



NEW YORK CITY COMPTROLLER
BRAD LANDER

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**Special Report on the
Department of Citywide
Administrative Services'
COVID-19 Emergency
Procurements**

FK21-087S | February 7, 2023



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

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To the Residents of the City of New York,

My office has reviewed the Department of Citywide Administrative Services' (DCAS) COVID-19 emergency procurements during Fiscal Year 2020 to determine whether they were necessary and related to COVID-19, adequately documented, consistent with applicable procurement policies and procedures, and reasonably priced. The Office of the New York City Comptroller conducts reviews of City agencies with the goal of ensuring that agencies comply with relevant rules and that City resources are used effectively.

At the outset of the COVID-19 emergency, between March 1, 2020, and June 30, 2020, DCAS initiated procurements for goods and services with an initial value totaling \$1.5 billion. We recognize the difficult and pressing circumstances in which the emergency procurement process for COVID-19 was established. Though my office found significant shortcomings, this report does not minimize DCAS' accomplishments; rather, it is intended to serve as a guidepost to help DCAS and other agencies learn from past emergencies and apply lessons from the pandemic to future crises.

The review determined that DCAS generally maintained documents showing that emergency procurements related to COVID-19 were necessary to respond to the ongoing crisis. However, DCAS did not consistently ensure that it procured goods from responsible vendors, obtained or documented approvals from the prepayment committee, or maintained supporting documentation for procurements. Additionally, DCAS did not document analysis used to determine whether vendor prices were reasonable.

The review recommends that for future emergency procurements, DCAS ensure that staff perform and document responsibility reviews, document its price analyses, and maintain supporting documentation in procurement files and systems of record. Additionally, the review recommends that the City determine whether current procurement rules require amendment to permit advance payments as necessary, and if so, establish rules and protocols to mitigate risks.

The results of the review have been discussed with DCAS officials and their comments have been considered in preparing this report. DCAS' complete written response is attached to this report.

If you have any questions concerning this report, please email my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lander".

Brad Lander
New York City Comptroller

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IMPACT

Summary of Findings

The Department of Citywide Administrative Services (DCAS) generally maintained documents showing that emergency procurements related to COVID-19 were necessary to respond to the ongoing crisis. However, DCAS did not consistently ensure that it procured goods from responsible vendors, obtained or documented approvals from the prepayment committee, or maintained supporting documentation for procurements. Additionally, DCAS did not document its price analysis.

Intended Benefits

The review identified opportunities to improve future emergency procurements and mitigate risks to the City.

INTRODUCTION

Background

On March 12, 2020, the Mayor issued Executive Order No. 98, which declared a state of emergency in New York City due to the threat posed by COVID-19. On March 16, 2020, and March 17, 2020, the Mayor issued Executive Order Nos. 100 and 101, which suspended certain procurement laws and rules. Specifically, Executive Order No. 101 suspended several laws and regulations related to procurement of “goods, services or construction when an agency head determines in writing that the procurement is necessary to respond to the emergency.”¹

Subsequently, the Mayor’s Office of Contract Services (MOCS) issued guidance to Agency Chief Contracting Officers (ACCOs) related to COVID-19.² This guidance detailed the extent to which the City’s procurement laws and rules were suspended and specified documentation which must be provided. This documentation included:

- Agency Head Determinations for all covered contracts and procurement actions, which were required to contain a statement that the contract or action was necessary to respond to the COVID-19 emergency, as well as the basis for the determination for the goods or services sought;
- Written Determinations, which were required to include, among other things, a list of goods, services, and construction procured; the basis for vendor selection; and prices; and
- Vendor Responsibility Determinations.

As the City agency responsible for procuring goods and services and maintaining City storehouses, DCAS was tasked with procuring goods and services needed to respond to the COVID-19 pandemic, including personal protective equipment (PPE). Between March 1, 2020, and June 30, 2020, DCAS initiated procurements for goods and services with an initial value totaling \$1,539,496,345.

Objective

The objective of this review was to determine whether DCAS’ COVID-19 emergency procurements during Fiscal Year 2020 were necessary and related to COVID-19, adequately documented, consistent with applicable procurement policies and procedures, and reasonable.

Discussion of Review Results with DCAS

The matters covered in this report were discussed with DCAS officials during and at the conclusion of this audit. An Exit Conference Summary was sent to DCAS on November 18, 2022, and discussed with DCAS officials at an exit conference held on December 5, 2022. On December

¹ Suspended laws included: Chapter 13 of the New York City Charter; Title 9 of the Rules of the City of New York (Procurement Policy Board Rules); and Sections 6-101 through 6-107.1, 6-108.1 through 6-121, and 6-124 through 6-129 of the New York City Administrative Code.

² According to MOCS, the guidance applied only to Mayoral agencies subject to Chapter 13 of the New York City Charter and Procurement Policy Board Rules.

23, 2022, the auditors submitted a Draft Report to DCAS with a request for written comments. The auditors received a written response from DCAS on January 20, 2023.

In its response, DCAS provided context in which it was operating in the spring of 2020. It stated that the City received little support from the federal government, that governments were competing for scarce supplies, and that there were “enormous backlogs” in the manufacturing of ventilators and PPE. DCAS noted, "In large part through DCAS's efforts, the City developed an extremely effective emergency procurement strategy during COVID-19. The team worked tirelessly to procure ventilators, face masks, gowns, and other essential lifesaving goods from vendors scattered across the globe, arranging their transport by air, ship, rail, and truck to ensure distribution to agencies and hospitals. In its intrepid and successful pursuit of lifesaving equipment, DCAS complied with every legal obligation."

The auditors acknowledge the difficult and pressing circumstances in which the emergency procurement process for COVID-19 was established and recognize the challenges faced by DCAS at the time, as well as its achievements in procuring various goods and services at the very outset of the COVID-19 emergency.

The auditors considered DCAS' written response to the findings and additional documentation provided, and where relevant, changes to the report were made. The full text of DCAS' response is included as addenda to this report.

DETAILED FINDINGS

Based on the auditors' review of sampled procurements, DCAS generally documented that procurements were necessary to respond to the COVID-19 emergency. Specifically, DCAS' Agency Head Determinations for covered contracts and procurement actions contained a statement that the contract or action was necessary to respond to the COVID-19 emergency.

However, DCAS did not consistently ensure that the City procured goods and services from responsible vendors, obtained or documented required approvals for advance payments made to vendors, or maintained supporting documentation for procurements. Additionally, DCAS did not document that it compared costs to ensure that they were reasonably priced.

DCAS Did Not Consistently Ensure That the City Procured Goods and Services from Responsible Vendors

In March 2020, MOCS issued guidance which stated that agencies must provide a "written determination for emergency contracts as part of the contract file as soon as practicable" which includes, among other things, the "past performance history of the selected vendor" and a Vendor Responsibility Determination. Section 2-08 of the Procurement Policy Board (PPB) Rules states that a "responsible contractor is one which has the capability in all respects to perform fully the contract requirements and the business integrity to justify the award of public tax dollars." According to DCAS, "MOCS guidance required Agencies to conduct background checks by consulting three sources and to set forth their findings, in the Agency Head Determinations."

DCAS staff were responsible for performing background checks which included searching databases for adverse information and documenting search results in the Warehouse Management System (WMS). Other DCAS staff were responsible for compiling and reporting background check search results in Agency Head Determinations, which were submitted to MOCS and the Law Department for approval.

The auditors reviewed 59 sampled procurements, initially valued at \$1,009,222,233. For 11 of the 59 sampled procurements (18.6%), totaling \$226,369,500 (22.4%), the auditors found that DCAS did not provide documentation showing that background checks were performed, documented, and shared with procurement staff and staff responsible for compiling Agency Head Determinations as required.^{3 4} For four of those 11 procurements, vendors provided defective goods or did not provide goods at all.

Further, although DCAS identified adverse information for six procurements totaling \$173,126,400, DCAS did not report this information on Agency Head Determinations submitted to MOCS and the Law Department.

³ DCAS generally did not perform background checks for nine procurements which were made through requirements contracts.

⁴ For nine of these procurements, DCAS did not maintain documentation to show that staff checked any sources, and for the remaining two procurements, DCAS did not maintain documentation that staff checked three sources, as required by MOCS guidance.

Additionally, although one vendor (Dart Seasonal Products, Inc.) had previously provided defective goods, and DCAS identified and reported other adverse information for this vendor, DCAS nevertheless contracted with the vendor to purchase three-ply face masks totaling \$1,320,000.

Since DCAS did not consistently comply with vendor responsibility rules, DCAS may have contracted with vendors who did not satisfactorily perform and may have incurred additional legal, contractual, or administrative costs.

After the auditors discussed the findings, DCAS officials stated that “WMS was established approximately 45-60 days after the commencement of the pandemic. Prior to the establishment of WMS, all previous background checks were transmitted via email.” Further, DCAS stated that the Agency Head Determination “attests to the agency’s performance of the requisite background checks required by MOCS guidance” and that it “should be sufficient enough for documentation purposes.” In its written response to the Draft Report, DCAS stated, “There were no written guidelines from MOCS directing agencies to create or preserve any additional documentation on responsibility checks other than the agency head determination.”

DCAS provided documentation for some procurements to show that background checks which were not documented in WMS had been completed. Based on this documentation, the auditors modified the finding. However, to date, DCAS has not provided documentation to show that it completed background checks for the 11 cited procurements. Since DCAS did not maintain background check documentation, the auditors cannot be reasonably assured these checks were conducted.

Regarding the procurements for which DCAS did not disclose adverse information on Agency Head Determinations, DCAS stated that there were exigent circumstances, particularly at the start of the pandemic, and that it had procured PPE from all available sources. In its written response, DCAS stated that, in instances where adverse information had been reported, “circumstances allowed the contracting officer to make the determination that the adverse finding did not impede the vendor’s ability to provide the necessary goods or services to the City.” DCAS considered the severity of the vendor’s misconduct and when it happened as well as “public health and safety considerations.” Further, DCAS stated that if vendors provide defective goods, DCAS will reject them and request replacements.

While the Mayor’s Emergency Executive Orders suspended most procurement rules, MOCS guidance did not suspend vendor responsibility determinations which are intended to mitigate risk. When vendors fail to provide goods or provide defective goods, the City incurs additional legal, contractual, and administrative costs.

DCAS Did Not Document Price Analysis

On March 6, 2020, the Mayor’s Office of Management and Budget (OMB) issued a “Memorandum to Agency Finance Staff regarding Tracking Novel Coronavirus Costs (COVID-19),” which stated that agencies should be aware of and do their best to comply with procurement requirements associated with federal funding, including basic principles such as “[c]ost reasonableness/cost comparison prior to solicitation.”

For each of the 58 sampled procurements that required an Agency Head Determination, the Agency Head Determination Memo generally stated that the sole basis for vendor selection was that the price was reasonable.⁵ DCAS stated that it conducted price analysis by “comparing current proposed prices to prior proposed prices and contract prices, as they evolved during the emergency.” Further, DCAS stated that price reasonableness varied over time based on the state of emergency, fluctuations in DCAS’ stock, and worldwide availability of PPE, and that it monitored price changes over time and cancelled higher-priced orders when possible, reordering goods at better rates when prices came down. However, based on the auditors’ review, DCAS did not document price comparisons.

DCAS stated that it was “operating under a directive to secure as much as it could, as expeditiously as possible, to save lives and alleviate the dire conditions in New York City.” For this reason, DCAS was not able to create documentation.

While the auditors acknowledge the difficult circumstances created by the pandemic, DCAS should have captured this information. MOCS supported DCAS in sourcing PPE and established an intake form for vendor offers, which could have been used to document DCAS’ price analysis.

The auditors also found that certain procurements exceeded the average price that DCAS paid for similar goods at that time, as detailed in Appendices I and II of this report. For example, DCAS paid Plush Apparel \$12.87 per face shield—250.7% more than the average price of \$3.67 per face shield. Similarly, DCAS paid Destiny Aprons \$7.50 and \$4.80 per cloth mask—239.4% and 117.2% more than the average price of \$2.21 per cloth mask. This suggests that some pricing may not have been reasonable.

DCAS officials stated that vendor prices for similar goods may have appeared to vary because: (1) a single line item on an invoice may include one or more units (e.g., an individual face mask versus a package or box which included multiple face masks); (2) shipping costs may have been included in unit prices; and (3) specifications of products weren’t equal in several factors, such as differences in the materials used, durability, and medical effectiveness. Additionally, in its written response, DCAS stated that larger orders typically resulted in lower unit prices.

However, the auditors evaluated reasonableness based on unit prices. Regarding shipping costs, the auditors did not include separate line-item shipping costs in price comparisons because, among other things, DCAS paid for charter flights carrying PPE. Additionally, auditors compared prices for goods with similar descriptions, for example, only comparing masks indicated as KN95 to other masks indicated as KN95. Lastly, for procurements that exceeded the average price, other vendors who provided the same or similar quantities did not significantly exceed the average unit price.

DCAS Did Not Consistently Obtain or Document Approvals for Prepayments

In March 2020, the City created a Prepayment Review Committee which was responsible for approving prepayments to vendors for goods and services needed to respond to the COVID-19

⁵ The auditors sampled 68 procurements. Of those, 10 procurements did not require an Agency Head Determination because DCAS procured goods through requirements contracts or a Minority and Woman-owned Business Enterprise vendor.

emergency. The committee comprised four members from DCAS, MOCS, OMB, and the Law Department, and was chaired by the DCAS Commissioner.

However, based on the auditors' review of 32 sampled procurements for which DCAS prepaid vendors, DCAS did not obtain approval from one or more Prepayment Review Committee members, or did not document approval for 17 procurements (53.1%).

For five of those 17 procurements, vendors did not provide goods, or provided defective or poor-quality goods. While the City was generally able to recoup prepayments or obtain substitute goods from vendors, the City incurred additional legal, contractual, and administrative costs. Notably, DCAS prepaid Digital Gadgets \$9.1 million for ventilators which the vendor was later unable to deliver. DCAS applied Digital Gadgets' prepayment to separate procurements for disposable and N95 masks. However, based on inspection reports, Digital Gadgets initially delivered masks that were poor quality or not FDA-certified.

After the auditors discussed the findings, DCAS stated that the Procurement team obtained approvals from the DCAS Commissioner, and while not all email chains contained the full email trail of individual agency oversight approvals, the Commissioner's approval signified that approvals from the other prepayment committee members were received. Additionally, DCAS stated that the Law Department's role in the Prepayment Review Committee was only advisory. However, DCAS did not provide the auditors with documentary evidence in support of those statements.

In its written response, DCAS stated, "Pursuant to MOCS guidance, the DCAS Commissioner alone was responsible for providing agency head approvals for prepayments" and that "there was no rule prescribing the manner in which prepayment approvals were to be documented." However, during the course of the review, when the auditors asked DCAS how and where each of the prepayment committee member's approvals were maintained, DCAS did not state that the DCAS Commissioner alone approved prepayments. DCAS stated that prepayment committee "approvals were received by email and were maintained in email format."

DCAS also stated that, in some cases, the Chief Contracting Officer/Assistant Commissioner acted in the DCAS Commissioner's authority to approve prepayments. In its written response, DCAS provided documentation to show the personnel who are authorized to act in the Deputy Commissioner's absence, and the subject matter areas in which each of them is authorized to act. However, the documentation does not show that the DCAS ACCO was authorized to approve prepayments to vendors.

DCAS Did Not Consistently Maintain Supporting Documentation for Procurements

On March 6, 2020, OMB issued "Memorandum to Agency Finance Staff regarding Tracking Novel Coronavirus Costs (COVID-19)," which emphasized the critical importance of properly tracking and documenting pandemic-related activities and expenditures, so that the City could be in "the best possible position to receive federal & state reimbursement for costs associated with responding to the emergency." The memorandum directed agencies to maintain accurate records "of all expenses related to the response, including labor, contract costs, purchase of supplies, and use of equipment and supplies."

On March 25, 2020, OMB sent an email to DCAS stating that “[i]n order to get completely reimbursed . . . we will need to be able to support all of our costs.” Attached to this email was a list of supporting documentation which included, among other things, copies of contracts, invoices, and signed purchase orders.

However, based on the auditors’ review of 68 sampled procurements initiated in Fiscal Year 2020, DCAS did not maintain one or more required documents, including quotes, contracts, purchase orders, signed Advice of Awards, invoices, and receiving and inspection reports for 16 procurements (23.5%) with payments or total contract expended amounts totaling \$328,290,036.⁶ In the absence of required documentation, DCAS cannot be reasonably assured that vendors provided goods and services of the type, quantity, and quality specified, and were paid correctly.

After the auditors discussed the findings, DCAS officials stated that other records served as substitutes for the missing documentation. However, each of the above-mentioned documents were required to be maintained, and, as previously stated, OMB emphasized the critical importance of maintaining them.

In its written response, DCAS stated, “Substantial documentation was provided during the audit. However, the Comptroller review team decided to deem the substantial documentation provided to them as inadequate.” However, DCAS simultaneously acknowledged that “some of the required documentation may have not been captured in the procurement files or systems of record.”

The FEMA Public Assistance Program and Policy Guide, dated April 2018 (the FEMA Guide), states that in order to be eligible, costs must be:

- Directly tied to the performance of eligible work;
- Adequately documented;
- Consistent with the Applicant’s internal policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the Applicant; and
- Necessary and reasonable to accomplish the work properly and efficiently.

Further, the FEMA Guide states that a cost is reasonable if “it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time [...] If FEMA determines any of the costs to be unreasonable based on its evaluation, FEMA may disallow all or part of the costs by adjusting eligible funding to an amount it determines to be reasonable.”

Since DCAS did not consistently maintain adequate documentation, comply with policies and procedures in place at the time, and ensure that costs were reasonable, it is possible that the City may not be reimbursed or fully reimbursed for certain COVID-19 related expenses.

⁶ For three of the 16 cited procurements, vendors did not deliver or did not fully deliver goods. DCAS recouped payments totaling \$69,840,000 and is in litigation for payments totaling \$5,112,337.

RECOMMENDATIONS

To address the above-mentioned findings, the auditors propose that for future emergency procurements, DCAS:

1. Ensure that staff perform and document responsibility reviews and appropriately consider and report results.

DCAS Response: DCAS disagreed with this recommendation and the related finding. However, DCAS did state that “in the event of another emergency, DCAS will continue to use WMS to document background checks.”

2. Ensure that it documents price analyses, which are used to ensure that prices are reasonable and form the basis for vendor selection.

DCAS Response: DCAS disagreed with this recommendation and the related finding. However, DCAS also stated, “Notwithstanding our disagreement, in the event of a future suspension of laws and rules governing the procurement of goods and services, DCAS, to the extent practicable, will document the vendor proposals in connection with price comparisons.”

3. Ensure that staff maintain supporting documentation in procurement files and systems of record.

DCAS Response: DCAS disagreed with this recommendation and the related finding.

Regarding prepayments for future emergency procurements, the auditors propose that the City:

4. Determine whether current procurement rules require amendment to permit advance payments necessary to procure goods, services, and construction during emergencies, and if so, establish rules and protocols to mitigate risks when advance payments might be necessary.

DCAS Response: DCAS disagreed with this recommendation and the related finding but stated, “Should future emergencies arise where advance payments may be necessary, DCAS will continue to follow any guidance provided by MOCS, OMB, and/or any other official directive that is established.”

Recommendations Follow-up

Follow-up will be conducted periodically to determine the implementation status of each recommendation contained in this report. Status updates are reported in the Audit Recommendations Tracker available here: <https://comptroller.nyc.gov/services/for-the-public/audit/audit-recommendations-tracker/>

SCOPE AND METHODOLOGY

The scope of the review was March 1, 2020 to June 30, 2020.

To obtain an understanding of applicable procurement policies and procedures in place during the scope period, the auditors reviewed City Emergency Executive Orders, MOCS and OMB guidance, and the FEMA Public Assistance Program and Policy Guide (dated April 2018).

The auditors interviewed relevant agency officials from DCAS' Fiscal Business Management Team to gain an understanding of how payments were processed and tracked for COVID-19 emergency procurements. Additionally, the auditors conducted a walkthrough with DCAS officials to observe WMS and the Bureau of Quality Assurance (BQA) inspection portal to gain an understanding of how inspection reports, receiving reports, and Vendor Responsibility Determinations were maintained.

To determine a population of payments related to COVID-19 emergency procurements, the auditors obtained a listing of DCAS' payment requests for Fiscal Year 2020 from the City's Financial Management System (FMS). Additionally, auditors obtained and reviewed an FMS budget code report for Fiscal Year 2020 to determine which budget codes were associated with COVID-19. The auditors then separated out all payment requests that were paid using a COVID-19 budget code (all of which started with "CV").

The auditors selected a judgmental sample of 68 procurements based on the payment request amount, payment type, and vendor performance. For those 68 procurements, the auditors requested and reviewed supporting documentation from DCAS, which included vendor responsibility checks, invoices, receiving and inspection reports, and Prepayment Review Committee approvals. The auditors also requested and reviewed supporting documentation from MOCS that included quotes, contract and/or signed vendor terms and conditions, Agency Head Determinations, signed Advice of Awards, and purchase orders.

To determine whether purchases were necessary and related to COVID-19, the auditors reviewed Agency Head Determinations, which included a justification for the purchase and determination of the emergency, as well as quotes, invoices, and email correspondence.

From the sample of 68 procurements, 59 were made from new contracts and nine were made from requirements contracts. For the 59 procurements made from new contracts, the auditors determined whether DCAS staff performed Responsibility Determinations—background checks and documented searches and search results in WMS. Further, when DCAS staff documented that they found adverse information in WMS, the auditors checked whether adverse information was reported on Agency Head Determinations, which were submitted to MOCS and the Law Department for approval.

To determine whether DCAS ensured procurements were reasonably priced, the auditors requested that DCAS provide price analysis conducted for COVID-related procurements between March 1, 2020, and June 30, 2020. However, DCAS stated that the "pace and volume at which DCAS worked did not permit the creation of documentation." Consequently, the auditors independently compared costs for similar goods to determine whether they were reasonable.

The auditors reviewed payment requests made between March 1, 2020 and June 8, 2020. For each payment request, the auditors reviewed supporting documentation from FMS, including but not limited to, invoices and quotes. The auditors identified procurements for similar goods based on the item descriptions. For various categories of similar goods (i.e., face shields, KN95 masks, N95 masks, cloth masks, and three-ply masks), the auditors calculated the average cost by dividing the total amount paid for similar goods by the total quantity purchased. Then, the auditors compared individual vendor prices for similar goods to the average price.

DCAS prepaid vendors, in whole or in part, for 32 of the 68 sampled procurements. For those 32 procurements, the auditors reviewed FMS attachments and, in particular, email correspondence to determine whether DCAS obtained approval from each of the four Prepayment Review Committee Members (i.e., DCAS, MOCS, OMB, and the Law Department).

For procurements for which DCAS did not obtain Prepayment Review Committee approval, the auditors determined whether vendors did not provide goods or provided defective or poor-quality goods and if so, whether the City was able to recoup prepayments or obtain substitute goods.

For the 68 sampled procurements, the auditors compared invoice item quantities to receiving and inspection report quantities to determine whether DCAS received all goods for which vendors were paid. For procurements that had discrepancies, the auditors requested and reviewed DCAS reconciliation logs for procurements. Additionally, the auditors requested and reviewed additional invoices and inspection and receiving reports, or documentation to show funds were returned to the City for any outstanding amounts owed.

The results of the above tests, while not projectable to their respective populations whenever a sample was used, provided a reasonable basis for the auditors to evaluate whether DCAS' COVID-19 emergency procurements during Fiscal Year 2020 were necessary and related to COVID-19, adequately documented, consistent with applicable procurement policies and procedures, and reasonable.

APPENDIX I

Comparative Price Analysis for DCAS Procurements of Face Shields between March 1, 2020 and June 8, 2020

Vendor Legal Name	Quantity	Price/Unit	Extension	% Difference
Face Shields - Average Price \$3.67				
Plush Apparel LLC	10,000	\$12.87	\$128,700	250.7%
Fastenal Company	50,000	\$6.70	\$335,000	82.6%
Empire Electronics Inc	25,000	\$4.88	\$122,000	33.0%
Utech Products Inc	10,000	\$4.10	\$41,000	11.7%
Applied Medical Distribution Corporation	100,000	\$4.00	\$400,000	9.0%
Neta Scientific, Inc.	254,000	\$3.98	\$1,010,920	8.4%
Urban Nation Apparel Inc	299,600	\$3.10	\$928,760	-15.5%
Magid Glove & Safety Mfg Co LLC	15,000	\$3.05	\$45,750	-16.9%
LVLM Distribution LLC	200,100	\$2.95	\$590,295	-19.6%
Clear Image Inc	96,288	\$2.95	\$284,050	-19.6%

APPENDIX II

Comparative Price Analysis for DCAS Procurements of Face Masks between March 1, 2020 and June 8, 2020

Vendor Legal Name	Quantity	Price/Unit	Extension	% Difference
Disposable Surgical/3 Ply Face Masks - Average Price \$0.69				
Genuine Parts Company	300,000	\$1.16	\$348,000	68.1%
Dart Seasonal Products Inc	1,000,000	\$1.12	\$1,120,000	62.3%
Salsa Professional Apparel LLC	1,000,000	\$0.98	\$980,000	42.0%
ODY Accessories Inc	999,850	\$0.93	\$929,861	34.8%
Empire Electronics Inc	500,000	\$0.92	\$460,000	33.3%
Jamore Inc	111,100	\$0.90	\$99,990	30.4%
Dart Seasonal Products Inc	1,500,000	\$0.88	\$1,320,000	27.5%
Specbid Holding Inc	1,500,000	\$0.84	\$1,260,000	21.7%
MCT Pro Tools Inc	1,300,000	\$0.82	\$1,066,000	18.8%
GlobalGeeks Inc.	1,000,000	\$0.77	\$770,000	11.6%
Plush Apparel LLC	48,000	\$0.80	\$38,400	15.9%
BT Supplies West Inc	5,000,000	\$0.76	\$3,800,000	10.1%
BT Supplies West Inc	9,800,000	\$0.75	\$7,350,000	8.7%
Plush Apparel LLC	4,000	\$0.70	\$2,800	1.4%
BT Supplies West Inc	29,674,300	\$0.67	\$19,881,781	(2.9%)
Progressive Promotions	250,000	\$0.65	\$162,500	(5.8%)
Utech Products Inc	840,000	\$0.65	\$546,000	(5.8%)
Epaul Dynamics Inc	9,800,000	\$0.63	\$6,174,000	(8.7%)
Twelve Inc	2,400,000	\$0.64	\$1,536,000	(7.2%)
Propac Inc	16,629,000	\$0.62	\$10,309,980	(10.1%)
Nel Trends Inc	400,000	\$0.62	\$248,000	(10.1%)
Progressive Promotions	1,700,000	\$0.61	\$1,037,000	(11.6%)
Industrial U.S.A., Inc	1,000,000	\$0.60	\$600,000	(13.0%)
Epaul Dynamics Inc	200,000	\$0.59	\$118,000	(14.5%)
Dh Commerce LLC	1,000,000	\$0.55	\$550,000	(20.3%)
Digital Gadgets LLC	707,000	\$0.55	\$388,850	(20.3%)
Jamn Products Inc	1,000,000	\$0.50	\$500,000	(27.5%)
N95 Face Mask - Average Price \$3.10				
NEL Trends Inc	59,090	\$5.50	\$324,995	77.4%
The Fine Companies LLC	178,000	\$4.67	\$831,260	50.6%
World Logistics LLC	50,000	\$4.56	\$228,000	47.1%
Traction & Scale LLC	30,000	\$4.48	\$134,400	44.5%
Naecoware LLC	122,160	\$4.40	\$537,504	41.9%
Digital Gadgets LLC	831,780	\$4.00	\$3,327,120	29.0%
Sid Tool Co Inc	20,000	\$2.35	\$47,090	(24.0%)
Arbill Industries, Inc.	994,320	\$1.67	\$1,660,514	(46.1%)
Safeware Incorporated	240	\$0.81	\$195	(73.8%)

Vendor Legal Name	Quantity	Price/Unit	Extension	% Difference
KN95 Face Mask - Average Price \$3.14				
Global Geeks Inc	2,800,000	\$4.05	\$11,340,000	29.0%
Tivuna Systems Inc	1,778,000	\$3.80	\$6,756,400	21.0%
Success Promotions Inc	100,000	\$3.45	\$345,000	9.9%
Shopworx Inc	3,000,000	\$3.25	\$9,750,000	3.5%
Saroj International Inc	500,000	\$3.25	\$1,625,000	3.5%
Utech Products Inc	265,000	\$3.25	\$861,250	3.5%
Rock Fintek LLC	4,859,100	\$3.08	\$14,966,028	(1.9%)
Saroj International Inc	1,000,000	\$3.05	\$3,050,000	(2.9%)
MCT Pro Tools Inc	806,400	\$3.04	\$2,451,456	(3.2%)
Plush Apparel LLC	100,800	\$3.00	\$302,400	(4.5%)
Twelve Inc	1,300,000	\$2.92	\$3,796,000	(7.0%)
Digital Gadgets LLC	2,031,000	\$2.84	\$5,768,040	(9.6%)
Cetrix Technologies LLC	50,000	\$2.79	\$139,500	(11.1%)
DH Commerce LLC	38,000	\$2.75	\$104,500	(12.4%)
Saroj International Inc	20,000	\$2.65	\$53,000	(15.6%)
Urban Nation Apparel Inc	500,000	\$2.60	\$1,300,000	(17.2%)
Vizocom Ict LLC	550,000	\$2.59	\$1,424,500	(17.5%)
Digital Gadgets LLC	2,455,060	\$2.42	\$5,941,245	(22.9%)
Success Promotions Inc	250,000	\$1.80	\$450,000	(42.7%)
Cloth Face Mask - Average Price \$2.21				
Destiny Apron NY	15,000	\$7.50	\$112,500	239.4%
Destiny Apron NY	72,700	\$4.80	\$348,960	117.2%
Evergreen Corporate Gifts & Promotions Inc	500,000	\$3.50	\$1,750,000	58.4%
Progressive Promotions	240,000	\$1.50	\$360,000	(32.1%)
Progressive Promotions	1,008,000	\$1.48	\$1,491,840	(33.0%)



Dawn M. Pinnock
Commissioner

January 20, 2023

Sandra Abeles
Executive Deputy Comptroller
Office of the New York City Comptroller
David N. Dinkins Municipal Building
One Centre Street, Room 1100
New York, NY 10007

Re: Special Report of the New York City Comptroller on the Department of Citywide Administrative Services's COVID-19 Emergency Procurements (FK21-087S)

Dear Ms. Abeles:

Thank you for sharing the draft Special Report of the New York City Comptroller on the Department of Citywide Administrative Services's COVID-19 Emergency Procurements (FK21-087S). As indicated in our responses to the findings below, the report does not place in proper context the transactions it recounts, and in some cases, omits or erroneously states important facts related to the catastrophic emergency the City and DCAS faced in the early months of the pandemic. Notwithstanding, we appreciate the opportunity to respond and to offer a more balanced and comprehensive account of the City's precarious position and the critical services provided by DCAS procurement staff during those early months of the pandemic.

Context:

The City of New York was the first major American city hit by the pandemic. Its first case of laboratory-confirmed COVID-19 was diagnosed on February 29, 2020. In a matter of a few weeks, City hospitals were overwhelmed by the exponentially growing number of patients in need of intensive care – typically with ventilators – for a deadly and highly transmissible disease. In April 2020, 5,500 new cases and 900 deaths a day were being reported. By June 30, 2020, the end of the three-month period covered in this report, more than 22,500 City residents had perished from COVID-19, half of all the City's COVID-19 fatalities in the nearly three years of the pandemic.

During that time period, the federal government was missing in action, providing no leadership and little support. Governments across the world were competing for scarce supplies. There were enormous backlogs in the manufacturing of ventilators and Personal Protective Equipment. Global supply chains were collapsing.

On March 12, 2020, the Mayor issued Executive Order No. 98, declaring a state of emergency. Mayor's Executive Order No.101, issued on March 16, 2020, suspended laws and rules governing

the procurement of goods, services, and construction “when an agency head determines in writing that the procurement is necessary to respond to the emergency.”¹

On March 18, March 20, and March 25, 2020, the Mayor’s Office of Contract Services issued guidance to agencies on making emergency procurements in response to the COVID-19 emergency and under the suspension of the laws and regulations affected by Executive Order No. 101(EO 101). It required a written agency head determination for procurement of all covered contracts and procurement actions. It provided that “[t]he determination must contain a statement that the contract or action is necessary to respond to the COVID-19 emergency and the basis for the determination for the goods or services sought” and that “[a]gencies must notify the Mayor’s Office of Contract Services (MOCS) and the Law Department each time they intend to initiate a covered contract or contract action.”

On March 31, 2020, the Deputy Comptroller for Accountancy, exercising the Comptroller’s contract review authority under Section 5 of Comptroller’s Directive No. 24 (FMS Contract Document), issued a waiver that authorized DCAS to make prepayments for all ventilator purchases made pursuant to EO 101. On April 7, 2020, the Comptroller issued a similar waiver authorizing prepayments for all personal protective equipment made pursuant to EO 101 during the pandemic. In doing so, the Comptroller endorsed the City’s “determin[ation] that it is in the best interest to take the measured risk of paying . . . ahead of delivery in exchange for securing this critically-needed equipment.”

This emergency is the first time that the City has paid for goods before delivery, a reflection of the severe peril that its residents faced. Due to the extreme shortage and high demand for lifesaving equipment throughout the world, the prepayment of all or part of the costs of procurement was critical to ensuring the City’s bids would be competitive.

In large part through DCAS’s efforts, the City developed an extremely effective emergency procurement strategy during COVID-19. The team worked tirelessly to procure ventilators, face masks, gowns, and other essential lifesaving goods from vendors scattered across the globe, arranging their transport by air, ship, rail, and truck to ensure distribution to agencies and hospitals. In its intrepid and successful pursuit of lifesaving equipment, DCAS complied with every legal obligation.

Finding 1 - DCAS Did Not Consistently Ensure That the City Procured Goods and Services from Responsible Vendors

DCAS disagrees with this finding as it does not paint an accurate picture of the procurement and the prepayment approval process during the pandemic. MOCS’s March 18, 2020, guidance concerning EO 101 required only a written agency head determination that the contract or action is necessary to respond to the COVID-19 emergency and the basis for the determination for the goods or services sought. With respect to vendor responsibility, in a March 25, 2020 e-mail, MOCS’s guidance advised agencies to set forth the findings in the agency head determinations. There were no written guidelines from MOCS directing agencies to create or preserve any additional documentation on responsibility checks other than the agency head determination.

¹ Section 2 of EO 101 suspended Chapter 13 of the New York City Charter, the Procurement Policy Board Rules, Sections 6-101 through 6-107, 6-108.1 through 6-121, and 6-124 through 6-129 of the New York City Administrative Code for the procurement by the City of goods, services, and construction necessary to respond to the emergency.

Weeks into the pandemic, for internal purposes, DCAS began to keep additional records of background checks and other procurement records in the Warehouse Management System (WMS). There was no guidance issued by MOCS or any legal requirement that it do so. The eleven procurements' responsibility records which do not appear in the WMS, preceded the creation of WMS. Thus, the Report is wrong in asserting that the absence of the responsibility records from the WMS for those eleven procurements is a deficiency because DCAS was not required to preserve those records in WMS.

In its assertion that DCAS did not conduct appropriate background checks, the report cites section 2-08 of the Procurement Policy Board (PPB) Rules, implying that a full-blown vendor responsibility review was required. But that cannot be true, as the PPB rules were suspended specifically to streamline and accelerate the emergency procurement of goods.

The Report also faults DCAS for procuring goods from vendors for which its background investigation uncovered adverse information. It is true that in several procurements, adverse information was reported during the contracting officer's review. But in those instances, circumstances allowed the contracting officer to make the determination that the adverse finding did not impede the vendor's ability to provide the necessary goods or services to the City. DCAS knew from experience and public reporting that Personal Protective Equipment ("PPE") was extremely scarce and in high demand during these months. When DCAS submitted a procurement for registration that contained an adverse finding, circumstances, such as the remoteness in time of the adverse information, the severity of the vendor's alleged misconduct, and emergent public health and safety considerations, allowed and justified the determination of the Agency Chief Contracting Officer (ACCO) that the expected benefit of the procurement outweighed its risks and was therefore in the best interest of the City at that time. Faced with unprecedented challenges, DCAS nevertheless operated within appropriate guidelines. This matter should not be flagged as a finding.

Irrespective of background check results, vendors, at times, may provide defective goods. However, DCAS inspects all goods received and ensures they comply with DCAS's required standards. If goods are deemed unsatisfactory, DCAS rejects the defective items and requests that the vendor replaces the items. In some circumstances, DCAS terminated the contracts and procured from other vendors, where feasible. The Report cited DCAS's purchase of three-ply face masks from Dart Seasonal Products, Inc. for \$1,320,000 as an example of procuring from a vendor with an adverse background. However, none of the three-ply masks delivered by Dart Seasonal Products Inc. were defective, and they were not rejected, as demonstrated by the supporting documents DCAS provided.

Finding 2 - DCAS Did Not Document Price Analysis

DCAS disagrees with this finding. The global pandemic created a new market and pricing for PPE and other necessary equipment and services. DCAS had to compete with other aggressive purchasers, including the federal government, to acquire scarce supplies. DCAS had no acceptable alternative but to compare prices submitted by competing vendors at the very moment that a product was needed and available. Also, it was public knowledge that the demand for and supply of PPE and other necessary equipment and services, including the cost of freight from overseas, escalated throughout the pandemic as supply chains deteriorated. Price reasonableness varied based on the state of emergency, especially during the early months of the pandemic, the cost of goods and freight shifted hourly. DCAS did not have the luxury of time both to perform a standard comprehensive and

deliberative price analysis and respond responsibly to the deathly threats that the rapidly spreading virus posed to the City's residents. As the pandemic continued, DCAS became better able to monitor price changes and responded by canceling higher-priced orders and reordering at lower prices. Overall, DCAS acted consistently with the Comptroller's waivers, taking measured risks in purchasing goods and services that were critically needed to save the lives of New Yorkers.

The review of the price differential of purportedly comparable products is inadequate for a host of reasons:

- The review did not consider the varying specifications of the product. It compared commodities that were not equal due to differences in the materials used, durability, medical effectiveness, and other factors.
- In analyzing the unit prices, which were set as "Delivery Duty Paid (DDP)," the review failed to consider the price difference in shipping methods. The cost for ground shipping is not the same as shipping via a private air carrier. Those differences result in differing unit costs for the same commodity. DCAS frequently had no choice but to use costly means of transportation to deliver urgently needed products.
- The review did not consider the variance in the quantities ordered. Larger orders typically resulted in lower unit prices.

Finding 3 - DCAS Did Not Consistently Obtain or Document Approvals for Prepayments

DCAS disagrees with this finding. Pursuant to MOCS guidance, the DCAS Commissioner alone was responsible for providing agency head approvals for prepayments. The prepayment committee was not established pursuant to a law or rule but was created voluntarily as a rational and cautionary measure to assess the merits of the opportunity to procure goods where the vendor demanded prepayment. When an urgent procurement need arose, DCAS's Commissioner sought the concurrence of MOCS and the Mayor's Office of Management and Budget (OMB), the other prepayment committee voting members, to review and approve the prepayment. The Law Department served in the prepayment committee in an advisory capacity. No rule required that approvals be documented in any particular manner. The DCAS Commissioner, after working with the OMB, MOCS, and the Law Department, provided prepayment approval to the DCAS Procurement team. Proof of the Commissioner's approval of every prepayment— which is all that was necessary under the MOCS guidelines – was provided to the Comptroller's review team. Most approvals were accompanied by email confirmation of the concurrence of other committee members. In four instances, when the DCAS Commissioner and the Deputy Commissioner for the Office of Citywide Procurement were both absent, DCAS's ACCO was authorized to provide prepayment approval pursuant to internal delegations, copies of which are annexed as Exhibit A. The report alleges that DCAS prepaid Digital Gadgets for goods that were not delivered. The report conflates prepayment for goods with the *delivery of goods*, which are two separate issues. First, during the height of the pandemic, prepayment was a necessary process required to secure goods, particularly ventilators, on the open market. In the pre-pandemic era, payment occurred after the delivery of goods. As set forth in DCAS' response above, under the heading "Context", the agency has explained, at length, the Comptroller's March 31, 2020, waiver authorizing prepayment for all ventilator purchases due to the unprecedented global emergency and the scarcity of goods.

Second, the report neglects to mention that upon learning that Digital Gadgets was unable to deliver ventilators, DCAS terminated three purchase orders for ventilators and applied the \$9.1 million dollar ventilator prepayment to open orders for three-ply and KN95 masks.

Accordingly, the insinuation that DCAS inappropriately distributed funds because it did not obtain approvals from other prepayment committee members is unsupported; those approvals, while provided for every prepayment, were not required. Similarly, the report's finding that DCAS failed to appropriately document the approvals is without basis because there was no rule prescribing the manner in which prepayment approvals were to be documented.

Finding 4 - DCAS Did Not Consistently Maintain Supporting Documentation for Procurements

DCAS disagrees with this finding. Sufficient documentation was maintained to support the emergency procurements and the payments issued. Substantial documentation was provided during the audit. However, the Comptroller review team decided to deem the substantial documentation provided to them as inadequate. Additionally, the contention that DCAS may not meet the requirements for federal and state reimbursement of COVID-19-related expenses based on the guidance issued by OMB regarding federal and state reimbursement is unsubstantiated and overreaching. DCAS is fully prepared and able to provide FEMA with the necessary supporting documents for reimbursement. The Report's suggestion that it may be unable to do so is unfounded and irresponsibly prejudicial to the City's interest in obtaining FEMA reimbursement.

DCAS will continue to strengthen the review and monitoring process of emergency procurements and will continue to make every effort to ensure compliance with all applicable policies and procedures.

Should you have any questions, please contact Sonia Lamrhari, Executive Director of DCAS's Audit and Compliance Services at 212-386-6266.

Sincerely,



Dawn M. Pinnock
Commissioner

Enclosure

- c: Josefina Soto
 Maryanne Mullany
 Kolbein Netland
 Marjorie Landa
 Doug Giuliano
 Roman Gofman
 Shanna Midelton
 Sonia Lamrhari

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
January 22, 2019

DCAS ORDER NO. 56
MODIFICATION OF DCAS ORDER 50
DELEGATION OF AUTHORITY
CITYWIDE PROCUREMENT/MUNICIPAL SUPPLY SERVICES
DEPUTY COMMISSIONER/CHIEF ACQUISITION OFFICER

DCAS Order No. 50 appointing Mersida Ibric as Acting Deputy Commissioner/Chief Acquisition Officer (DC/CAO) is hereby modified to remove the designation of "Acting" from her title, and to clarify the terms under which she may further delegate her powers and responsibilities. In all other respects, she continues to have the same powers as specified in DCAS Order 50; that is, she is hereby empowered to exercise those powers, duties and responsibilities vested in me by the New York City Charter under Sections 330, 331, 822(c), and 823 with respect to procurement of goods, and other personal property, and services, other than personal services.

Among other powers set forth in DCAS Order 50, Mersida Ibric is hereby authorized to enter into and execute all contracts and other agreements necessary for the conduct of DCAS business under this Order, including but not limited to the renewal or extension of contracts. Subject to the prior written consent of the Commissioner, she is also authorized to further delegate, in writing, to one or more Assistant Commissioners or other persons deemed by her to be of appropriate authority and responsibility, the power and authority delegated to the DC/CAO by this DCAS Order 56 to execute, manage and administer such documents.

This delegation of authority shall remain in effect until revoked, in writing, by a subsequent DCAS Order.



COMMISSIONER

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
April 9, 2020
DCAS ORDER NO. 63
MODIFICATION OF DCAS ORDER NO. 56
DELEGATION OF AUTHORITY
CITYWIDE PROCUREMENT/MUNICIPAL SUPPLY SERVICES

DCAS Order No. 56 appointing Mersida Ibric as Deputy Commissioner/Chief Acquisition Officer is hereby modified effective April 10, 2020 to identify those personnel to whom she is delegating her authority to conduct the business of the Office of Citywide Procurement Line of Service when she is absent, on leave, or otherwise unavailable.

The attached Exhibit A identifies the personnel who are authorized to act in Mersida Ibric's absence, and the subject matter areas in which each of them is so authorized.

This delegation of authority shall remain in effect until revoked, in writing, by a subsequent DCAS order.

A handwritten signature in black ink, appearing to read 'Lisette Camilo', written in a cursive style. The signature is positioned above a solid horizontal line.

Lisette Camilo, Commissioner

Exhibit A

Physical Sign Off

Item	Person Responsible	Notes
Purchase Orders	Larry Siegel	
Personnel Reimbursements	Adam Buchanan, Roman Gofman	for their respective staffs, if outside of procurement groups then Roman is point
Fuel Inspection Waiver	Adam Buchanan	
FMS Access	Adam Buchanan, Roman Gofman	for their respective staffs, if outside of procurement groups then Roman is point
APT Access	Adam Buchanan, Roman Gofman	for their respective staffs, if outside of procurement groups then Roman is point
PassPort	Adam Buchahan	
Contracts	Adam Buchahan, Roman Gofman	
Travel Authorization	Larry Siegel	
Appeals	Suzanne Lynn	
Right to ask for a Deduction	Adam Buchanan	

E-sign Off

Item	Person Responsible	Notes
CityTime	Larry Siegel	Roman and Adam can approve for Larry
E-hire system	Larry Siegel	
HR Promotion	Larry Siegel	

Escalation

Business unit	Issue	Person responsible
BQA	OT Requests	Dan Callies
	Vendor Disputes	Adam Buchanan
CSH	OT Requests	Larry Siegel
	NYCEM requests	Larry Siegel
	Contracts	Adam Buchanan
Citywide	Contracts	Suzanne Lynn, Lisette Camilo
Agency	Contracts	Suzanne Lynn, Lisette Camilo
M/WBE	Policy	Roman Gofman
	Events, Operations	Larry Siegel
Labor	All	Roman Gofman
SPI	PassPort	Adam Buchanan
	Data	Adam Buchanan, Roman Gofman (depending on source)
	Legacy Systems	Adam Buchanan, Roman Gofman (depending on source)
	Operations/Admin	Larry Siegel

Physical Representation

Meeting	Person Responsible
Commissioner Meeting	Adam Buchanan, Roman Gofman, Jose Jimenez
Budget Hearing	Adam Buchanan, Roman Gofman
Executive Team Meeting	Roman Gofman (Adam as backup)
Executive Steering Committee, PassPort	Adam Buchanan
PASSPort/DCAS Executive Meetings	Adam Buchanan
OMB	Jose Jimenez, Sara Ahluwalia, Larry Siegel
NYCEM	Larry Siegel (Juan as backup)
NIGP Personnel Development	Larry Siegel
Monthly DC meetings	Larry Siegel
Mayors Office of MWBE	Julieann Lee, Roman Gofman
ACCO meeting	Adam Buchanan, Roman Gofman

NYC DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
Corrective Action Plan (CAP) Response

Audit Name: NYCC Review of the Department of Citywide Administrative Services' COVID-19 Emergency Procurements (FK21-087S)
Date: January 20, 2023

Audit Recommendations	Agency Response	Corrective Action	Target Date
<p>1. Ensure that staff perform and document responsibility reviews and appropriately consider and report results.</p>	<p>Disagree</p> <p>It is DCAS’s practice to review report results of vendor(s) during the procurement process. Documentation was provided to the auditors for the list of vendors identified by the audit team. In addition, where adverse information was found, the Contracting officer has the authority to make a responsibility determination whether such an adverse finding would not impede the vendor’s ability to provide the necessary good or service to the City. It was public knowledge, and the Comptroller’s Office is aware that Personal Protective Equipment (“PPE”) was extremely scarce and in high demand during the pandemic. Each individual procurement was necessary for the public’s health and safety. Accordingly, in instances in which DCAS submitted a procurement for registration that contained an adverse finding, there were circumstances, including public health and safety, that allowed the Agency Chief Contracting Officer (ACCO) to make the determination that such procurement was in the best interest of the City at that time.</p> <p>In addition, the New York City Charter and Title 9 of the Rules of the City of New York (the Procurement Policy Board Rules) were suspended based on the March 17, 2020, Mayoral Executive Order No. 101; and the Mayor’s Office of Contracts (MOCS) issued guidance pertaining to the administration of COVID emergency procurements during this period. The guidance required Agencies to conduct background checks by consulting three sources and to set forth their findings in the Agency Head Determinations (“AHD”), which was also provided to the auditors.</p>	<p>None</p>	<p>N/A</p>

Audit Recommendations	Agency Response	Corrective Action	Target Date
	<p>Notwithstanding our disagreement, as DCAS noted, weeks into the pandemic, DCAS began to keep, among other records, background checks in the Warehouse Management System (WMS), and in the event of another emergency, DCAS will continue to use WMS to document background checks.</p>		
<p>2. Ensure that it documents price analysis which are used to ensure that prices are reasonable and form the basis for vendor selection.</p>	<p>Disagree</p> <p>The Comptroller’s review of price differential of purportedly comparable products is inadequate for a host of reasons. First, the review did not consider the varying specifications of the product. The review compared commodities that were not equal in several factors, including but not limited to differences in the materials used, durability, medical effectiveness, etc. Second, in analyzing the unit prices, which were set as “Delivery Duty Paid (DDP)”, the Comptroller failed to consider the price difference in shipping methods. For example, the cost for ground shipping is not the same as shipping via a private air carrier resulting in differing unit costs for the same commodity. DCAS frequently had no choice but to use costly means of transportation to deliver urgently needed products. Third, the review did not consider the variance in the quantities ordered. Larger orders result in lower unit prices.</p> <p>The global pandemic created a new market and pricing for PPE and other necessary equipment/services. DCAS had to compete with other aggressive purchasers, including the federal government, to acquire scarce supplies. DCAS had no acceptable alternative but to compare prices submitted by variable vendors at the moment that a product was available. As the Comptroller is aware, the supply/demand for PPE and other necessary equipment/services escalated throughout the pandemic, including the cost of freight from overseas as supply chains deteriorated and price reasonableness varied based on the state of emergency. Accordingly, DCAS could not effectively perform a comprehensive and deliberative standard price analysis as the cost of goods and freight shifted hourly and at the same time respond quickly and responsibly to the deathly threats that the rapidly spreading virus posed to the City’s residents.”</p>	<p>None</p>	<p>N/A</p>

Audit Recommendations	Agency Response	Corrective Action	Target Date
	<p>Notwithstanding our disagreement, in the event of a future suspension of laws and rules governing the procurement of goods and services, DCAS, to the extent practicable, will document the vendor proposals in connection with price comparisons.</p>		
<p>3. Ensure that staff maintain supporting documentation in procurement files and systems of record.</p>	<p>Disagree</p> <p>DCAS duly maintains supporting documentation related to procurements. As previously stated, during the COVID-19 pandemic, DCAS was required to issue prepayments to vendors to secure lifesaving supplies and equipment for the City, such as masks, ventilators, and personal protective equipment (PPE). Waivers were provided by the Comptroller’s Office to allow DCAS to bypass standard payment procedures and to pay before goods and services have been provided. The Comptroller’s waivers stated, “The City has determined that it is in the best interest to take the measured risk of paying ahead of delivery in exchange for securing the critically needed equipment”.</p> <p>Based upon these waivers, a prepayment approval committee was formed with representatives from multiple NYC entities, including the Mayor’s Office of Contract Services (MOCS) and the Office of Management and Budget (OMB). DCAS’s Commissioner was the chairperson of the Prepayment Committee and was responsible for providing Agency Head approvals for prepayments. The DCAS Commissioner, after working with the members of the prepayment approval committee, provided approvals for prepayments to the DCAS Procurement team via email. Due to the urgent need to issue the prepayment and secure the goods, and in conjunction with the prepayment waivers received from the Comptroller’s Office, DCAS determined that it would not be prudent or practical to wait for the vendor to submit an invoice and risk losing the goods. Therefore, the prepayment approval email was used as supporting documentation for the prepayment in lieu of an invoice. The approval emails stated the name of the vendor, the terms of the agreement, and the amount that must be prepaid prior to the shipment of goods.</p>	<p>None</p>	<p>N/A</p>

Audit Recommendations	Agency Response	Corrective Action	Target Date
	<p>Also, at the beginning of the pandemic, most of the procurements were done prior to the implementation of the WMS system. WMS, which is now DCAS' system of record, was initiated in May 2020.</p> <p>Therefore, while DCAS made diligent efforts to adequately document and maintain all supporting documentation, some of the required documentation may have not been captured in the procurement files or systems of record.</p> <p>Also, refer to the response for recommendations 1 & 2.</p>		
<p>4. Determine whether current rules require an amendment to permit advance payments necessary to procure goods, services, and construction during emergencies and if so, establish rules and protocols to mitigate risks when advance payments may be necessary.</p>	<p>Disagree</p> <p>As forementioned, DCAS followed protocols that were established based on guidance outlined in the Mayoral Executive Order 101 and MOCS guidance. DCAS provided the Comptroller's Office with emails documenting the DCAS Commissioner's approval and, in her absence, the ACCO's approval for each prepayment issued. The Commissioner of DCAS served as the head of the prepayment committee, and therefore, the emails with her approval should be sufficient on behalf of the committee.</p> <p>Should future emergencies arise where advance payments may be necessary, DCAS will continue to follow any guidance provided by MOCS, OMB, and/or any other official directive that is established.</p>	None	N/A



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