

GAO@100 Highlights

Highlights of [GAO-21-501](#), a report to congressional committees

Why GAO Did This Study

In March 2020, Congress passed the CARES Act as part of the federal response to COVID-19. The act had certain provisions for federal contracting, including providing additional flexibilities. Contracting plays a critical role in the pandemic response as agencies obligate billions of dollars for goods and services.

The act also included a provision for GAO to review federal contracting in response to COVID-19. This report examines, among other objectives, the extent to which the Departments of Defense, Health and Human Services, and Homeland Security—the only agencies that reported using other transaction agreements in response to COVID-19 in the federal procurement database—used such agreements, including awards to consortia, and oversight of such use.

GAO analyzed federal procurement data as of March 2021; reviewed a nongeneralizable sample of 15 agreements selected based on high dollar amounts, agency, a mix of products and services, among other criteria; reviewed agency policies; and interviewed agency officials.

What GAO Recommends

GAO is making 14 recommendations to selected agencies, to improve the transparency of agreement awards in the federal procurement database and update policies to improve the oversight of agreements awarded through consortium management firms. The agencies agreed with 11 of the recommendations and did not agree with three of them. GAO continues to believe the recommendations are valid, as discussed in the report.

View [GAO-21-501](#). For more information, contact Marie A. Mak at (202) 512-4841 or makm@gao.gov.

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COVID-19 CONTRACTING

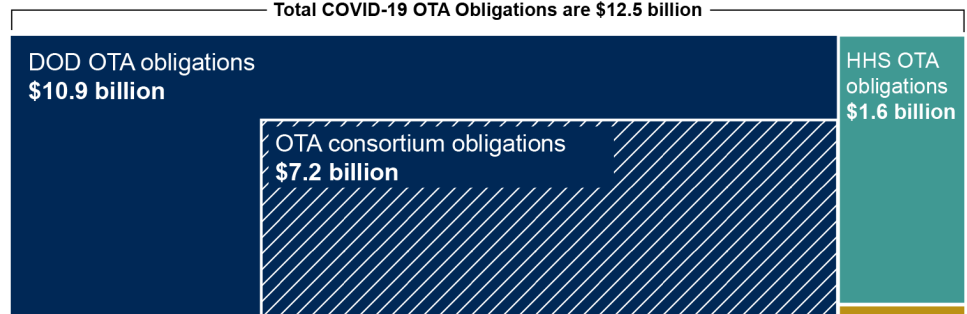
Actions Needed to Enhance Transparency and Oversight of Selected Awards

What GAO Found

In response to COVID-19, as of March 2021, the Departments of Defense, Health and Human Services, and Homeland Security obligated at least \$12.5 billion using a contracting mechanism that gave them the flexibility to quickly respond to urgent pandemic needs. This mechanism—known as an other transaction agreement—is not subject to certain federal contract laws and requirements but allowed the agencies to customize the agreements. Agencies cited the timeliness of awards as a major factor for using these agreements, including awards that accelerated COVID-19 vaccine manufacturing.

The Department of Defense used this mechanism to award \$7.2 billion to consortium members—organizations and federal contractors organized around a specific topic area—through one consortium management firm (see figure).

Obligations on Other Transaction Agreements in Response to COVID-19 as of March 2021



DHS = Department of Homeland Security
DOD = Department of Defense
FPDS-NG = Federal Procurement Data System-Next Generation
HHS = Department of Health and Human Services
OTA = Other transaction agreement

Source: GAO analysis of FPDS-NG data and information from DOD, HHS, and DHS. | GAO-21-501

GAO's analysis found two challenges with how the agencies tracked these agreements due to limitations with the federal procurement database. First, the three agencies did not properly identify at least \$1.6 billion of the \$12.5 billion as COVID-19-related agreements. Second, the Department of Defense reported that one consortium management firm received \$7.2 billion in agreements, as noted above. In actuality, the management firm distributed nearly all of the awarded dollars to five pharmaceutical companies, with each receiving \$450 million to \$2 billion. The database is the only way for Congress and the public to track these obligations, but transparency is limited without accurate reporting.

Also, two agencies' policies on other transaction agreements did not address the requirement for enhanced oversight of certain activities that consortium management firms may perform, potentially posing risks to the government. According to Office of Federal Procurement Policy guidance, these types of activities require enhanced oversight because they can closely support tasks fundamental to the public interest, such as the award of contracts. By not addressing such oversight in their policies, agencies may not fully consider the range of actions they should take to mitigate risks of inappropriate influence for government decisions.