exercise, Evaluation and After Actions (E2A2) officials, they are in the process of collecting data on the response to COVID-19 because the pandemic response is ongoing. The E2A2 division's lessons learned process uses after-action reports and a Corrective Action Program, aligned with DHS's Homeland Security Exercise and Evaluation Program, to collect, analyze, and report on observations following real world public health emergencies or exercises. To further improve HHS's ability to provide health and medical resources, corrective actions from real world public health emergencies and exercises generally become objectives in future training and exercises. E2A2 officials said that during and after a real world event or exercise, they send email surveys to all HHS personnel requesting input, and perform "hotwashes" with stakeholders to gather observations before consolidating the information based on trends and creating an after-action report.<sup>61</sup> Following the completion of the after-action report, observations and recommendations are resolved through the development of corrective actions that are then prioritized and tracked.
- **USDA:** AMS officials told us they do not have a formal process to collect lessons learned related to the Farmers to Families Food Box Program. However, USDA did conduct a preliminary review of its COVID-19-related commodity purchasing and distribution in January 2021, prior to issuing any new solicitations for the Farmers to Families Food Box Program, as required by the Consolidated Appropriations Act, 2021 (P.L. 116-260). The preliminary review identified observations and lessons learned from throughout the program and noted that USDA had been collecting, analyzing, and addressing input on the program from participants, Congress, and the general public, as the program progressed. According to the preliminary review, USDA will analyze and apply lessons learned from the program to improve future commodity procurement efforts. Further, in April 2021, AMS officials told us that they have continued to collect input from both internal and external stakeholders and are working with a

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<sup>61</sup>A "hotwash" is a facilitated discussion held immediately after an exercise or real world event among the individuals involved. It captures feedback about any issues, concerns, or proposed improvements that the individuals may have about the exercise or event.

contractor to consolidate all of the input received and determine next steps with USDA leadership.

- **DHS:** FEMA’s Continuous Improvement Program is responsible for collecting observations and conducting after-action reviews following a disaster. In the summer and fall of 2020, the Program provided preliminary briefings to FEMA leadership on selected after-action report focus areas. In January 2021, the Continuous Improvement Program completed its Initial Assessment Report of FEMA’s COVID-19 Operations from January 2020 through September 2020.<sup>62</sup> FEMA conducted its assessment by gathering data from across the agency using interviews, surveys, and “hotwashes,” and analyzing and validating findings. The initial assessment included 32 findings and 57 recommendations related to coordinating structures and policy; resources; supporting state, local, tribal, and territorial governments; preparedness and information analysis; and organizational resilience. According to FEMA Continuous Improvement Program officials, these observations have been entered into the issue resolution system for tracking and shared in a database available to all FEMA employees.

DOD’s and USDA AMS’s lessons learned processes in response to COVID-19 have included contracting officials and their observations, but HHS ASPR’s and DHS FEMA’s formal lessons learned processes have not, posing the risk that contracting challenges and positive practices will not be appropriately analyzed, validated, archived, and shared to inform future efforts.

- **DOD:** Both USACE and DLA have captured contracting lessons learned related to their COVID-19 response missions. USACE’s “in-stride” and final after-action report from its alternate care facility mission included contracting lessons learned, such as developing and communicating sample documents and templates, establishing lists of emergency contractors, and promoting internal and external communication. Following a review of contracts awarded in response to COVID-19, in May 2021, DLA reported on contracting lessons learned, such as establishing a group of contingency contracting officers able to support future emergency response efforts, and continuing to use a team that was established to assess prospective vendors. More broadly, as part of DOD’s Strategic Review, DOD COVID-19 Task Force officials said they included input from contracting officials as part of their data collection efforts, and we

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<sup>62</sup>FEMA, *Pandemic Response to Coronavirus Disease 2019 (COVID-19): Initial Assessment Report, FEMA Operations January through September 2020* (January 2021).

found that the review highlights findings and recommendations related to DOD's establishment of the Joint Acquisition Task Force and extensive acquisition support to other agencies, like HHS. According to a DOD COVID-19 Task Force official, contracting lessons learned continue to be gathered as part of the department's Comprehensive Review.

- **USDA:** While less formal, AMS has also collected internal and external feedback on the program, and identified and applied contracting lessons learned to achieve the program's goals throughout the Farmers to Families Food Box Program. For example, based on information collected following initial awards made for the program, AMS streamlined its contracting process by using basic ordering agreements, which officials said provided AMS with greater flexibility to specify requirements as the program progressed.<sup>63</sup> Further, under the basic ordering agreement solicitation, AMS refined requirements related to the content and quantities of boxes to be delivered, and required additional documentation related to subcontractor agreements to ensure that vendors were fully accounting for the costs of delivering food boxes to their final destination instead of a distribution center.
- **HHS:** ASPR's E2A2 division is still in the process of formally collecting lessons learned from the response to COVID-19, but in February 2021, officials told us they do not plan to include contracting officials or lessons learned in their efforts. ASPR contracting officials we spoke with identified challenges and lessons learned from the response to COVID-19, and, for most of the contracts in our review, contracting officials said they had communicated these challenges and lessons learned informally to their branch leadership or to the ASPR Head of Contracting Activity. According to senior ASPR contracting officials, there have been informal discussions about challenges and lessons learned in response to COVID-19 during monthly meetings with contracting leadership, and these lessons learned have been communicated to the Office of Acquisitions—which is responsible for providing departmental leadership for acquisition functions within the Office of the Assistant Secretary for Financial Resources. In February 2021, the Office of Acquisitions compiled preliminary contracting lessons learned from ASPR and other HHS component contracting activities. As of April 2021, contracting officials within ASPR and the Office of Acquisitions said they were determining next steps related to

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<sup>63</sup>For subsequent contract awards under the Farmers to Families Food Box Program, AMS officials established basic ordering agreements with vendors, which then competed amongst themselves to fulfill specific requirements for the program.

implementing the lessons learned they had identified. However, these officials said that they had not received any communication from E2A2 officials about sharing contracting lessons learned or provided lessons learned through the email surveys E2A2 sends to solicit feedback. Several ASPR contracting officials we spoke with during our review emphasized the importance of collecting contracting lessons learned.

According to E2A2 officials, contracting has not been identified as a shortfall or priority for reporting by HHS leadership, and E2A2 has not received contracting input. However, we found that preliminary contracting lessons learned identified by the Office of Acquisitions and ASPR contracting officials are related to the topics E2A2 identified for inclusion in its planned after-action reports. For example, ASPR contracting officials told us that they did not have to award new contracts to support the mission to repatriate U.S. citizens from abroad early in the response to COVID-19 because they already had pre-existing contracts in place to provide all of the necessary services and medical support. Further, the Office of Acquisitions identified cross-agency contracting collaboration and confusion about agencies' responsibilities acquiring goods and services to protect the public against COVID-19. That office recommended establishing memorandums of understanding with other agencies involved in the response. E2A2 officials said they are issuing an after-action report focused on the repatriation mission and plan to issue an after-action report on interagency coordination, but contracting practices and lessons learned related to these areas have not been provided or included.<sup>64</sup>

- **DHS:** While FEMA's Continuous Improvement Program has a formal process for collecting, analyzing, validating, and archiving lessons learned, its initial assessment on the response to COVID-19 does not include contracting lessons. According to an official within FEMA's contracting activity, FEMA established community of practice listening sessions in April 2020 to promote training and educational opportunities and identify challenges and best practices for knowledge

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<sup>64</sup>We previously reported that ASPR has not obtained input from key stakeholders—specifically other emergency support function agencies and territorial governments—as part of its after-action reporting following the 2017 hurricanes. We recommended that ASPR take steps to ensure that key external parties are incorporated in the development of HHS's after action reports. HHS officials agreed with the recommendation and as of May 2021, HHS's efforts to incorporate key external parties in after-action reports were ongoing. See GAO, *Disaster Response: HHS Should Address Deficiencies Highlighted by Recent Hurricanes in the U.S. Virgin Islands and Puerto Rico*, [GAO-19-592](#) (Washington, D.C.: Sept. 20, 2019).

sharing. The official stated that these listening sessions are intended to inform the topics covered in the annual disaster webinar that they provide to contracting officials. However, as of April 2021, senior FEMA procurement officials told us they had not collected challenges or lessons learned from contracting officials. Further, officials with five of the seven contracts we reviewed said they had not communicated their lessons learned within the agency, and our review of the lessons learned identified in FEMA's May 2021 annual disaster webinar were specific to their regional offices and not FEMA headquarters contracting personnel.

An official from FEMA's Continuous Improvement Program said they interviewed FEMA's Head of Contracting Activity and Deputy Head of Contracting Activity as part of their initial assessment on the response to COVID-19. The Continuous Improvement Program official said contracting was not a priority issue at that time, and procurement challenges and lessons learned did not align with broader themes identified in their data collection efforts and so were not included in their reporting. However, some of the challenges and positive practices FEMA contracting officials identified to us are related to findings in FEMA's initial assessment. For example, FEMA contracting officials noted that having DOD support the technical evaluation of vendor proposals for medical supplies was helpful, since FEMA does not have expertise purchasing medical supplies. FEMA contracting officials also described significant challenges managing vendor communication about available goods and services and contracting in an environment where the availability of medical supplies was limited. FEMA's initial assessment on its response to COVID-19 includes findings related to interagency coordination structures, scarcity of medical supplies, and consistency of private sector engagement, but these findings did not include specific perspectives from contracting officials on their challenges and best practices.

Leading practices of a lessons learned process we and others have identified include collecting, analyzing, validating, archiving, and sharing information and knowledge on positive and negative experiences.<sup>65</sup> Further, *The Standard for Program Management*, produced by the Program Management Institute, Inc., states that program managers should actively engage key stakeholders throughout the life cycle of the

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<sup>65</sup>GAO-21-8, GAO-20-104, GAO-19-25, and GAO-12-901. Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)* and *Implementing Organizational Project Management: A Practice Guide*. Center for Army Lessons Learned, *Establishing a Lessons Learned Program*.

program, which would include contracting officials responsible for awarding contracts worth billions of dollars for needed goods and services to respond to the pandemic.<sup>66</sup> The response to COVID-19 has been unprecedented and differed from other disasters and emergencies, as it affected the entire country and world rather than just one state or region. In addition, the response to the pandemic is currently in its second year, compared to typical emergency response efforts that can often be measured in weeks. Without taking steps to collect, analyze, and validate contracting lessons learned more than a year into the response, ASPR and FEMA—agencies that account for 20 percent of the \$61 billion in contract obligations made in response to COVID-19—are at risk of not being able to apply and share critical contracting lessons learned related to the pandemic that could inform ongoing and future emergency response efforts.

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### Contracting Officials Were Not Always Aware of or Involved in Collecting or Sharing Interagency Lessons Learned

Contracting officials we spoke with identified extensive interagency coordination related to contracting during the response to pandemic, but they were not always aware of or involved in interagency lessons learned processes. For example, as noted earlier, HHS established memorandums of understanding with DOD and FEMA for those agencies to provide contracting services and support for the acquisition of medical supplies and services. ASPR officials noted that these memorandums of understanding were essential because they did not have sufficient contracting workforce to meet their steady state mission, let alone the response to COVID-19. FEMA and DOD contracting officials also noted that they relied on technical support and expertise from various HHS components, particularly when awarding contracts for medical supplies and services that they do not typically purchase.

Moreover, according to contracting officials, 20 of the 21 contracts in our review awarded by DLA, the Department of the Army, FEMA, and ASPR involved interagency coordination related to the development of the requirement, assessment of prospective vendors, or contract

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<sup>66</sup>Program Management Institute, Inc. *The Standard for Program Management*, Fourth Edition (2017).



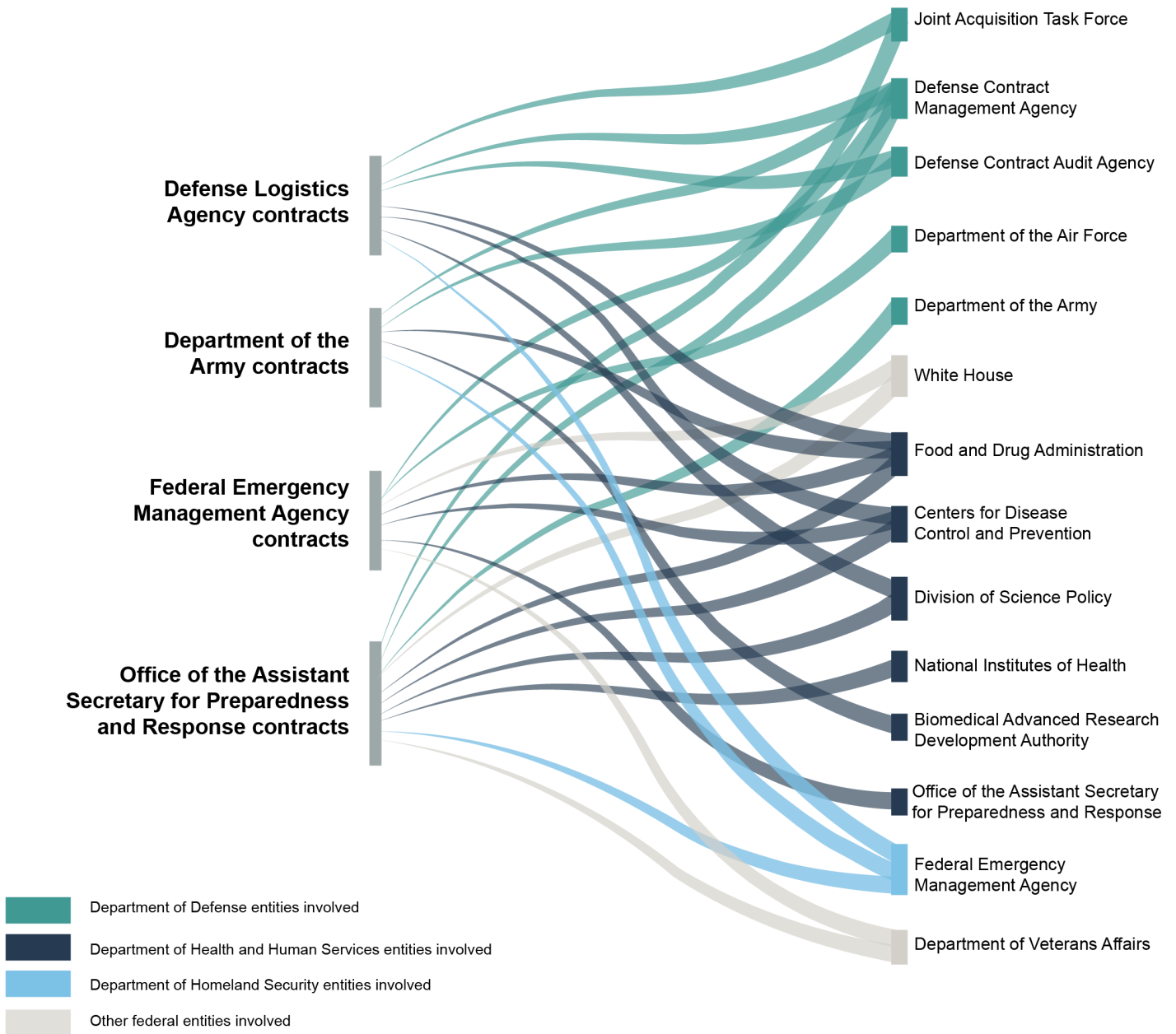
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administration efforts.<sup>67</sup> Figure 6 provides examples of the variety of government entities that were involved in identifying requirements, providing information in support of or performing vendor assessments, or contract administration efforts for these selected contracts.

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<sup>67</sup>The other seven contracts we selected for review were from USDA. Given the nature of those contracts, which were for food distribution efforts under the Farmers to Families Food Box Program, AMS officials said these contracts did not involve interagency coordination.

Figure 6: Examples of Interagency Contracting Coordination across Selected Contracts



Source: GAO analysis of Department of Defense, Department of Health and Human Services, and Department of Homeland Security information and interviews with contracting officials. | GAO-21-528

Note: Lines from selected agency contracts to various government entities indicate those entities involvement in identifying contract requirements, providing information in support of or performing vendor assessments related to the contract, or contract administration efforts.

Although interagency coordination has been critical to the response, contracting officials we spoke with at DOD, HHS, and DHS were not consistently aware of or involved in formal interagency lessons learned collection or reporting. Officials at DOD, HHS, and DHS identified some methods for communicating interagency lessons learned internally. For example, DOD's USACE officials said that in coordination with HHS, they identified areas to improve or sustain related to their alternate care facility mission, which included contracting. According to DLA officials, they have coordinated with the Defense Threat Reduction Agency, other DOD entities, FEMA, and HHS to capture lessons learned and best practices, including those related to contracting, from the COVID-19 response as part of an Interagency Lessons Learned Task Force. However, senior contracting officials at ASPR, FEMA, and USACE said they were not aware of and had not participated in this or any other formal efforts to capture contracting lessons learned across the three agencies.

Further, agency officials responsible for gathering and reporting on lessons learned told us they have been focusing on their own agency lessons learned instead of coordinating with other agencies to identify interagency lessons learned. For example, while both FEMA's and DOD's after-action reports included challenges related to interagency coordination, both reports state that they are focused on the actions of their respective agencies versus collecting interagency lessons learned. During the course of our review, FEMA Continuous Improvement Program officials told us they have not shared information on challenges, positive practices, or lessons learned with other agencies, beyond some informal communication with officials within ASPR.<sup>68</sup> A FEMA Continuous Improvement Program official further noted that there is no policy identifying responsibilities for conducting interagency after-action reports. E2A2 division officials within HHS told us that information sharing among agencies has been a challenge, and that, while there had been some informal interagency coordination among FEMA and DOD, none of the agencies want to tell the others what did not go well.

According to a DOD COVID-19 Task Force official, the Homeland Preparedness Response Interagency Policy Committee—which replaced the Domestic Resilience Group Interagency Policy Committee on the National Security Council—is expected to lead efforts for a government-

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<sup>68</sup>Towards the end of our review, a FEMA Continuous Improvement Program official stated that FEMA's initial assessment report is publicly available for other agencies to review.

wide COVID-19 after-action report.<sup>69</sup> As of April 2021, the Task Force official said that group's charter was still being finalized, and the Exercise and Evaluation sub-Interagency Policy Committee that would lead such an effort has not yet been established. According to an HHS E2A2 official, DOD, HHS, and DHS are represented on this sub-Interagency Policy Committee, and it would be an appropriate interagency body for identifying and sharing lessons learned in any response.

Further, interagency lessons learned may also be collected by the Emergency Support Function Leadership Group—a body of senior officials from each of the emergency support functions tasked with coordinating responsibilities and resolving operational and preparedness issues related to interagency response activities. However, according to officials, as of April 2021, no corrective actions or lessons learned for COVID-19 contracting, or more broadly, had been identified. Emergency Support Function Leadership Group officials said that they rely on federal agencies that lead the Emergency Support Functions to identify corrective actions and that, while contracting lessons learned may be identified at some point, there are currently no efforts underway to take action on agency after-action recommendations because the response to COVID-19 is ongoing.<sup>70</sup>

Leading practices of a lessons learned process we and others have identified include collecting, analyzing, validating, archiving, and sharing information and knowledge on positive and negative experiences.<sup>71</sup> The Center for Army Lessons Learned handbook on Establishing a Lessons

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<sup>69</sup>The National Security Council's Domestic Resilience Group was a policy group charged with discussing the authorities, policies, capabilities, and structures in place for a domestic response.

<sup>70</sup>Our prior work found that some emergency support function agencies—such as USACE and the Coast Guard—did not have formal processes to solicit and share input from officials involved in emergency response efforts to the Emergency Support Functions Leadership Group. We recommended that USACE and the Coast Guard establish formal processes to solicit input from officials involved in the agency's response and recovery efforts, and share that input with the Emergency Support Function Leadership Group. Both agencies agreed with the recommendations, and in July 2020, USACE revised its Response to All Hazards Events Plan with steps to communicate lessons learned following a disaster to the group. As of April 2021, the Coast Guard's efforts to update its After-Action Report Policy were still ongoing. [GAO-19-281](#).

<sup>71</sup>[GAO-21-8](#), [GAO-20-104](#), [GAO-19-25](#), and [GAO-12-901](#). Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)* and *Implementing Organizational Project Management: A Practice Guide*. Center for Army Lessons Learned, *Establishing a Lessons Learned Program*.

Learned Program—which is intended to assist any government or civilian organization that wants to develop a lessons learned capability—notes that performing lessons learned practices throughout the course of an event, rather than just at the end, can help to ensure that lessons learned are captured as close to the learning opportunity as possible.<sup>72</sup> Further, key practices to enhance and sustain collaboration state that, in order for agencies to identify areas where collaboration could improve, they need to monitor, evaluate, and report the results of collaborative efforts—such as those related to interagency contracting during an emergency—to key decision makers.<sup>73</sup> Without efforts to ensure that key agencies involved in the response to COVID-19 are collecting and sharing interagency contracting lessons learned, federal agencies involved in the response are at risk of missing an opportunity to memorialize contracting and coordination practices that were successful, as well as those that were not, for future emergencies.

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## Conclusions

Federal contracts played a critical role in meeting the unprecedented demand for billions of dollars in goods and services in response to COVID-19. Contracting during an emergency can pose a unique set of challenges as officials face a significant amount of pressure to provide goods and services as quickly as possible under difficult market conditions. To help contracting officers perform assessments of prospective vendors under these conditions during COVID-19, some agencies used or developed resources or guidance to supplement what is required by federal regulation. However, reviewing and communicating available resources for assessing prospective vendors and providing additional guidance for contracting during emergencies could improve ASPR contracting officers' ability to perform their responsibilities under tight time frames during ongoing and future emergencies. Additionally, identifying and incorporating relevant contracting experiences from its response to COVID-19 could improve AMS's food distribution efforts now and in the future. Further, updating OFPP's government-wide guidance to reflect the resources agencies have relied on to mitigate obstacles of assessing prospective vendors in recent emergencies, and establishing a process for regular updates to the guidance, will ensure that all federal

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<sup>72</sup>Center for Army Lessons Learned, *Establishing a Lessons Learned Program*.

<sup>73</sup>GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

agencies can benefit from these practices during future emergency response efforts.

In addition to improvements in communicating resources and guidance for assessing prospective vendors, agencies' experiences contracting in response to COVID-19 provide an important opportunity to capture and share lessons learned. Agencies identified a number of challenges and positive practices when contracting in response to COVID-19, but without established mechanisms to formally collect and share lessons learned from stakeholders involved with contracting at ASPR and FEMA, these agencies will be unable to apply lessons learned and positive processes to their ongoing pandemic response or future emergencies. Moreover, given the significant role that interagency contracting and coordination played in agencies' efforts to procure needed goods and services, effective coordination and communication among key emergency support function agencies is critical to ensure that interagency contracting lessons learned are memorialized in a timely manner.

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## Recommendations for Executive Action

We are making a total of 10 recommendations, including four to HHS, one to USDA, one to FEMA, two to OFPP, one to DOD, and one to DHS.

The Secretary of Health and Human Services should direct the Assistant Secretary for Preparedness and Response to review and fully communicate the resources available to contracting officers for assessing prospective vendors—including resources to assess financial capability. (Recommendation 1)

The Secretary of Health and Human Services should direct the Assistant Secretary for Preparedness and Response to develop internal guidance that includes information for contracting officers related to contracting and assessing prospective vendors during emergencies. (Recommendation 2)

The Secretary of Agriculture should direct the Administrator of the Agricultural Marketing Service to evaluate the contracting practices established to assess vendors and implement the Farmers to Families Food Box Program to determine what practices could be used for future emergency procurements and incorporate those practices into internal guidance. (Recommendation 3)

The Administrator of the Office of Federal Procurement Policy should revise the Emergency Acquisitions Guide, based on outreach to agencies involved in the COVID-19 response, to account for information on the obstacles contracting officers may face when assessing prospective vendors during an emergency and key practices or resources to address those obstacles, and communicate those revisions to agencies once complete. (Recommendation 4)

The Administrator of the Office of Federal Procurement Policy should establish a process and time frames for regularly updating the Emergency Acquisitions Guide to ensure resources and practices federal agencies can use when contracting during an emergency are current. (Recommendation 5)

The Secretary of Health and Human Services should ensure that, as part of the Exercise, Evaluation and After Actions Division's ongoing after-action reporting and corrective action program, contracting lessons learned in response to COVID-19 and future emergency response efforts are collected, analyzed, validated, archived, and shared to inform HHS's contracting efforts in response to ongoing and future emergencies. (Recommendation 6)

The Administrator of the Federal Emergency Management Agency should direct the Head of Contracting Activity to establish a formal process to (1) collect contracting lessons learned from COVID-19 and future emergency response efforts; and (2) ensure contracting lessons learned are shared with the Continuous Improvement Program for inclusion in FEMA's formal lessons learned process to inform FEMA's contracting efforts in response to ongoing and future emergencies. (Recommendation 7)

The Secretary of Defense, in coordination with the Secretaries of Homeland Security and Health and Human Services, should ensure that input from contracting officials on interagency contracting lessons learned in response to COVID-19 is collected and shared as part of government-wide efforts to collect, analyze, and report on lessons learned. (Recommendation 8)

The Secretary of Health and Human Services, in coordination with the Secretaries of Defense and Homeland Security, should ensure that input from contracting officials on interagency contracting lessons learned in response to COVID-19 is collected and shared as part of government-wide efforts to collect, analyze, and report on lessons learned. (Recommendation 9)

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The Secretary of Homeland Security, in coordination with the Secretaries of Defense and Health and Human Services, should ensure that input from contracting officials on interagency contracting lessons learned in response to COVID-19 is collected and shared as part of government-wide efforts to collect, analyze, and report on lessons learned.

(Recommendation 10)

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## Agency Comments

We provided a draft of this report to DOD, HHS, USDA, the Department of Veterans Affairs, DHS, and the Office of Management and Budget (OMB) for review and comment. DOD, HHS, and DHS provided written comments, which are reproduced in appendices II, III, and IV, and USDA and OMB responded via email. Collectively, the agencies concurred with 9 of the 10 recommendations. DHS also provided technical comments, which we incorporated as appropriate. DOD, HHS, USDA, OMB, and the Department of Veterans Affairs had no technical comments on the draft report.

DOD, HHS, DHS, and USDA concurred with the recommendations made to each of their agencies and generally identified steps they plan to take to address them. In its concurrence with our seventh recommendation, FEMA requested that we consider the recommendation resolved and close as implemented based on actions it had previously taken. In DHS's written comments, FEMA cited actions, such as interviews with FEMA's Head and Deputy Head of Contracting Activity and other efforts by FEMA to identify challenges and promote knowledge sharing through listening sessions. These efforts are, in general, already referenced in our report. Furthermore, we found that contracting officials involved with most of the FEMA contracts in our review had not communicated their lessons learned related to contracting during COVID-19 within the agency. Moreover, several of the contracting officials we spoke with said they were not aware of any efforts to collect lessons learned and had not been asked to provide any, raising concerns about the efficacy of FEMA's Office of the Chief Component Procurement Officer's cited efforts. Therefore, we encourage FEMA's Head of Contracting Activity to take additional action to address the recommendation. Doing so will ensure that contracting lessons learned from COVID-19 and future emergencies are effectively captured and available to be shared as part of more formal lessons learned processes conducted by the Continuous Improvement Program.



In its response, OMB agreed with our fourth recommendation to update the Emergency Acquisitions Guide to account for information on the obstacles contracting officers may face when assessing prospective vendors during an emergency and key practices or resources to address those obstacles. OMB did not agree with our fifth recommendation, that OFPP establish a process and time frames for regularly updating the Emergency Acquisitions Guide to ensure resources and practices that can be used during an emergency are current. OMB stated that after it revises the guide in response to, among other things, our fourth recommendation, it plans to confer with other federal agencies about the best way to collect and share information. OMB said it does not want to assume that maintaining information in the current format of the Emergency Acquisitions Guide is the most effective form of communication. We continue to believe that establishing a process and time frames for updating the resources and practices available in the Emergency Acquisitions Guide—a tool agencies can use when contracting during emergencies—will ensure that federal agencies (particularly those not typically involved in emergency response activities) have the most up to date information to assist them. As noted in our findings, the guide and the resources it contains have not been updated since 2011, precluding agencies from the benefit of the experiences and practices other federal agencies have encountered in the numerous disasters and emergencies since then.

We are sending copies of this report to the appropriate congressional committees and offices; and the Secretaries of Defense, Health and Human Services, Agriculture, Veterans Affairs, and Homeland Security, and the Acting Director of OMB. In addition, the report will be made available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-4841. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. Staff members making key contributions to this report are listed in appendix V.



Marie A. Mak  
Director, Contracting and National Security Acquisitions

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Letter

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*List of Addressees*

The Honorable Patrick Leahy  
Chairman  
The Honorable Richard Shelby  
Vice Chairman  
Committee on Appropriations  
United States Senate

The Honorable Ron Wyden  
Chairman  
The Honorable Mike Crapo  
Ranking Member  
Committee on Finance  
United States Senate

The Honorable Patty Murray  
Chair  
The Honorable Richard Burr  
Ranking Member  
Committee on Health, Education, Labor, and Pensions  
United States Senate

The Honorable Gary C. Peters  
Chairman  
The Honorable Rob Portman  
Ranking Member  
Committee on Homeland Security and Governmental Affairs  
United States Senate

The Honorable Rosa L. DeLauro  
Chairwoman  
The Honorable Kay Granger  
Ranking Member  
Committee on Appropriations  
House of Representatives

The Honorable Frank Pallone, Jr.  
Chairman  
The Honorable Cathy McMorris Rodgers  
Republican Leader  
Committee on Energy and Commerce  
House of Representatives

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The Honorable Bennie G. Thompson  
Chair

The Honorable John Katko  
Ranking Member  
Committee on Homeland Security  
House of Representatives

The Honorable Carolyn B. Maloney  
Chairwoman

The Honorable James Comer  
Ranking Member  
Committee on Oversight and Reform  
House of Representatives

The Honorable Richard E. Neal  
Chair

The Honorable Kevin Brady  
Republican Leader  
Committee on Ways and Means  
House of Representatives

The Honorable Chris Pappas  
Chairman

Subcommittee on Oversight and Investigations  
Committee on Veterans' Affairs  
House of Representatives

## Appendix I: Objectives, Scope, and Methodology

The CARES Act included a provision for GAO to provide a comprehensive audit and review of federal contracting pursuant to authorities provided in the act.<sup>1</sup> This report examines (1) contract obligations and characteristics of vendors; (2) the information selected agencies used to assess prospective vendors and the extent to which the agencies communicated available information to contracting officers; and (3) the extent to which selected agencies experienced challenges and established processes to collect and share contracting lessons learned.

To identify contract obligations and the characteristics of vendors, we analyzed data available in the Federal Procurement Data System (FPDS) as of May 31, 2021.<sup>2</sup> Though agencies may obligate dollars through various other vehicles, such as grants or cooperative agreements, this report is focused specifically on contract obligations.<sup>3</sup> We primarily identified these contract actions and associated obligations related to the Coronavirus Disease 2019 (COVID-19) response by using the National Interest Action code.<sup>4</sup> We supplemented the use of the National Interest Action code by searching for “coronavirus” and “COVID-19” in the

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<sup>1</sup>Pub. L. No. 116-136, div. B, tit. IX, § 19010, 134 Stat. 281, 579 (2020). We regularly issue government-wide reports on the federal response to COVID-19. For the latest report, see GAO, *COVID-19: Continued Attention Needed to Improve Federal Preparedness, Response, and Service Delivery and Enhance Program Integrity*, [GAO-21-551](#) (Washington, D.C.: July 19, 2021). Our next government-wide report will be issued in October 2021 and will be available on GAO’s website at <https://www.gao.gov/coronavirus>.

<sup>2</sup>We accessed FPDS data available on SAM.gov as of May 31, 2021. SAM.gov is the new System for Award Management and can perform functions of other federal government systems including FPDS.

<sup>3</sup>For the purposes of this report, “contract obligations” means obligations on contracts that are subject to the Federal Acquisition Regulation, and does not include, for example, grants, cooperative agreements, loans, other transactions for research, real property leases, or requisitions from federal stock.

<sup>4</sup>National Interest Action codes were established in 2005 after Hurricane Katrina with the purpose of tracking federal procurements for specific disasters, emergencies, or contingency events. A National Interest Action code was established on March 13, 2020 for the COVID-19 pandemic, and contract actions and their associated obligations are coded as related to the COVID-19 response in a field in FPDS.

contract description field to identify a limited number of additional contract actions and associated obligations.<sup>5</sup> Some contract actions identified as being related to COVID-19 based on the National Interest Action code included obligations not specific to the pandemic.<sup>6</sup> Therefore, for contract actions over \$1 million, we removed obligations that were identified in the contract description as not related to COVID-19. We assessed the reliability of FPDS data by reviewing existing information about the FPDS system and the data it collects—specifically, the data dictionary and data validation rules—and performing electronic testing. We determined the FPDS data were sufficiently reliable for the purposes of describing agencies’ reported contract obligations to vendors in response to COVID-19.

We analyzed the FPDS data to identify the agencies with the highest COVID-19 contract obligations, the types of goods and services procured, and other vendor characteristics such as whether a vendor had prior federal contracting experience—defined in terms of whether a vendor had any contract awards in the last 15 years—and whether the vendor was a small or large business. We also reviewed descriptions of contract modifications to identify cancelled obligations, or deobligations, such as for contract terminations. We used data from FPDS from calendar years 2005 through 2019 to evaluate the frequency agencies have historically awarded contracts to first time federal contractors in calendar years 2016 through 2020, compared to the contracts awarded in response to COVID-19. We augmented data from FPDS with data from the System for Award Management (SAM) to identify additional information about vendors receiving COVID-19 contracts, including whether or not vendors were registered in SAM. We also used data from the Federal Awardee Performance and Integrity Information System (FAPIIS) to identify vendors that had a performance or integrity information record in FAPIIS

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<sup>5</sup>In November 2019, we identified some inconsistencies in the information agencies report in the contract description field in FPDS. See GAO, *DATA Act: Quality of Data Submissions Has Improved but Further Action Is Needed to Disclose Known Data Limitations*, GAO-20-75 (Washington, D.C.: Nov. 8, 2019). Data on DOD contract obligations based on information in the description field were available only through March 1, 2021, due to differences in the time frames for which DOD data are made publicly available.

<sup>6</sup>According to the Office of Management and Budget, any contract action affected by COVID-19 is to be reported using the National Interest Action code, including modifications that were issued to address COVID-19, irrespective of whether the contract being modified was originally awarded to address COVID-19. See Office of Management and Budget, *M-20-21 Implementation Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019 (COVID-19)* (Apr. 10, 2020).

for prior performance or integrity concerns. We assessed the reliability of SAM data by reviewing existing information about the data contained in the system—specifically, the SAM user guide—and performing electronic testing. We also assessed the reliability of FAPIIS data by performing electronic testing. We determined that both SAM and FAPIIS data were sufficiently reliable for the purposes of describing vendor registration status and prior records of unsatisfactory performance.

To determine what information selected agencies used to assess prospective vendors awarded contracts in response to COVID-19, we identified four of the top five departments with the highest COVID-19 contract obligations as of August 31, 2020—the Departments of Defense (DOD), Health and Human Services (HHS), Agriculture (USDA), and Homeland Security (DHS).<sup>7</sup> Within these departments, we selected the agencies that collectively accounted for at least two-thirds of each department’s COVID-19 contract obligations:

- DOD’s Defense Logistics Agency (DLA) and the Department of the Army;
- HHS’s Office of the Assistant Secretary for Preparedness and Response (ASPR);
- USDA’s Agricultural Marketing Service (AMS); and
- DHS’s Federal Emergency Management Agency (FEMA).

We initially selected a nongeneralizable sample of eight COVID-19-related contracts and task or delivery orders with obligations or deobligations over \$5 million (hereafter referred to as contracts, unless otherwise specified) per department, for a total of 32 contracts awarded between January 2020 and August 31, 2020. To obtain a mix of vendor and contract characteristics, we judgmentally selected five contracts from each department based on factors such as obligation or deobligation amount, whether the vendor had prior federal contracting experience, whether the vendor was registered in SAM.gov when the contract was awarded, whether the contract was competed, and the vendor’s business size. After making those selections, we selected three other contracts

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<sup>7</sup>We selected August 31, 2020 as it was the time we were beginning and scoping our review. The other agency with the highest contract obligations was the Department of Veterans Affairs, which we did not include due to other ongoing work on the department’s contracting response to COVID-19. See GAO, *VA COVID-19 Procurements: Pandemic Underscores Urgent Need to Modernize Supply Chain*, [GAO-21-280](#) (Washington, D.C.: June 15, 2021).

**Appendix I: Objectives, Scope, and Methodology**

from each department randomly. Subsequent to these selections, we removed four contracts from our review: three because they were potentially the subject of an ongoing Office of Inspector General or other federal investigation; and one because it was reported as awarded in FPDS, but agency officials told us it was never awarded. This left us with a total of 28 contracts—seven from each department.<sup>8</sup> See table 4 for additional details on the selected contracts included in our review.

**Table 4: Description of Selected Contracts**

<b>Awarding Agency</b>	<b>Description</b>	<b>Obligation Amount as of August 31, 2020</b>	<b>Vendor had prior federal contracting experience</b>
<b>Department of Defense:</b> Defense Logistics Agency	Services for operations, maintenance, and repairs of N95 respirator decontamination system	\$147,595,011	prior federal contracting experience
<b>Department of Defense:</b> Defense Logistics Agency	Personal protective equipment	\$862,751,155	prior federal contracting experience
<b>Department of Defense:</b> Defense Logistics Agency	Cloth face coverings	\$5,372,000	prior federal contracting experience
<b>Department of Defense:</b> Army Contracting Command	Reservation of vaccine fill and finish capacity	\$160,000,000	no prior federal contracting experience
<b>Department of Defense:</b> U.S. Army Corps of Engineers	Construction of alternate care facilities	\$8,300,000	prior federal contracting experience
<b>Department of Defense:</b> U.S. Army Corps of Engineers	Construction of alternate care facilities	\$700,000 <sup>a</sup>	prior federal contracting experience
<b>Department of Defense:</b> U.S. Army Corps of Engineers	Construction of alternate care facilities	\$13,331,415	prior federal contracting experience
<b>Department of Health and Human Services:</b> Assistant Secretary for Preparedness and Response	Ventilators	\$646,683,750 <sup>b</sup>	prior federal contracting experience
<b>Department of Health and Human Services:</b> Assistant Secretary for Preparedness and Response	Surgical face masks	\$0 <sup>a</sup>	no prior federal contracting experience

<sup>8</sup>For DOD, we selected three contracts from DLA and four from the Department of the Army. Within the Department of the Army, we selected one contract from Army Contracting Command and three contracts from the U.S. Army Corps of Engineers.



**Appendix I: Objectives, Scope, and Methodology**

<b>Awarding Agency</b>	<b>Description</b>	<b>Obligation Amount as of August 31, 2020</b>	<b>Vendor had prior federal contracting experience</b>
<b>Department of Health and Human Services:</b> Assistant Secretary for Preparedness and Response	Cloth face masks	\$55,250,000	no prior federal contracting experience
<b>Department of Health and Human Services:</b> Assistant Secretary for Preparedness and Response	N95 respirators	\$31,241,700	prior federal contracting experience
<b>Department of Health and Human Services:</b> Assistant Secretary for Preparedness and Response	Ventilators	\$31,982,100	prior federal contracting experience
<b>Department of Health and Human Services:</b> Assistant Secretary for Preparedness and Response	Reservation and expansion of vaccine manufacturing capacity	\$264,693,063	prior federal contracting experience
<b>Department of Health and Human Services:</b> Assistant Secretary for Preparedness and Response	Expansion of COVID-19 test production	\$13,000,000	prior federal contracting experience
<b>U.S. Department of Agriculture:</b> Agricultural Marketing Service	Fluid milk	\$72,898,396	prior federal contracting experience
<b>U.S. Department of Agriculture:</b> Agricultural Marketing Service	Fresh fruit and vegetable box	\$12,220,000	no prior federal contracting experience
<b>U.S. Department of Agriculture:</b> Agricultural Marketing Service	Dairy products box, fluid milk	\$16,596,997	no prior federal contracting experience
<b>U.S. Department of Agriculture:</b> Agricultural Marketing Service	Combination food box	\$147,456,691	prior federal contracting experience
<b>U.S. Department of Agriculture:</b> Agricultural Marketing Service	Fresh fruit and vegetable box	\$40,000,000 <sup>c</sup>	no prior federal contracting experience
<b>U.S. Department of Agriculture:</b> Agricultural Marketing Service	Fresh fruit and vegetable box	\$6,916,536	no prior federal contracting experience
<b>U.S. Department of Agriculture:</b> Agricultural Marketing Service	Pre-cooked meat box	\$22,001,720	no prior federal contracting experience
<b>Department of Homeland Security:</b> Federal Emergency Management Agency	Reusable knit and woven gowns	\$543,155,000	no prior federal contracting experience
<b>Department of Homeland Security:</b> Federal Emergency Management Agency	Powered air purifying respirators	\$96,434,000	prior federal contracting experience
<b>Department of Homeland Security:</b> Federal Emergency Management Agency	N95 and KN95 respirators and disposable masks	\$48,799,999	no prior federal contracting experience

**Appendix I: Objectives, Scope, and Methodology**

<b>Awarding Agency</b>	<b>Description</b>	<b>Obligation Amount as of August 31, 2020</b>	<b>Vendor had prior federal contracting experience</b>
<b>Department of Homeland Security:</b> Federal Emergency Management Agency	N95 respirators	\$0 <sup>a</sup>	prior federal contracting experience
<b>Department of Homeland Security:</b> Federal Emergency Management Agency	Nitrile gloves and surgical masks	\$5,860,000	prior federal contracting experience
<b>Department of Homeland Security:</b> Federal Emergency Management Agency	National medical transport and support services	\$256,005,094	prior federal contracting experience
<b>Department of Homeland Security:</b> Federal Emergency Management Agency	Isolation gowns	\$17,243,600	prior federal contracting experience

Legend:

X = vendor identified as having prior federal contracting experience

- = vendor identified as not having prior federal contracting experience

Source: GAO analysis of selected contract files and Federal Procurement Data System data. | GAO-21-528

<sup>a</sup>Prior to August 31, 2020, the agency deobligated most or all of the funds for this contract. For each of these applicable contracts, the deobligations exceeded \$5 million.

<sup>b</sup>The contract was partially terminated. A determination on the type of termination is pending.

<sup>c</sup>The contract was terminated for the government's convenience, and, according to agency officials, negotiations on the termination settlement are ongoing. Accordingly, the final obligation amount is pending.

To review our selected contracts, we gathered and reviewed contract documentation related to assessments of prospective vendors, such as vendor proposals, responsibility determinations (where available), and source selection evaluation reports. We also conducted semi-structured interviews with contracting officials responsible for the 28 selected contracts to discuss the resources they used to assess prospective vendors.

To assess the extent to which selected agencies communicated the information available to contracting officers to assess prospective vendors, we reviewed agency, department, and government-wide guidance and regulations related to assessing prospective vendors and emergency acquisitions. This included the Federal Acquisition Regulation (FAR), department and agency supplements to the FAR, agency guidance and job aids, and the Office of Management and Budget's Office of Federal Procurement Policy's (OFPP) Emergency Acquisitions Guide. We also reviewed federal internal control standards on risk

assessment, information, and communication.<sup>9</sup> We interviewed acquisition policy and contracting officials responsible for our selected contracts to determine contracting officers' awareness of information and resources available to assess prospective vendors during an emergency. We also interviewed OFPP staff to identify efforts, if any, underway to update or revise the Emergency Acquisitions Guide.

To determine the extent to which selected agencies experienced challenges when contracting in response to COVID-19 and established processes to collect and share contracting lessons learned, we interviewed DOD, HHS, USDA, and DHS contracting officials for our 28 selected contracts to identify the challenges they faced, if any, during the response to COVID-19. We reviewed available COVID-19 after-action reports at DOD, USDA, and DHS to identify agencies' lessons learned and proposed actions to address these lessons.<sup>10</sup> We also interviewed contracting officials at each agency or department and officials responsible for gathering and reporting on lessons learned to assess their efforts to collect and share lessons against leading practices we and others have previously identified.<sup>11</sup>

We conducted this performance audit from August 2020 to July 2021 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

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<sup>9</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

<sup>10</sup>HHS had not completed an after-action report at the time of our review.

<sup>11</sup>GAO, *Army Modernization: Army Should Improve Use of Alternative Agreements and Approaches by Enhancing Oversight and Communication of Lessons Learned*, [GAO-21-8](#) (Washington, D.C.: Oct. 1, 2020); *DOD Utilities Privatization: Improved Data Collection and Lessons Learned Archive Could Help Reduce Time to Award Contracts*, [GAO-20-104](#) (Washington, D.C.: Apr. 2, 2020); *Project Management: DOE and NNSA Should Improve Their Lessons-Learned Process for Capital Asset Projects*, [GAO-19-25](#) (Washington, D.C.: Dec. 21, 2018); and *Federal Real Property Security: Interagency Security Committee Should Implement a Lessons-Learned Process*, [GAO-12-901](#) (Washington, D.C.: Sept. 10, 2012). [GAO-19-25](#) identified some lessons learned practices from reports by both the Project Management Institute and Department of the Army, Combined Arms Center, Center for Army Lessons Learned. Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition, 2017; Project Management Institute, Inc., *Implementing Organizational Project Management: A Practice Guide*, First Edition, 2014; and Center for Army Lessons Learned, *Establishing a Lessons Learned Program: Observations, Insights, and Lessons* (Fort Leavenworth, KS: June 2011).

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**Appendix I: Objectives, Scope, and  
Methodology**

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the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Appendix II: Comments from the Department of Defense

Appendix II: Comments from the Department  
of Defense



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

JUL 13 2021


Ms. Marie Mak  
Director, Contracting and National Security  
U.S. Government Accountability Office  
441 G Street, NW  
Washington DC 20548

Dear Ms. Mak,

This is the Department of Defense response to GAO-21-528 Draft Report, "COVID-19 CONTRACTING: Opportunities to Improve Practices to Assess Prospective Vendors and Capture Lessons Learned," dated June 22, 2021 (GAO Code 104499).

Enclosed is the Department's response to the subject report. My point of contact is Mr. Gregory Snyder who can be reached at [gregory.d.snyder.civ@mail.mil](mailto:gregory.d.snyder.civ@mail.mil) or 703-614-0719.

Sincerely,

*for*   
John M. Tenaglia  
Principal Director,  
Defense Pricing and Contracting

Enclosure:  
As stated

Eclosure

GAO DRAFT REPORT DATED JUNE 22, 2021  
GAO-21-528 (GAO CODE 104499)

“COVID-19 CONTRACTING: OPPORTUNITIES TO IMPROVE PRACTICES TO  
ASSESS PROSPECTIVE VENDORS AND CAPTURE LESSONS LEARNED”

DEPARTMENT OF DEFENSE COMMENTS  
TO THE GAO RECOMMENDATION

**RECOMMENDATION 8:** The Secretary of Defense, in coordination with the Secretaries of Homeland Security and Health and Human Services, should ensure that input from contracting officials on interagency contracting lessons learned in response to COVID-19 is collected and shared as part of government-wide efforts to collect, analyze, and report on lessons learned.

**DoD RESPONSE:** Concur. The Department will collect, analyze, and report its interagency contracting lessons learned and share those with the Departments of Homeland Security (DHS) and Health and Human Services (HHS).

---

## Accessible Text for Appendix II: Comments from the Department of Defense

JUL 13 2021

Ms. Marie Mak  
Director, Contracting and National Security  
U.S. Government Accountability Office  
441 G Street, NW  
Washington DC 20548

Dear Ms. Mak,

This is the Department of Defense response to GAO-21-528 Draft Report, "COVID-19 CONTRACTING: Opportunities to Improve Practices to Assess Prospective Vendors and Capture Lessons Learned," dated June 22, 2021 (GAO Code 104499).

Enclosed is the Department's response to the subject report. My point of contact is Mr. Gregory Snyder who can be reached at [gregory.d.snyder.civ@mail.mil](mailto:gregory.d.snyder.civ@mail.mil) or 703-614-0719.

Sincerely,

John M. Tenaglia  
Principal Director,  
Defense Pricing and Contracting

Enclosure:  
As stated

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**DoD RESPONSE:** Concur. The Department will collect, analyze, and report its interagency contracting lessons learned and share those with the Departments of Homeland Security (DHS) and Health and Human Services (HHS).



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# Appendix III: Comments from the Department of Health and Human Services

**Appendix III: Comments from the Department  
of Health and Human Services**



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation  
Washington, DC 20201

July 15, 2021

Marie Mak  
Director, Contracting and National Security Acquisitions  
U.S. Government Accountability Office  
441 G Street NW  
Washington, DC 20548

Dear Ms. Mak:

Attached are comments on the U.S. Government Accountability Office's (GAO) report entitled, "*Opportunities to Improve Practices to Assess Prospective Vendors and Capture Lessons Learned*" (Job code 104499/GAO-21-528).

The Department appreciates the opportunity to review this report prior to publication.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Hild".

Jeff Hild  
Acting Assistant Secretary for Legislation  
Principal Deputy Assistant Secretary for Legislation

Attachment

**Appendix III: Comments from the Department  
of Health and Human Services**

**GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH & HUMAN  
SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT  
REPORT ENTITLED OPPORTUNITIES TO IMPROVE PRACTICES TO ASSESS  
PROSPECTIVE VENDORS AND CAPTURE LESSONS LEARNED (GAO-21-528)**

The U.S. Department of Health & Human Services (HHS) appreciates the opportunity from the Government Accountability Office (GAO) to review and comment on this draft report.

**Recommendation 1**

The Secretary of Health and Human Services should direct the Assistant Secretary for Preparedness and Response to review and fully communicate the resources available to contracting officers for assessing prospective vendors—including resources to assess financial capability. **(Recommendation 1)**

**HHS Response**

HHS concurs with GAO's recommendation.

In making the determination of responsibility, SNS Contracting Officers (CO) did comply with **FAR Subpart 9.0 Contractor Qualifications and HHS Acquisition Regulation 309.404** when considering information available to determine contractor's qualification or responsibility.

FAPIS and CPARS are linked to beta.sam.gov. Therefore, pulling the beta.sam report provided the CO with performance data contained in FAPIS and CPARS. Additionally, SNS COs complied with FAR Subpart 9.104.5. Representations and Certifications regarding responsibility matters were properly included in the commercial contracts IAW 52.209-5-Certification Regarding Responsibility Matters or paragraph (h) of provision 52.212-3. This clause references criteria in determining financial integrity and performance criteria for contractors.

**Recommendation 2**

The Secretary of Health and Human Services should direct the Assistant Secretary for Preparedness and Response to develop internal guidance that includes information for contracting officers related to contracting and assessing prospective vendors during emergencies. **(Recommendation 2)**

**HHS Response**

HHS concurs with GAO's recommendation.

**ASPR Contracting Officers follow the FAR for all parts of the contracting process.**

**Recommendation 6**

The Secretary of Health and Human Services should ensure that, as part of the Exercise, Evaluation and After Actions Division's ongoing after-action reporting and corrective action program, contracting lessons learned in response to COVID-19 and future emergency response efforts are collected, analyzed, validated, archived, and shared to inform HHS's contracting efforts in response to ongoing and future emergencies. **(Recommendation 6)**

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**Appendix III: Comments from the Department  
of Health and Human Services**

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**GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH & HUMAN  
SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT  
REPORT ENTITLED OPPORTUNITIES TO IMPROVE PRACTICES TO ASSESS  
PROSPECTIVE VENDORS AND CAPTURE LESSONS LEARNED (GAO-21-528)**

**HHS Response**

HHS concurs with GAO's recommendation.

HHS will continue to utilize the Exercise, Evaluation and After Actions Division's after-action reporting and corrective action program to collect, analyze, validate, archive, and share information from HHS's contracting efforts in response to ongoing and future emergencies.

**Recommendation 9**

The Secretary of Health and Human Services, in coordination with the Secretaries of Defense and Homeland Security, should ensure that input from contracting officials on interagency contracting lessons learned in response to COVID-19 is collected and shared as part of government-wide efforts to collect, analyze, and report on lessons learned. **(Recommendation 9)**

**HHS Response**

HHS concurs with GAO's recommendation.

The HHS Exercise, Evaluation and After Actions Division will collect, within DHHS, any interagency contracting lessons learned and share those with the Departments of Defense (DoD) and Department of Homeland Security (DHS). HHS will work with DoD and DHS to develop a consolidated list of lessons learned and share those with any government-wide efforts to report on lessons learned.

---

## Accessible Text for Appendix III: Comments from the Department of Health and Human Services

July 15, 2021

Marie Mak  
Director, Contracting and National Security Acquisitions  
U.S. Government Accountability Office  
441 G Street NW  
Washington, DC 20548

Dear Ms. Mak:

Attached are comments on the U.S. Government Accountability Office's (GAO) report entitled, "Opportunities to Improve Practices to Assess Prospective Vendors and Capture Lessons Learned" (Job code 104499/GAO-21-528).

The Department appreciates the opportunity to review this report prior to publication.

Sincerely,

Jeff Hild  
Acting Assistant Secretary for Legislation  
Principal Deputy Assistant Secretary for Legislation

Attachment

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#### HHS Response

HHS concurs with GAO's recommendation.

ASPR Contracting Officers follow the FAR for all parts of the contracting process.

#### Recommendation 6

The Secretary of Health and Human Services should ensure that, as part of the Exercise, Evaluation and After Actions Division's ongoing after-action reporting and corrective action program, contracting lessons learned in response to COVID-19 and future emergency response efforts are collected, analyzed, validated, archived, and shared to inform HHS's contracting efforts in response to ongoing and future emergencies. (Recommendation 6)

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HHS will continue to utilize the Exercise, Evaluation and After Actions Division's after-action reporting and corrective action program to collect, analyze, validate, archive, and share information from HHS's contracting efforts in response to ongoing and future emergencies.

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The HHS Exercise, Evaluation and After Actions Division will collect, within DHHS, any interagency contracting lessons learned and share those with the Departments of Defense (DoD) and Department of Homeland Security (DHS). HHS will work with DoD and HHS to develop a consolidated list of lessons learned and share those with any government-wide efforts to report on lessons learned.

---

# Appendix IV: Comments from the Department of Homeland Security



**Appendix IV: Comments from the Department  
of Homeland Security**

U.S. Department of Homeland Security  
Washington, DC 20528



July 14, 2021

Marie A. Mak  
Director, Contracting and National Security Acquisitions  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Re: Management Response to Draft Report GAO-21-528, "COVID-19  
CONTRACTING: Opportunities to Improve Practices to Assess Prospective  
Vendors and Capture Lessons Learned"

Dear Ms. Mak:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's recognition of several resources DHS developed to assist contracting officers in assessing prospective vendors. Specifically, the report highlights DHS's issuance of the DHS Responsibility Determination Job Aid, which is a tool for contracting professionals use to better assess the present responsibility of unknown vendors or those presenting increased risk to successful contract performance. The job aid provides contracting professionals with additional areas to consider in such circumstances, as well as identifying types of evidence that may be requested and analyzed to either confirm or mitigate identified concerns. DHS remains committed to effectively communicating resources and guidance for assessing prospective vendors and collecting and sharing contracting lessons learned that could help inform future emergency response efforts.

The draft report contained ten recommendations, including two for DHS with which the Department concurs. Attached find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for GAO's consideration.

---

**Appendix IV: Comments from the Department  
of Homeland Security**

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Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

**JIM H CRUMPACKER** Digitally signed by JIM H  
CRUMPACKER  
Date: 2021.07.14 09:41:01 -04'00'

JIM H. CRUMPACKER, CIA, CFE  
Director  
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to Recommendations  
Contained in GAO-21-528**

GAO recommended that the Administrator of the Federal Emergency Management Agency (FEMA):

**Recommendation 7:** Direct the Head of [the] Contracting Activity [HCA] to establish a formal process to (1) collect contracting lessons learned from COVID-19 and future emergency response efforts; and (2) ensure contracting lessons learned are shared with the Continuous Improvement Program [CIP] for inclusion in FEMA’s formal lessons learned process to inform FEMA’s contracting efforts in response to ongoing and future emergencies.

**Response:** Concur. FEMA’s CIP, located in the National Preparedness Directorate, conducted extensive interviews, analysis, and notetaking regarding lessons learned from COVID-19, including interviews of the FEMA HCA and Deputy Head of the Contracting Activity. These findings were published in the "Pandemic Response to Coronavirus Disease 2019 (COVID-19): Initial Assessment Report for FEMA Operations January Through September 2020," dated January 2021. It is important to note that not all interviews conducted as part of the CIP process necessarily lead to an official observation or finding in final agency reports, but the work is nevertheless conducted as part of the data collection process and results are available to leadership, program officials, subject matter experts, and others for their information and use as deemed appropriate.

FEMA’s CIP also provides evaluation, advisory and decision support, and process improvement services to each of FEMA’s program areas to help facilitate effectiveness and efficiency improvements where possible. For example, the CIP serves as the official and authoritative entity within FEMA to capture lessons learned for inclusion into formal agency after action reports, such as the aforementioned COVID-19 Initial Assessment Report, the “2017 Hurricane Season FEMA After-Action Report,” dated July 12, 2018, and other reports that are used to help inform ongoing and future emergency response efforts.

Additionally, FEMA’s Office of the Chief Component Procurement Officer: (1) conducts internal hot washes; (2) holds Contracting Officer Representative (COR) Engagement Sessions on a quarterly basis to disseminate information; (3) conducts open dialogue surrounding COR challenging situations; and (4) captures internal lessons learned following major disaster operations to continually refine contracting processes and procedures as applicable.

Given these established roles, relationships, and processes, FEMA believes standardized mechanisms currently exist that sufficiently collect and share lessons learned. DHS requests that GAO consider this recommendation resolved and closed, as implemented.

GAO recommended that the Secretary of Homeland Security, in coordination with the Secretaries of Defense and Health and Human Services [HHS]:

**Recommendation 10:** Ensure that input from contracting officials on interagency contracting lessons learned in response to COVID-19 is collected and shared as part of government-wide efforts to collect, analyze, and report on lessons learned.

**Response:** Concur. The DHS Office of the Chief Procurement Officer (OCPO) will collect, within DHS, any interagency contracting lessons learned and share those with the Department of Defense (DoD) and HHS. As part of this effort, OCPO will work with DoD and HHS to develop a consolidated list of lessons learned and share those as part of any government-wide effort(s) to report on lessons learned. ECD: March 31, 2022.

---

## Accessible Text for Appendix IV: Comments from the Department of Homeland Security

July 14, 2021

Marie A. Mak  
Director, Contracting and National Security Acquisitions  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Re: Management Response to Draft Report GAO-21-528, “COVID-19  
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JIM H. CRUMPACKER, CIA, CFE  
Director  
Departmental GAO-OIG Liaison Office

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---

## Appendix V: GAO Contact and Staff Acknowledgments

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### Contact

Marie A. Mak, 202-512-4841 or [MakM@gao.gov](mailto:MakM@gao.gov)

---

### Staff Acknowledgments

In addition to the contact named above, Janet McKelvey (Assistant Director), Meghan Perez (Analyst in Charge), Dennis Antonio, Matthew T. Crosby, Lorraine Ettaro, Betsy Gregory-Hosler, Stephanie Gustafson, Julia Kennon, Sarah Tempel, and Robin Wilson made key contributions to this report.



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## Congressional Relations

Orice Williams Brown, Managing Director, [WilliamsO@gao.gov](mailto:WilliamsO@gao.gov), (202) 512-4400,  
U.S. Government Accountability Office, 441 G Street NW, Room 7125,  
Washington, DC 20548

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## Public Affairs

Chuck Young, Managing Director, [youngc1@gao.gov](mailto:youngc1@gao.gov), (202) 512-4800  
U.S. Government Accountability Office, 441 G Street NW, Room 7149  
Washington, DC 20548

---

## Strategic Planning and External Liaison

Stephen J. Sanford, Managing Director, [spel@gao.gov](mailto:spel@gao.gov), (202) 512-4707  
U.S. Government Accountability Office, 441 G Street NW, Room 7814,  
Washington, DC 20548

