

Covid-19: Contractor Guidance

Bloomberg Government
Government Contracts Analysis

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Executive Summary

Guidance issued by federal agencies

- The Office of Personnel Management has taken the lead on issuing instructions to agencies for telework policies and other operational procedures
- Some agencies, such as the Defense and Homeland Security departments and the Small Business Administration, have also issued guidance to government contractors

Opportunities released by federal agencies

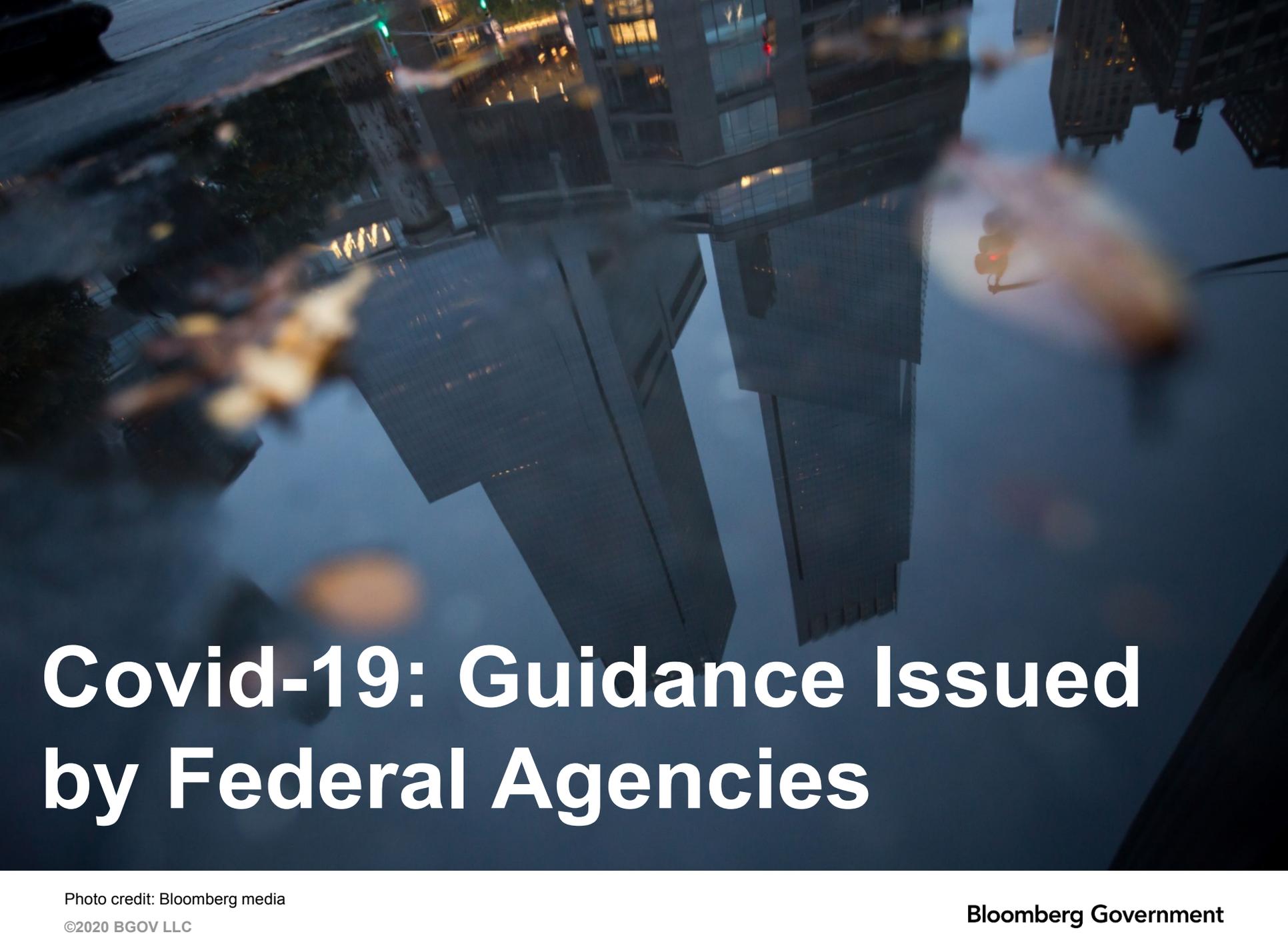
- The Centers for Disease Control and Prevention released a competition for Covid-19 research on March 11
- The Army is seeking prototypes of medical and information technologies to combat Covid-19

Federal spending related to Covid-19 reported to date

- Reported spending obligations total about \$35 million and are expected to increase in the coming months

What's ahead

- Issues for contractors to monitor include: expectations of contract schedule and payment delays, facility closures, agencies shifting priorities to telework
- A proposed funding bill would include about \$8 billion for Covid-19 countermeasures, with the vast majority of funding going to HHS



Covid-19: Guidance Issued by Federal Agencies

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OPM Memo Releases Since February

Click [here](#) for the Office of Personnel Management coronavirus guidance

- The Office of Personnel Management has released four memos that provide operational guidance to agencies during the Covid-19 outbreak
- The OPM updates include:
 - [March 7](#): The document provides instructions to ensure continuity of operations
 - [March 3](#): A memo delivers preliminary guidance in areas such as telework, which offers flexibility for federal employees
 - [Feb. 7](#): Outlines OPM efforts to continue meeting with a working group to determine whether further HR guidance is needed on Covid-19
 - [Feb. 3](#): OPM announced that it has begun coordinating with the Centers for Disease Control and Prevention (CDC) to educate the federal community
- All OPM guidance listed above has been issued by OPM Director Dale Cabaniss, who resigned from the agency on [March 17](#)

White House Issues Two Memos to Agency Heads

Click [here](#) for the March 15 White House memo and [here](#) for the March 17 memo

- The March 15 memo serves as guidance for agency and department heads to institute telework measures; highlights of the memo include:
 - Asking federal agencies to offer maximum telework flexibilities to all current telework-eligible employees, consistent with operational needs
 - If employees are not eligible for telework, agency heads have the discretion to offer weather and safety leave, or the agency's equivalent, including for employees who may not have been considered "at higher risk"
- A March 17 memo outlines steps the federal government is taking to slow the transmission of Covid-19; highlights of the memo include:
 - Agency heads' realignment of non-mission-critical activities
 - Directing agencies to communicate with their customers to encourage them to delay transactions that are not time-critical
 - Within 48 hours of the issuance of the memo, all agencies must review, modify, and begin implementing risk-based policies and procedures based on CDC guidance

SBA Publishes FAQ to Small Businesses

Click [here](#) for the Small Business Administration's frequently asked questions document

- The SBA released guidance to address concerns that small businesses performing on federal contracts may have related to the impact of Covid-19
- Highlights from the FAQ document include:
 - The government reserves the right to terminate contracts due to delays in deliverables
 - Contractors should maintain communication with agencies and contracting officers about delays and should review contract language for allowable delays, which can include pandemics
 - Contractors should communicate in advance with agencies and assess the effects, if it is possible that government employees will not be at their worksites and won't be able to supervise a contract properly
 - Subcontractors are encouraged to review agreements with their prime contractor representative to fully understand their obligations and recourse options if the coronavirus has an impact on their performance

DOD Releases Operating Guidance for Contractors

Click [here](#) for the Washington Headquarters Service website with more details

DOD issued guidance to contractors to work with their contracting officer to determine what is mission-essential and what can be accomplished remotely via telework.

Among the topics:

- The definition of “mission-essential functions” means those organizational activities that must be performed under all circumstances to achieve DOD component missions or responsibilities
- If a contract does not include telework language or does not allow for telework, the Contracting Officer Representative (COR) can contact the contracting officer to initiate a contract modification
 - Only contracting officers, not CORs, are authorized to change the terms of any contract
 - If the contract cannot be performed remotely, then the contracting office may issue a stop-work order (or partial stop-work order) or a Suspension of Work
- In the event of a facility closure, the contracting officer will contact the contractor to discuss support requirements

DHS Issues Letter to Contractors

Click [here](#) for the Department of Homeland Security's letter to contractors about Covid-19

- Soraya Correa, the Homeland Security Department's chief procurement officer, sent a letter to contractors on March 6 addressing how to deal with contract employees working in DHS facilities
- The letter states:
 - If employees must travel to Covid-19-affected areas, they are encouraged to telework or pursue leave options
 - Employees should notify managers if they have been in close contact with a person known to have Covid-19, or if they went through airport screening upon their return to the U.S. and were told to self-observe or self-quarantine
 - If contract performance is affected by the Covid-19 situation, such as a need for alternate work locations, or travel or schedule changes, the contracting officer is the authority to discuss this with your company

Covid-19: Opportunities Released by Federal Agencies



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CDC Releases BAA for Coronavirus Research

Click [here](#) to access the solicitation page

- The [Centers for Disease Control and Prevention](#) (CDC) on March 11 issued a [Broad Agency Announcement](#) for research related to Covid-19
- According to the [BAA](#), the CDC is seeking proposals in five areas:
 1. Surveillance, natural history, and household transmission of SARS CoV-2 (the virus that causes Covid-19)
 2. Diagnostics development and novel technology development and evaluation to improve diagnostic testing capabilities for Covid-19 detection
 3. Immune response and transmission dynamics for SARS CoV-2
 4. Host infection dynamics for SARS CoV-2
 5. Prospective cohorts to assess Covid-19 and other respiratory diseases
- The BAA calls for white papers to be submitted from March 11 through March 25

Coronavirus Technology Needs Outlined by Army Medical Consortium

Click [here](#) to access the solicitation page

- The [Medical Technology Enterprise Consortium](#) released a [pre-announcement](#) on a potential Request for Project Proposals (RPP) for prototypes of medical and information technologies to combat Covid-19
- The government will be seeking medical and information technologies that can be deployed by Dec. 31 and is interested in the following areas:
 - Point-of-care diagnostic that provides rapid and accurate confirmation of exposure to Covid-19
 - Prophylactics and therapeutics that can prevent and/or treat patients within a few hours to two days, potentially in a non-hospital environment; the consortium would prefer to repurpose FDA-approved drugs and/or biologics or test those that have already safely demonstrated
 - Disease predictive modeling based on different data capture from data streams – including social media and artificial intelligence decision tools – that provide early warning to the government and medical service providers
 - Patient monitoring, tracking, and management system for in-home or non-hospital telehealth services that can also connect to the [Cerner electronic health record](#)
- The government has not yet issued an estimated value, but the March 15 notice states that “there may be tens of millions of dollars available for combating Covid-19 programs with a likelihood of follow-on funding”

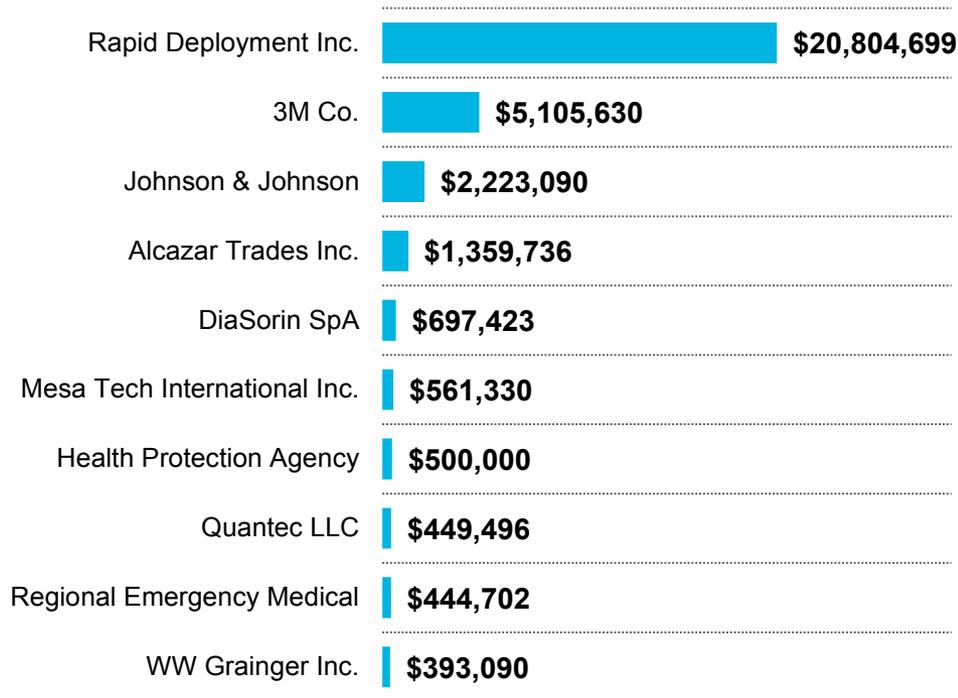


Covid-19: Spending to Date

Covid-19: Company Obligations

Click [here](#) for Covid-19 obligations by company

Covid-19 related spending obligations in fiscal 2020



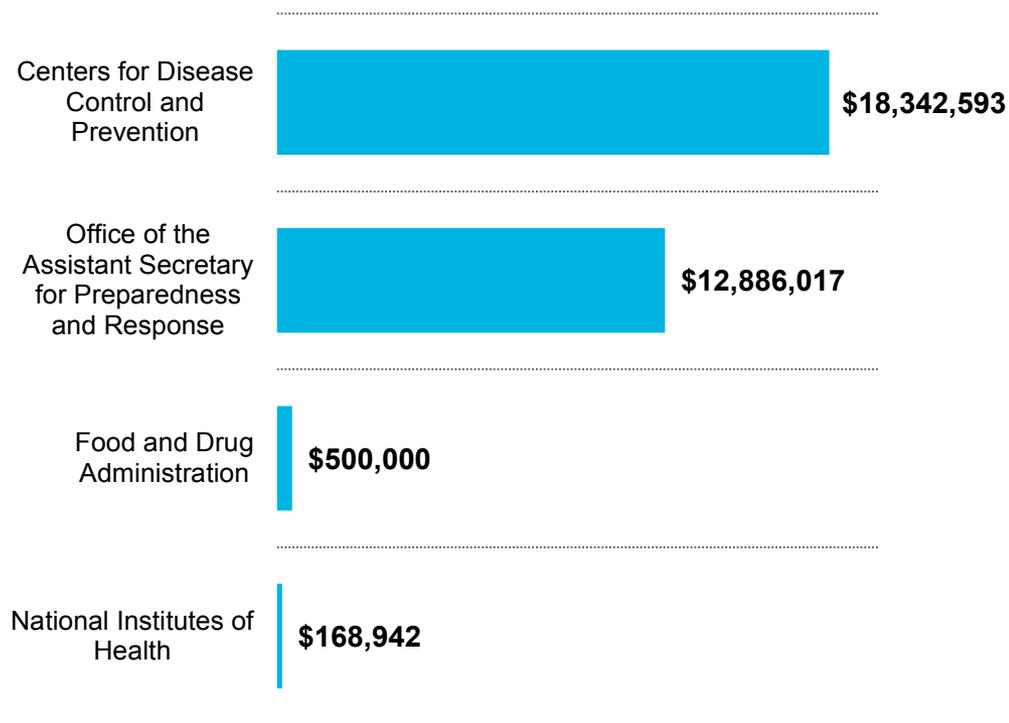
Source: Bloomberg Government

- Rapid Deployment Inc. has generated the majority of its spending obligations through a [\\$16.2 million](#) contract awarded on February 13 for emergency response service services
- 3M spending is related to [purchases](#) for respirators
- Johnson & Johnson [spending obligations](#) are for biomedical research and development related to Covid-19
- Alcazar Trades Inc. [spending obligations](#) are attributable to custodial services related to Covid-19 decontamination

Covid-19: Agency Spending

Click [here](#) for Covid-19-related spending by agency

Covid-19-related obligations in fiscal 2020 at HHS



- Health and Human Services accounts for [\\$32 million of the \\$35 million](#) Covid-19-related spending obligations disbursed in fiscal 2020
 - The largest concentrations are at CDC (\$18.3 million) and Office for Preparedness and Response (\$12.9 million)
- Spending at other agencies includes: Nuclear Regulatory Commission (\$1.4 million), Veterans Affairs (\$1.2 million), Homeland Security (\$676,965)

Source: Bloomberg Government

What's Ahead



Expect Contract Schedule Delays and Payments

Contract payments are likely to be stalled, not stopped

- Payments to federal contractors by federal agencies are almost certainly going to be negatively impacted, but loss of payment is unlikely on existing agreements
- Contractors are advised to continue work unless a stop-work order is formally issued by the contracting officer

Contract delays may be permissible under certain Federal Acquisition Regulation clauses

- FAR 52.249-14 (cost reimbursement and time and material contracts), FAR 52.249-8 (fixed price supply and service contracts), and FAR 52.212-4 (commercial contracts) may provide remedies for contractors to execute schedule adjustment as a result of implications that arise from Covid-19

Agency Operations Will Shift

Expect telework supplies and services to spike

- Telework at government agencies may bring increased information technology contract spending in order to secure data and networks and other technology required to work from home
- BGOV expects agencies to purchase [products](#) to aid telework, to include: virtual private networks (VPNs), remote desktop access, user authentication mechanisms, and more
- Use of telemedicine is likely to increase – on March 17, the Trump administration announced that Medicare beneficiaries can take advantage of [telehealth at no additional cost](#); the Health and Human Services and Veterans Affairs departments may require additional IT products to fulfill this need

Classified site activity likely to dip

- Contractors with classified contracts may have trouble fulfilling requirements without access to a secure site
- Possible solutions include: allowing contractors to work in an alternate secure location or delaying any additional work on those contracts; it's unlikely that this work could be done remotely, even with additional technology

Sources: National Institute of Standards and Technology; Centers for Medicare and Medicaid Services

H.R. 6074: Coronavirus Emergency Funds Would Provide About \$8 Billion in Funding

Click [here](#) for BGOV's bill summary showing comprehensive coverage

Coronavirus Funding Would Be About \$8 Billion

Dollars in millions

Department/Agency	Emergency appropriations
Health and Human Services Department	\$6,497.0
– Public Health and Social Services Emergency Fund*	3,400.0
– Centers for Disease Control and Prevention	2,200.0
– National Institutes of Health	836.0
– Food and Drug Administration	61.0
State Department & U.S. Agency for International Development	1,250.0
Small Business Administration	20.0

Sources: H.R. 6074, Senate Appropriations Committee summary, House Appropriations Committee summary

*Amount includes an additional \$300 million in contingency funds.

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- The State Department and USAID funding would include:
 - \$435 million for global health programs
 - \$300 million for humanitarian and health assistance
 - \$264 million for diplomatic operations, evacuation costs
 - \$250 million for economic support
- The SBA would receive \$20 million for administrative expenses to provide an estimated \$7 billion in low-interest disaster loans to small businesses

Administration Requests Additional \$46 Billion

The Trump administration requested more fiscal 2020 funding, including:

- \$17.7 billion for Veterans Affairs and other civil defense programs
 - Includes \$13.1 billion for medical services account, \$2.1 billion for community care
- \$11.5 billion for the Health and Human Services Department
 - Includes \$5.3 billion for the Public Health and Social Services Emergency Fund to support vaccines and medical supply procurement, \$3.4 billion for the CDC
- \$8.3 billion for the Defense Department
- \$3.2 billion for Homeland Security
- \$3 billion for a new unanticipated needs account at OMB

The White House also adjusted its fiscal 2021 budget to request extra funds, including:

- \$1.3 billion for various CDC programs
- \$439.6 million for the NIH for vaccine development and other applied research

Source: White House letter

Note: With assistance from BGOV Legislative Analyst Sarah Babbage

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