

Congress of the United States
House of Representatives

SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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MEMORANDUM

June 17, 2021

To: Members of the Select Subcommittee on the Coronavirus Crisis

Fr: Majority Staff

Re: Investigation into Federal Government Experts, LLC

This memorandum describes evidence obtained by the Select Subcommittee on the Coronavirus Crisis revealing new details about contracts granted to Federal Government Experts, LLC (FGE) by the Department of Veterans Affairs (VA) and the Federal Emergency Management Agency (FEMA) for N95 masks in the early months of the coronavirus pandemic.¹ FGE's Chief Executive Officer and owner, Robert Stewart, Jr., was sentenced to 21 months in prison and three years of supervised release on June 16, 2021, for making false statements to procure multimillion-dollar contracts to sell masks to these agencies, then failing to deliver.

Documents obtained by the Select Subcommittee illustrate Mr. Stewart's conduct and federal officials' failure to detect his lies, despite clear red flags. These documents shed new light on the heightened risks federal agencies faced as they struggled to procure supplies during the early months of the coronavirus pandemic, and underscore the cost of the Trump Administration's lack of preparedness, both before and during the crisis. These documents reveal new details about:

- **Mr. Stewart's fraudulent scheme to obtain \$38.7 million in federal contracts to supply N95 masks, including his negotiations with VA and FEMA and numerous false statements to contracting officials.** Documents obtained by the Select Subcommittee show that Mr. Stewart lied to federal government officials more than 30 times to induce them to enter the contracts and cover up his failure to perform. For instance, Mr. Stewart falsely represented that he had millions of N95 masks "on hand and ready" for shipment, that "masks had been delivered to LAX" and other locations, and that "masks had been intercepted by a member of Vice President Pence's Covid19 task

¹ Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Robert S. Stewart, Jr., Federal Government Experts, LLC (July 14, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-07-14.Clyburn%20to%20Fed%20Gov%20Experts%20contractor%20re%20PPE.pdf>); Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Robert L. Jenkins, Jr., Bynum & Jenkins (Mar. 17, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021-03-17.Clyburn%20to%20Stewart%20re%20Fed%20Gov%20Experts%20PPE%20.pdf>).

force”—causing VA officials to recount that “it became like a shell game of ‘where are the masks?’”

- **Mr. Stewart’s ability to secure contracts at inflated prices.** New evidence reveals that after VA officials told Mr. Stewart on April 5, 2020, that they would pay him only \$4.00 per N95 mask, Mr. Stewart was able to drive the price up by claiming FEMA officials had notified him that same day of “their intent to purchase” two million N95 masks. VA ultimately agreed to purchase six million masks from Mr. Stewart at a price of \$5.90 per mask, noting that “given the short amount of time and emergency nature of the procurement [the contracting officer] was only able to do a minimal amount of price analysis.” Ten days later, on April 15, FEMA awarded Mr. Stewart a contract for 500,000 masks at the price of \$7.02 per mask.
- **VA’s and FEMA’s failure to perform sufficient due diligence prior to awarding contracts, despite repeated concerns over whether Mr. Stewart’s company “can actually come through with product.”** An internal VA communication obtained by the Select Subcommittee later acknowledged that there were “areas we could have addressed differently” during the contracting process. Documents obtained by the Select Subcommittee also reveal that VA awarded Mr. Stewart a second contract worth \$249,900 to supply N95 masks two weeks after the agency terminated his first contract and referred the matter to VA’s Office of Inspector General (OIG), and after concerns about Mr. Stewart’s performance and VA’s subsequent cancellation of Mr. Stewart’s first contract had been publicly reported. Although this second contract was ultimately canceled before any money was spent, this decision illustrates flaws in the agency’s diligence process.

Documents released today illustrate how, due to the Trump Administration’s failure to prepare for the pandemic, federal agencies were left with little choice but to enter risky contracts and pay above-market prices. In an internal analysis obtained by the Select Subcommittee, federal officials admitted that they were forced to compete on the open market for limited supplies of N95 masks during the early months of the pandemic—resulting in the agencies having to pay “**a premium for the supply**” and rushing to award multimillion-dollar contracts “**as quickly as possible**,” including to an unvetted supplier that the agencies had concerns about. These factors substantially increased the risk of fraud, waste, and abuse of taxpayer resources. One contracting officer who was involved in more than a dozen investigations related to potentially fraudulent contracts awarded during the pandemic told federal authorities: “**The level of foolishness during COVID-19 had become pure ridiculousness.**”

Although no taxpayer dollars were ultimately paid to Mr. Stewart under the VA and FEMA contracts, officials admitted that working with Mr. Stewart was “**a waste of time for the government**” and cost the agency labor hours. The risk of waste could have been reduced or prevented through adequate preparation and planning. Instead, however, the Trump Administration refused to implement a coordinated national strategy to alleviate supply shortages during the pandemic and left federal agencies and states unprepared and unable to protect vulnerable populations from the risk of the virus.

I. MR. STEWART OBTAINED MILLIONS IN FEDERAL CONTRACTS BY REPEATEDLY LYING TO VA AND FEMA OFFICIALS

Mr. Stewart made more than 30 false statements to government officials in April and May of 2020 to induce them to enter multimillion-dollar supply contracts and cover up his failure to perform, including claiming that he was in possession of large quantities of N95 masks when, in actuality, he had none and no realistic plan to obtain any.²

A. Mr. Stewart Induced Government Officials to Award Two VA Contracts Worth \$35.6 Million Through False Pretenses

On April 4, 2020, Mr. Stewart contacted VA saying that his company had “Personal Protection Equipment on hand and ready to support the COVID-19 Pandemic.”³ Mr. Stewart claimed that he had agreements with “several major global resellers” and could provide “large quantities” of personal protective equipment (PPE) items, including N95 surgical masks, within 10 to 30 calendar days of award.⁴ This was a lie; Mr. Stewart later admitted that his company did not possess any PPE at the time of this email.⁵

Nine minutes later, VA contracting officials requested a quote for “a large supply” of N95 masks for delivery as soon as possible. That same day, Mr. Stewart offered a price of \$7.00 per N95 mask for up to 30 million masks, noting that “quantiles [sic] are on hand and ready for

² United States v. Robert S. Stewart, Jr., No. 1:21-CR-00005-RDA (E.D. Va. Feb. 3, 2021) (Stipulation of Facts) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%280%29202021.02.03%20-%20Statement%20of%20Facts%20-%20Stewart%20plea%20EDVA.pdf>); *see also* Department of Veterans Affairs, *Market Research COVID-19 PPE RFI Response* (Apr. 29, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.04.04%20-%20VA_Emails_Redacted.pdf); Department of Homeland Security, Office of Inspector General, Memorandum of Activity, *Other: Receipt of Documents Provided by Chief, Field Operations East Section, FEMA, and Contract Specialist, FEMA Region 3, Philadelphia, PA* (May 15, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.06.08%20-%20MOA%205%20Receipt%20of%20Documents_Redacted%20-%20Exhibit%205.pdf).

³ Email from Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC (Apr. 4, 2020 at 12:11 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.04.04%20-%20P02%20-%20Market%20Research%20COVID-19%20PPE%20RFI%20Response%20Redacted.pdf>).

⁴ Letter from Robert Stewart, Jr., Federal Government Experts (FGE), LLC, *COVID-19: Capability Statement to Provide Personal Protection Equipment (PPE)* (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%280%2920COVID19_PPE_RFIRESPONSE_initial%20RFI%28VHAandFEMA%29%20Dated20200404%20Redacted.pdf).

⁵ United States v. Robert S. Stewart, Jr., No. 1:21-CR-00005-RDA (E.D. Va. Feb. 3, 2021) (Stipulation of Facts) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%280%29202021.02.03%20-%20Statement%20of%20Facts%20-%20Stewart%20plea%20EDVA.pdf>); United States v. Robert S. Stewart, Jr., 1:21-CR-00005 (E.D. Va. Feb. 3, 2021) (Hearing on Plea Agreement) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/U.S.%20v.%20Stewart%2021-5%202-3-21f.pdf>).

procurement” and that “[t]he initial order for 2M N95 Mask(s) will be delivered within 10 days of award” with payment due prior to delivery.⁶

On April 5, 2020, VA officials responded to Mr. Stewart’s initial proposal, balking at the quoted price and noting that they had concerns about entering a large contract with an unknown, first-time federal contractor:

Honestly I don’t know you and I’m not going to sign up for that quantity with payment in advance without a record of performance with the market how it is right now. Do you have a letter of intent from a supplier with details of the inventory and what brand and certificates of authenticity? I’m not going to pay you \$7 a mask for your masks on hand. I’ll offer you \$4 a mask for what you have on-hand and we can go from there.⁷

That same day, Mr. Stewart told VA that he was “unable to do \$4.00 a mask as my costs are more than that” but offered a seven percent discount. He also claimed that FEMA officials had notified him that day of “their intent to purchase” two million N95 masks from his company.⁸ Mr. Stewart had also contacted FEMA in early April offering to supply PPE, and was negotiating with the two agencies concurrently.⁹ It is unclear whether FEMA had expressed an

⁶ Email from Supervisory Contract Specialist, Program Contracting Activity Central, Department of Veterans Affairs, to Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC (Apr. 4, 2020 at 12:20 p.m.) and email from Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC, to Supervisory Contract Specialist, Program Contracting Activity Central, Department of Veterans Affairs (Apr. 4, 2020 at 5:46 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.04%20-%20P02%20-%20Market%20Research%20COVID-19%20PPE%20RFI%20Response%20Redacted.pdf>).

⁷ Email from Supervisory Contract Specialist, Program Contracting Activity Central, Department of Veterans Affairs, to Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC (Apr. 5, 2020 at 6:34 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.04%20-%20P02%20-%20Market%20Research%20COVID-19%20PPE%20RFI%20Response%20Redacted.pdf>).

⁸ Email from Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC to Supervisory Contract Specialist, Program Contracting Activity Central, Department of Veterans Affairs (Apr. 5, 2020 at 6:58 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.04%20-%20P02%20-%20Market%20Research%20COVID-19%20PPE%20RFI%20Response%20Redacted.pdf>).

⁹ Email from Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC (Apr. 4, 2020 at 11:52 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.28%20-%20MOA%2010%20Interview%20of%20David%20Polaneczky%20Redacted%20-%20Exhibit%202.pdf>); *see, e.g.*, Email from Threat Analyst Unit Lead, Region Watch, Region 3, Federal Emergency Management Agency, to Client Advisor (Apr. 5, 2020 at 12:25 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.28%20-%20MOA%2010%20Interview%20of%20David%20Polaneczky%20Redacted%20-%20Exhibit%201.pdf>).

intent to purchase masks from Mr. Stewart by this point; officials did not formally request a quote until five days later.¹⁰

On April 9, 2020, after additional negotiations between himself and VA, Mr. Stewart offered to sell up to 36 million N95 masks to VA at a price of \$5.90 per mask, inclusive of shipping, handling, and freight charges¹¹—a price that was more than three times the manufacturer’s price.¹² The proposal included two photographs purporting to show the “Packaging of N95 Mask(s) on hand” that he would deliver under the contract.¹³

On April 10, 2020, VA awarded Mr. Stewart a \$35.4 million contract to supply six million N95 masks—at \$5.90 per mask—of which one million were designated specifically for VA facilities in Indianapolis, Indiana, and Cleveland, Ohio.¹⁴ The contract required Mr. Stewart to deliver the masks within 15 calendar days to a VA service and distribution center near Chicago, with payment to be made upon delivery. It included an option that would have allowed VA to purchase an additional five million masks for a total price of \$64.9 million.¹⁵

¹⁰ Email from Contracting Officer, Mission Support, Region 3, Federal Emergency Management Agency, to Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC (Apr. 10, 2020 at 11:27 a.m.) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.06.08%20-%20MOA%205%20Receipt%20of%20Documents_Redacted%20-%20Exhibit%204.pdf).

¹¹ Email from Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC to Supervisory Contract Specialist, Program Contracting Activity Central, Department of Veterans Affairs (Apr. 9, 2020 at 5:28 a.m.) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.04%20-%20VA_Emails_Redacted%20-%20Exhibit%202_Redacted.pdf); Letter from Federal Government Experts (FGE), LLC, to Contracting Officer, VHA Program Contracting Activity Central (PCAC), Department of Veterans Affairs (Apr. 9, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.09%20-%20S10%20-%20Updated%20Quote%20-%20Final%204-9-2020%20Redacted.pdf>).

¹² *How Profit and Incompetence Delayed N95 Masks While People Died at the VA*, ProPublica (May 1, 2020) (online at www.propublica.org/article/how-profit-and-incompetence-delayed-n95-masks-while-people-died-at-the-va).

¹³ Letter from Federal Government Experts (FGE), LLC, to Contracting Officer, VHA Program Contracting Activity Central (PCAC), Department of Veterans Affairs (Apr. 9, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.09%20-%20S10%20-%20Updated%20Quote%20-%20Final%204-9-2020%20Redacted.pdf>).

¹⁴ Contract No. 36E77620C0056 between Department of Veterans Affairs, Program Contracting Activity Central and Federal Government Experts, LLC (Apr. 10, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.10%20-%20C03%20-%20FGE%20Signed%20Executed%20Contract%2036E77620C0056%20Redacted_.pdf); USASpending.gov, *Definitive Contract 36E77620C0056* (online at www.usaspending.gov/award/CONT_AWD_36E77620C0056_3600_-NONE-_NONE-) (accessed on June 8, 2021).

¹⁵ Contract No. 36E77620C0056 between Department of Veterans Affairs, Program Contracting Activity Central and Federal Government Experts, LLC (Apr. 10, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.10%20-%20C03%20-%20FGE%20Signed%20Executed%20Contract%2036E77620C0056%20Redacted_.pdf); Department of Veterans Affairs, *DNF Terminate for Convenience 36E77620C0056* (Apr. 29, 2020) (online at

In an April 10, 2020, memorandum justifying the award of the sole-source contract to Mr. Stewart, VA admitted that the agency was forced to pay the company a “premium” for the masks due to the ongoing supply shortages, noting: “VA is forced to deal with suppliers or distributors whom [sic] have higher quantities compelling us to have to pay a premium for the supply.” Although VA “determined the price of \$5.90 per mask to be fair and reasonable,” the memorandum acknowledged that “[t]he Contracting Officer given the short amount of time and emergency nature of the procurement was only able to do a minimal amount of price analysis.”¹⁶

After the award of the contract, VA officials stated that they “became less and less confident” in Mr. Stewart and that “working with FGE post-award was very hard.”¹⁷ When asked for updates on the masks’ shipment, VA officials recounted that Mr. Stewart was unable to answer standard questions such as “where is the truck” or “what is the route?” and “it became like a shell game of ‘where are the masks?’”¹⁸ Mr. Stewart provided updates to VA officials about the status of the masks that were later discovered to be lies. For example, on April 15, 2020, Mr. Stewart called a VA official “to say the masks had been delivered to LAX [Los Angeles International Airport]” and requested that a VA representative come inspect the masks, but ignored requests from VA officials for photographs of the masks. The following day, Mr. Stewart asked VA to pay an additional \$1.8 million to have the masks delivered to Chicago one week early—a request that VA officials denied.¹⁹ Mr. Stewart later admitted that he did not have any masks that were delivered to the airport.²⁰

Mr. Stewart’s statements about the type and source of the masks that his company would supply also changed over time. Prior to the award of these contracts, Mr. Stewart had told VA that he was working with a supplier in China to manufacture and ship the masks to the United

https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.04.29%20-%20C40%20-%20Memo%20to%20File%20%20P00002_Redacted.pdf).

¹⁶ Department of Veterans Affairs, *Justification and Approval for Other than Full and Open Competition* (Apr. 10, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.04.10%20-%20P03%20-%20JA%20-%20COVID-19%20N95%20Masks%20-%20HCA%20Signed_Redacted.pdf).

¹⁷ Federal Bureau of Investigation, *Interview* (May 7, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.05.07%20-%20Interview_of_Donald_Marsh_Redacted.pdf); Federal Bureau of Investigation, *Interview* (May 8, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.05.08%20-%20Interview_of_Tess_Marcial_Redacted.pdf).

¹⁸ Federal Bureau of Investigation, *Interview* (May 8, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.05.08%20-%20Interview_of_Tess_Marcial_Redacted.pdf).

¹⁹ Federal Bureau of Investigation, *Interview* (May 7, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.05.07%20-%20Interview_of_Donald_Marsh_Redacted.pdf).

²⁰ United States v. Robert S. Stewart, Jr., No. 1:21-CR-00005-RDA (E.D. Va. Feb. 3, 2021) (Stipulation of Facts) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%280%29202021.02.03%20-%20Statement%20of%20Facts%20-%20Stewart%20plea%20EDVA.pdf>).

States but that he later decided to obtain the masks from a domestic supplier due to reports of foreign, counterfeit N95 masks.²¹ After the masks offered by the domestic supplier were reportedly no longer available, Mr. Stewart reached out to various distributors he thought could supply N95 masks manufactured by 3M Company (3M).²² According to VA, “the conversation shifted to masks in North Carolina, Minnesota, Missouri, and New York,” prompting one official to remark that “[t]here was no consistency in Stewart’s representations.”²³

On April 24, 2020, Mr. Stewart falsely represented to a VA official that “the masks had been intercepted by a member of Vice President Pence’s Covid19 task force.”²⁴ Mr. Stewart also lied to another VA official that FEMA had seized his shipment of 3M masks. According to that official, Acting Assistant Under Secretary Deborah Kramer “verified with the White House task force, which worked with FEMA, that nothing had been seized from the VA.”²⁵ FEMA officials asked Mr. Stewart about these claims on May 1. He denied making any such statements, saying he had no knowledge of the matter.²⁶

On April 28, 2020, Mr. Stewart told VA that he was “dealing directly with 3M” and was able to “clear the [3M] vetting process.”²⁷ A VA official later stated that he knew that this was a lie, explaining:

²¹ See, e.g., Letter from Federal Government Experts (FGE), LLC to Contracting Officer, VHA Program Contracting Activity Central, Purchase Order 36E77620C0056 – Request for FAR 52.249-24 (Apr. 24, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.04%20-%20VA_Emails_Redacted%20-%20Exhibit%203.pdf); Letter from Federal Government Experts (FGE), LLC to Contracting Officer, Mission Support, Region 3, Federal Emergency Management Agency (May 26, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.26%20-Termination%20For%20Default%20Rebuttal_Redacted.pdf).

²² *How Profit and Incompetence Delayed N95 Masks While People Died at the VA*, ProPublica (May 1, 2020) (online at www.propublica.org/article/how-profit-and-incompetence-delayed-n95-masks-while-people-died-at-the-va).

²³ Federal Bureau of Investigation, *Interview* (May 8, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.08%20-%20Interview_of_Tess_Marcial_Redacted.pdf); Federal Bureau of Investigation, *Interview* (May 7, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.07%20-%20Interview_of_Donald_Marsh_Redacted.pdf).

²⁴ Federal Bureau of Investigation, *Interview* (May 8, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.08%20-%20Interview_of_Tess_Marcial_Redacted.pdf).

²⁵ Federal Bureau of Investigation, *Interview* (May 18, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.18%20-%20Interview_of_Nathan_Turnipseed_Redacted.pdf).

²⁶ Department of Homeland Security, Office of Inspector General, Memorandum of Activity, *Personal Interview, Contracting Officer, FEMA Region 3, Philadelphia, PA* (May 21, 2020) (Online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.15%20-%20MOA%20%20Interview%20of%20Ted%20Wallace_Redacted.pdf).

²⁷ Email from Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC, to Contracting Officer, VHA Program Contracting Activity Central, Department of Veterans Affairs (Apr. 28, 2020 at 9:14 a.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.27%20->

All of 3M’s shipments are being directed to the Department of Health and Human Services, which is why the VA had to solicit outside vendors for N95 masks. Even if Stewart was working with a distributor, it would not have been one of 3M’s distributors. VA was in contact with 3M during the entire period and there was no way Stewart could have had any contact – direct or indirect – with 3M.²⁸

VA subsequently contacted 3M, which confirmed officials’ suspicion that Mr. Stewart was lying. On April 29, 2020, a VA official wrote in an internal email:

We checked the validity of statements the contractor made and the validity of attachments that stated Federal Government Experts, LLC was an “authorized reseller of 3M masks.” We contacted 3M and 3M personnel stated that Federal Government Experts, LLC was NOT an authorized reseller of 3M products. ... One lie after another with this company.²⁹

On April 29, 2020, VA terminated its contract with Mr. Stewart for convenience due to the “contractor’s inability to deliver the stated N95 Masks in the stated quantity and stated timeframe specified in the contract.”³⁰ Mr. Stewart did not receive any taxpayer dollars under this contract because he never delivered the masks.³¹

%20Program%20Office%20Concurrence%20to%20Terminate_Redacted.pdf).

²⁸ Federal Bureau of Investigation, *Interview* (May 18, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.18%20-%20Interview_of_Nathan_Turnipseed_Redacted.pdf).

²⁹ Email from Supervisory Contract Specialist, Senior Contracting Officer, Program Contracting Activity Central, Department of Veterans Affairs, to Contracting Officer, VHA Program Contracting Activity Central, Department of Veterans Affairs, et al. (Apr. 29, 2020 at 12:07 p.m.) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.27%20-%20Program%20Office%20Concurrence%20to%20Terminate_Redacted.pdf).

³⁰ Amendment/Modification No. P00002, Contract No. 36E77620C0056 between Department of Veterans Affairs, Program Contracting Activity Central and Federal Government Experts, LLC (Apr. 29, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.29%20-%20C03%20-%2036E77620C0056%20P00002_PE_Redacted.pdf); Email from Supervisory Contract Specialist, Senior Contracting Officer, Program Contracting Activity Central, Department of Veterans Affairs, to Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC (Apr. 29, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.30%20-%20Yallech%20Response%20to%20FGE%20Reply%20on%20Term_Redacted.pdf); Federal Bureau of Investigation, *Interview* (May 18, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.18%20-%20Interview_of_Nathan_Turnipseed_Redacted.pdf).

³¹ Federal Bureau of Investigation, *Interview* (May 18, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.18%20-%20Interview_of_Nathan_Turnipseed_Redacted.pdf); Federal Bureau of Investigation, *Interview* (May 8, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.08%20-%20Interview_of_Tess_Marcial_Redacted.pdf).

VA OIG opened a criminal investigation into Mr. Stewart with the Federal Bureau of Investigation (FBI) and the U.S. Attorney's Office for the Eastern District of Virginia. VA OIG also contacted the Department of Homeland Security (DHS) OIG since FEMA had by that time also awarded a contract to the company.³²

Despite this, new evidence released by the Select Subcommittee shows that VA awarded Mr. Stewart an additional \$249,900 contract for two types of N95 masks priced at \$2.99 and \$2.89 each on May 15, 2020.³³ This contract was issued by the Veterans Integrated Services Network (VISN) 7 Network Contracting Office, which is separate from the office that awarded Mr. Stewart's first contract.³⁴ Under this contract, Mr. Stewart promised to deliver 85,000 masks to the Carl Vinson VA Medical Center in Dublin, Georgia.³⁵ According to VA, this medical center was in "immediate need for PPE supplies" in support of "COVID-19 operations to ensure safety of patients and staff."³⁶

On May 4, 2020, Mr. Stewart reached out to VA using the same scheme, telling a contracting official at the Carl Vinson VA Medical Center that his company had developed a production line contract with 3M and could supply N95 masks within 12 and 17 business days after award of contract.³⁷ As in his earlier dealings, Mr. Stewart lied to VA about his

³² Department of Homeland Security, Office of Inspector General, *Records Review: Federal Government Experts LLC Contract for N95 Masks* (May 26, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.26%20-%20Robert%20Jenkins%20-%20FGE_FEMA%20Contract%20%20Docs173957_Redacted.pdf).

³³ Requisition/Purchase Req. Number 557-20-3-2007-0001, 557-A00016, Order No. 36C24720P0756 between Department of Veterans Affairs, VISN 7 Network Contracting Office and Federal Government Experts, LLC (May 15, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%283%29202020.05.15%20-%20C03%20-%2036C24720P0756_FE_Redacted.pdf); USASpending.gov, *Purchase Order 36C24720P0756* (online at www.usaspending.gov/award/CONT_AWD_36C24720P0756_3600_-NONE_-NONE-) (accessed on June 8, 2021).

³⁴ VISNs are regional systems of care within the Veterans Health Administration. VISN 7 is the regional network that manages and oversees eight medical centers and numerous clinics across Alabama, Georgia, and South Carolina. See Department of Veterans Affairs, *Locations: VISN 7: VA Southeast Network* (June 7, 2021) (online at www.va.gov/directory/guide/facility.asp?id=1007).

³⁵ Requisition/Purchase Req. Number 557-20-3-2007-0001, 557-A00016, Order No. 36C24720P0756 between Department of Veterans Affairs, VISN 7 Network Contracting Office and Federal Government Experts, LLC (May 15, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%283%29202020.05.15%20-%20C03%20-%2036C24720P0756_FE_Redacted.pdf); USASpending.gov, *Purchase Order 36C24720P0756* (online at www.usaspending.gov/award/CONT_AWD_36C24720P0756_3600_-NONE_-NONE-) (accessed on June 8, 2021).

³⁶ Federal Government Experts, LLC, *Market Research Worksheet, COVID-19 PPE Equipment – N95 Masks / 1860 & 1860s* (May 6, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%283%29202020.05.06%20-%20Market%20Research%20Wrksht%20for%20Customers_Redacted.pdf).

³⁷ Letter from Robert Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC, to Acquisition Utilization Specialist-Logistics Carl Vinson VA Medical Center (May 4, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%283%29202020.05.04%20-%20Quote%20N95%201860%20and%201860s%20Quote%205%207%2020_Redacted.pdf).

connections with 3M in relation to this contract.³⁸ After Mr. Stewart failed to deliver the 85,000 masks, VA terminated the contract for convenience on June 16, 2020.³⁹

B. Mr. Stewart Fraudulently Acquired \$3.5 Million FEMA Contract Using the Same Scheme and Never Delivered 500,000 Masks

Documents obtained by the Select Subcommittee show that on April 4, 2020, Mr. Stewart sent FEMA the same offer to supply PPE that he also sent to VA.⁴⁰ During a phone call with FEMA officials, Mr. Stewart said that he had two million masks “in a warehouse,” that 250,000 of those masks “were not spoken for,” and that he had “40 million on the way.”⁴¹ Mr. Stewart later admitted that these statements were false, because his company did not possess any PPE at that time.⁴²

On April 15, 2020, a FEMA regional office awarded FGE a \$3.5 million contract for 500,000 N95 masks priced at \$7.02 per mask, inclusive of freight and transportation.⁴³ Under

³⁸ Department of Homeland Security, Office of Inspector General, *Records Review, Senior Trademark Counsel, 3M Corporation (3M), Saint Paul, MN* (May 22, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.22%20-%20MOA%207%20Records%20Review%20Michael%20Gannon%20Email_Redacted.pdf).

³⁹ Amendment/Modification No. P00001, Requisition/Purchase Req. Number 557-20-3-2007-0001, 557-A00016, Order No. 36C24720P0756 between Department of Veterans Affairs, VISN 7 Network Contracting Office and Federal Government Experts, LLC (June 16, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%283%29202020.06.16%20-%2036C24720P0756%20P00001_Redacted.pdf).

⁴⁰ Email from Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC (Apr. 4, 2020 at 11:52 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.28%20-%20MOA%2010%20Interview%20of%20David%20Polaneczky%20Redacted%20-%20Exhibit%202.pdf>).

⁴¹ Email from Threat Analyst Unit Lead, Region Watch, Region 3, Federal Emergency Management Agency (Apr. 5, 2020 at 12:46 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.28%20-%20MOA%2010%20Interview%20of%20David%20Polaneczky%20Redacted%20-%20Exhibit%203.pdf>); *see also* Department of Homeland Security, Office of Inspector General, Memorandum of Activity, *Personal Interview, Emergency Management Specialist, Region 3, FEMA, Philadelphia, PA, and list of Documents provided* (May 28, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.28%20-%20MOA%2010%20Interview%20of%20David%20Polaneczky%20Redacted%20-%20Exhibit%204.pdf>).

⁴² *United States v. Robert S. Stewart, Jr.*, No. 1:21-CR-00005-RDA (E.D. Va. Feb. 3, 2021) (Stipulation of Facts) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%280%29202021.02.03%20-%20Statement%20of%20Facts%20-%20Stewart%20Plea%20EDVA.pdf>); *United States v. Robert S. Stewart, Jr.*, 1:21-CR-00005 (E.D. Va. Feb. 3, 2021) (Hearing on Plea Agreement) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/U.S.%20v.%20Stewart%2021-5%202-3-21f.pdf>).

⁴³ Department of Homeland Security, Office of Inspector General, Memorandum of Activity, *Records Review: Federal Government Experts LLC Contract for N95 Masks* (May 26, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.26%20-%20Robert%20Jenkins%20-%20FGE_FEMA%20Contract%20%20Docs173957_Redacted.pdf);

the contract, Mr. Stewart would receive payment after delivering the masks to a FEMA warehouse located near Philadelphia by May 4.⁴⁴ Before awarding the contract, FEMA acknowledged in internal documents that the company's price was above the average market rate for N95 masks. However, FEMA contracting officials compared the price terms against the price Mr. Stewart was charging VA under its April 10 contract (\$5.90 per mask for six million masks) and concluded that the higher quote provided to FEMA was reasonable because fewer masks were being purchased.⁴⁵

On May 1, 2020, Mr. Stewart informed FEMA officials that "he had difficulties with his 'overseas supplier,' and had changed to 3M" as his new supplier. Although Mr. Stewart did not provide details, he said that "there had been a problem with production in China and alluded to 'something' falling through."⁴⁶ Mr. Stewart requested a one-week extension on the delivery date and offered to reduce the price per mask to \$3.94 per mask to compensate for the delays—reducing FEMA's total price for the masks to \$1.97 million. FEMA agreed.⁴⁷ Although one FEMA official indicated surprise at the significant reduction in price, Mr. Stewart claimed that his company's contract with 3M required him to lower the price.⁴⁸ As noted above, these were lies, as Mr. Stewart did not have connections with 3M.⁴⁹

On May 11, 2020, Mr. Stewart called FEMA and said that one of his employees was "outside" the 3M warehouse in Tennessee waiting for 3M to confirm whether their masks were

USASpending.gov, *Purchase Order 70FBR320P00000014* (online at www.usaspending.gov/award/CONT_AWD_70FBR320P00000014_7022_-NONE_-NONE-) (accessed on June 8, 2021).

⁴⁴ Department of Homeland Security, Office of Inspector General, Memorandum of Activity, *Records Review: Federal Government Experts LLC Contract for N95 Masks* (May 26, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.26%20-%20Robert%20Jenkins%20-%20FGE_FEMA%20Contract%20%20Docs173957_Redacted.pdf).

⁴⁵ Department of Homeland Security, Federal Emergency Management Agency, *Market Research, Technical Evaluation, Price Analysis, and Recommendation* (Apr. 15, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.26%20-%20Robert%20Jenkins%20-%20FGE_FEMA%20Contract%20%20Docs173957_Redacted.pdf).

⁴⁶ Department of Homeland Security, Office of Inspector General, Memorandum of Activity, *Personal Interview, Contracting Officer, FEMA Region 3, Philadelphia, PA* (May 15, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.15%20-%20MOA%20%20Interview%20of%20Ted%20Wallace_Redacted.pdf).

⁴⁷ Department of Homeland Security, Office of Inspector General, *Records Review: Federal Government Experts LLC Contract for N95 Masks* (May 26, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.26%20-%20Robert%20Jenkins%20-%20FGE_FEMA%20Contract%20%20Docs173957_Redacted.pdf).

⁴⁸ Department of Homeland Security, Office of Inspector General, Memorandum of Activity, *Personal Interview, Chief, Field Operations East Section, FEMA, Atlanta, GA* (May 19, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.19%20-%20MOA%20%20Interview%20of%20Perry%20Toomer_Redacted.pdf).

⁴⁹ Department of Homeland Security, Office of Inspector General, *Records Review, Senior Trademark Counsel, 3M Corporation (3M), Saint Paul, MN* (May 22, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.22%20-%20MOA%20%20Records%20Review%20Michael%20Gannon%20Email_Redacted.pdf).

for FEMA⁵⁰—which he later admitted was a lie.⁵¹ During this call, Mr. Stewart requested a second extension through May 14, which FEMA granted, further reducing the contract price to \$1.87 million.⁵² After FEMA requested confirmation that Mr. Stewart was working with 3M, Mr. Stewart responded, “I have been in communication with 3M, Inc logistics and our team to coordinate delivery today,” and sent a 3M press release via email.⁵³

On May 13, 2020, Mr. Stewart emailed 3M’s CEO introducing himself for what appears to be the first time. Mr. Stewart asked to be connected with someone at 3M who could help obtain N95 masks to fulfill his company’s contract with FEMA, stating:

My request is there anyone from corporate or the distributiono [sic] (global supply chain) that can potential notify [FEMA] and Myself what is needed or how we can have the product secured and delivered to FEMA. At this time – I owe [FEMA] a clear and honest answer as his customer is in dire need of this equipment to support our first responders, more over it is an integrity situation whereby I need to honor my duty as a veteran and business owner to ensure I am doing the right thing.⁵⁴

Mr. Stewart also reached out to 3M’s CEO via LinkedIn requesting similar assistance.⁵⁵

⁵⁰ Department of Homeland Security, Office of Inspector General, *Personal Interview, Contracting Officer, FEMA Region 3, Philadelphia, PA* (May 15, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.15%20-%20MOA%202%20Interview%20of%20Ted%20Wallace_Redacted.pdf).

⁵¹ *United States v. Robert S. Stewart, Jr.*, No. 1:21-CR-00005-RDA (E.D. Va. Feb. 3, 2021) (Stipulation of Facts) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%280%29%202021.02.03%20-%20Statement%20of%20Facts%20-%20Stewart%20plea%20EDVA.pdf>).

⁵² Department of Homeland Security, Office of Inspector General, *Personal Interview, Contracting Officer, FEMA Region 3, Philadelphia, PA* (May 15, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.15%20-%20MOA%202%20Interview%20of%20Ted%20Wallace_Redacted.pdf); Department of Homeland Security, Office of Inspector General, *Records Review: Federal Government Experts LLC Contract for N95 Masks* (May 26, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.26%20-%20Robert%20Jenkins%20-%20FGE_FEMA%20Contract%20%20Docs173957_Redacted.pdf).

⁵³ Department of Homeland Security, Office of Inspector General, *Records Review: Federal Government Experts LLC Contract for N95 Masks* (May 26, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.26%20-%20Robert%20Jenkins%20-%20FGE_FEMA%20Contract%20%20Docs173957_Redacted.pdf).

⁵⁴ Email from Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC, to 3M (May 13, 2020 at 10:55 a.m.) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.06.08%20-%20MOA%205%20Receipt%20of%20Documents_Redacted%20-%20Exhibit%201.pdf).

⁵⁵ Department of Homeland Security, Office of Inspector General, Memorandum of Activity, *Other: Receipt of Documents, Chief, Field Operations East Section, Federal Emergency Management Agency, Atlanta, GA, and, Contract Specialist, FEMA Region 3, Philadelphia, PA* (June 8, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.06.08%20-%20>

On May 14, 2020, FEMA officials spoke with a representative from 3M who confirmed that the company had not started production on masks ordered by FGE.⁵⁶ That same day, Mr. Stewart told FEMA that “3M would not release the masks”⁵⁷ and asked FEMA for an extension of delivery so that he could work with another distributor:

While it appears that I’ve done nothing, I have over a million dollars of capital in this effort to deliver these masks to you. As a veteran to this country I hope that you’ll consider this request and provide me an opportunity to make good on this effort.⁵⁸

The same day, FEMA officials informed Mr. Stewart that FGE’s contract would be terminated for non-delivery.⁵⁹ After joining the investigation with VA OIG,⁶⁰ DHS OIG interviewed 3M officials on May 21, 2020, who said that FGE was not an “authorized channel [partner] of 3M in the United States” and would not have “access to any respirator products directly from 3M.”⁶¹

%20MOA%205%20Receipt%20of%20Documents_Redacted%20-%20Exhibit%202.pdf); see also Homeland Security, Office of Inspector General, *Records Review, Senior Trademark Counsel, 3M Corporation (3M), Saint Paul, MN* (May 22, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.22%20-%20MOA%207%20Records%20Review%20Michael%20Gannon%20Email_Redacted.pdf).

⁵⁶ Department of Homeland Security, Office of Inspector General, *Personal Interview, Contracting Officer, FEMA Region 3, Philadelphia, PA* (May 15, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.15%20-%20MOA%202%20Interview%20of%20Ted%20Wallace_Redacted.pdf).

⁵⁷ *Id.*

⁵⁸ Email from Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC, to Contracting Officer, Mission Support, Region 3, Federal Emergency Management Agency (May 14, 2020 at 6:13 p.m.) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.06.08%20-%20MOA%205%20Receipt%20of%20Documents_Redacted%20-%20Exhibit%203.pdf).

⁵⁹ Department of Homeland Security, Office of Inspector General, *Personal Interview, Contracting Officer, FEMA Region 3, Philadelphia, PA* (May 15, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.15%20-%20MOA%202%20Interview%20of%20Ted%20Wallace_Redacted.pdf).

⁶⁰ Department of Homeland Security, Office of Inspector General, *Records Review: Federal Government Experts LLC Contract for N95 Masks* (May 26, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.26%20-%20Robert%20Jenkins%20-%20FGE_FEMA%20Contract%20%20Docs173957_Redacted.pdf).

⁶¹ Department of Homeland Security, Office of Inspector General, *Records Review, Senior Trademark Counsel, 3M Corporation (3M), Saint Paul, MN* (May 22, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29%202020.05.22%20-%20MOA%207%20Records%20Review%20Michael%20Gannon%20Email_Redacted.pdf).

On May 26, 2020, FEMA terminated its contract with FGE for cause due to the company's failure to deliver masks by the delivery date.⁶² That same day, Mr. Stewart asked that FEMA reclassify the cancellation of the contract as a termination for convenience, saying that while "I am in full understanding that this failure to deliver is 100 percent FGE's sole responsibility," FEMA should consider his request because of "exigent and unusual circumstances."⁶³ FEMA appears to have denied this request.⁶⁴

On February 3, 2021, Mr. Stewart pleaded guilty to making false statements to VA and FEMA. He also pleaded guilty to wire fraud and theft of government funds for fraudulently obtaining more than \$1 million in loans by submitting applications containing false information to the Paycheck Protection Program and the Economic Injury Disaster Loan Program.⁶⁵ Mr. Stewart was sentenced to 21 months in prison and three years of supervised release on June 16.⁶⁶

II. VA OFFICIALS FAILED TO PERFORM SUFFICIENT DUE DILIGENCE PRIOR TO AWARDING MR. STEWART MILLIONS OF DOLLARS IN CONTRACTS

Evidence obtained by the Select Subcommittee reveals new details about how VA procurement officials failed to perform adequate due diligence before issuing contracts to Mr. Stewart—despite VA officials raising repeated concerns about Mr. Stewart's ability to perform. For example, on April 5, 2020, a VA official noted his skepticism to Mr. Stewart about entering a large contract with an unknown contractor, stating: "Honestly I don't know you and

⁶² Amendment/Modification No. P00004, Contract No. 70FBR320P00000014 between FEMA Region 03, Federal Emergency Management Agency and Federal Government Experts, LLC (May 26, 2020) (2020.04.15 - 70FBR320P00000014 P000041) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.26%20-%2070FBR320P00000014%20P000041_Redacted.pdf); Department of Homeland Security, Office of Inspector General, *Records Review: Federal Government Experts LLC Contract for N95 Masks* (May 26, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.26%20-%20Robert%20Jenkins%20-%20FGE_FEMA%20Contract%20%20Docs173957_Redacted.pdf).

⁶³ Letter from Federal Government Experts (FGE), LLC, to Contracting Officer, Mission Support, Region 3, Federal Emergency Management Agency (May 26, 2020) (2020.05.26 - Termination for Default Rebuttal (002) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.26%20-Termination%20For%20Default%20Rebuttal_Redacted.pdf).

⁶⁴ Amendment/Modification No. P00004, Contract No. 70FBR320P00000014 between FEMA Region 03, Federal Emergency Management Agency and Federal Government Experts, LLC (May 26, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%282%29202020.05.26%20-%2070FBR320P00000014%20P000041_Redacted.pdf).

⁶⁵ *United States v. Robert S. Stewart, Jr.*, 1:21-CR-00005 (E.D. Va. Feb. 3, 2021) (Hearing on Plea Agreement) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/U.S.%20v.%20Stewart%2021-5%202-3-21f.pdf>); Department of Justice, *CEO Pleads Guilty to Defrauding Multiple Federal Agencies* (Feb. 3, 2021) (online at www.justice.gov/usao-edva/pr/ceo-pleads-guilty-defrauding-multiple-federal-agencies).

⁶⁶ Department of Justice, U.S. Attorney's Office for the Eastern District of Virginia, *Press Release: Former CEO Sentenced for Defrauding Multiple Federal Agencies* (June 16, 2021) (online at www.justice.gov/usao-edva/pr/former-ceo-sentenced-defrauding-multiple-federal-agencies).

I'm not going to sign up for that quantity with payment in advance without a record of performance ... Do you have a letter of intent from a supplier ... ?”⁶⁷ In an internal email sent on April 9, the official repeated his concern about Mr. Stewart’s ability to perform but recommended moving forward on the contract, stating: “[L]et’s see if he can actually come through with product. Guy seems to be legit and serious.”⁶⁸

To vet Mr. Stewart, a VA official performed several searches of government contractor databases. In an April 5, 2020, email, the official wrote Mr. Stewart that, according to these searches, “there are no records of you having done any federal contracts,” and asked, “[C]an you provide some references for other work[?]”⁶⁹ The official further requested that Mr. Stewart provide some “information for verification” that he was “getting business from FEMA for masks.”⁷⁰ Mr. Stewart replied: “We are a new company (incorporated) in September 2018,” noting, “I have been award [sic] one prime (small contract) and rest of our work is sub k [contract].”⁷¹ Mr. Stewart attached a copy of his driver’s license.⁷² It is unclear whether Mr. Stewart provided the remaining information requested by VA, or whether VA officials performed other due diligence to confirm the information Mr. Stewart provided.

An internal VA communication confirmed that there were shortcomings during the contracting process with Mr. Stewart. Two weeks after the agency terminated its April 10, 2020, contract for convenience, VA officials sought permission to change the termination to a termination for cause, which could have affected Mr. Stewart’s ability to receive future federal contracts. Following a review of the matter by an attorney from VA’s Office of General Counsel, a VA contracting official acknowledged in a May 20 email that there were “areas we

⁶⁷ Email from Supervisory Contract Specialist, Program Contracting Activity Central, Department of Veterans Affairs, to Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC (Apr. 5, 2020 at 6:34 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.04.04%20-%20P02%20-%20Market%20Research%20COVID-19%20PPE%20RFI%20Response%20Redacted.pdf>).

⁶⁸ Email from National Director, VHA Medical Supply Program (Acting), VHA Procurement and Logistics Office (10NA2), Department of Veterans Affairs, to Supervisory Contract Specialist, Program Contracting Activity Central, Department of Veterans Affairs (Apr. 9, 2020 at 6:56 a.m.) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.04.04%20-%20VA_Emails_Redacted%20-%20Exhibit%202_Redacted.pdf).

⁶⁹ Email from Supervisory Contract Specialist, Program Contracting Activity Central, Department of Veterans Affairs, to Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC (Apr. 5, 2020 at 9:53 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.04.04%20-%20P02%20-%20Market%20Research%20COVID-19%20PPE%20RFI%20Response%20Redacted.pdf>).

⁷⁰ *Id.*

⁷¹ Email from Robert S. Stewart, Jr, Managing Director – CEO, Federal Government Experts, LLC, to Supervisory Contract Specialist, Program Contracting Activity Central, Department of Veterans Affairs (Apr. 5, 2020 at 10:00 p.m.) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29202020.04.04%20-%20P02%20-%20Market%20Research%20COVID-19%20PPE%20RFI%20Response%20Redacted.pdf>).

⁷² *Id.*

could have addressed differently” during the contracting process with Mr. Stewart. VA ultimately did not seek to change Mr. Stewart’s termination to a termination for cause.⁷³

ProPublica published a lengthy investigation into Mr. Stewart’s inability to procure N95 masks on May 1, 2020, which noted that VA had canceled its April 10 contract with Mr. Stewart, due to his failure to perform.⁷⁴ Despite this public reporting, VA’s prior decision to terminate FGE’s first contract, and the ongoing criminal investigation by VA OIG, DHS OIG, the FBI, and the U.S. Attorney’s Office for the Eastern District of Virginia, VA awarded Mr. Stewart a second contract on May 15. It is unclear whether VA performed any due diligence prior to awarding the contract.

Although no taxpayer dollars were paid to Mr. Stewart under the VA and FEMA contracts, VA officials admitted that working with Mr. Stewart was “a waste of time for the government” and cost the agency labor hours.⁷⁵ Documents obtained by the Select Subcommittee show that at least a dozen VA and FEMA officials were actively engaged in negotiating with and overseeing the management of Mr. Stewart’s contracts for approximately ten weeks during the height of the pandemic last year—valuable time they could have spent working with other suppliers who could procure PPE for their agencies.

III. THE TRUMP ADMINISTRATION’S FAILURE TO PREPARE FOR THE PANDEMIC INCREASED THE RISK OF FRAUD, WASTE, AND ABUSE BY EXACERBATING CHALLENGES

In the years leading up to the coronavirus crisis, the Trump Administration ignored multiple warnings that the federal government was unprepared to fight a pandemic.⁷⁶ For instance, the Department of Health and Human Services warned in 2017 that a massive amount

⁷³ Email from Staff Attorney, Office of General Counsel, VA Technology Acquisition Center, Department of Veterans Affairs, to Contracting Officer, VHA Program Contracting Activity Central, Department of Veterans Affairs, et al. (May 20, 2020 at 11:00 a.m.) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.28%20-%20Final%20Opinion%20Legal_Redacted.pdf).

⁷⁴ See, e.g., *How Profit and Incompetence Delayed N95 Masks While People Died at the VA*, *ProPublica* (May 1, 2020) (online at www.propublica.org/article/how-profit-and-incompetence-delayed-n95-masks-while-people-died-at-the-va); Federal Bureau of Investigation, *Interview* (May 8, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.08%20-%20Interview_of_Tess_Marcial_Redacted.pdf); Federal Bureau of Investigation, *Interview* (May 7, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.07%20-%20Interview_of_Donald_Marsh_Redacted.pdf).

⁷⁵ Federal Bureau of Investigation, *Interview* (May 18, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.18%20-%20Interview_of_Nathan_Turnipseed_Redacted.pdf); Federal Bureau of Investigation, *Interview* (May 8, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.08%20-%20Interview_of_Tess_Marcial_Redacted.pdf).

⁷⁶ See, e.g., *Before Virus Outbreak, a Cascade of Warnings Went Unheeded*, *New York Times* (Mar. 19, 2020) (online at www.nytimes.com/2020/03/19/us/politics/trump-coronavirus-outbreak.html); *Miscalculation at Every Level Left U.S. Unequipped to Fight Coronavirus*, *Wall Street Journal* (Apr. 29, 2020) (online at www.wsj.com/articles/miscalculation-at-every-level-left-u-s-unequipped-to-fight-coronavirus-11588170921).

of masks and other PPE would be needed in the event of an outbreak, but the agency failed to address shortages at the Strategic National Stockpile or ensure that domestic suppliers had sufficient manufacturing capacity to rapidly produce the PPE needed during a pandemic.⁷⁷

After the severity of the threat from the coronavirus became clear in January and February 2020, President Trump ignored urgent warnings from his advisors to take swift action to address supply shortages.⁷⁸ He also refused calls for the federal government to take a central role in procuring and distributing supplies, saying on March 19, 2020, that the federal government is “not a shipping clerk.”⁷⁹ President Trump also failed to stop exports of PPE to China until April 2020—allowing significant amounts of PPE to leave the country in the early months of the pandemic.⁸⁰

During the pandemic, skyrocketing demand for PPE and other critical medical equipment caused global supply shortages that jeopardized the health of frontline personnel, patients, their families and caregivers, and the general public.⁸¹ Due to the Trump Administration’s lack of preparedness and refusal to implement a coordinated national strategy to alleviate supply shortages, federal agencies, states, and private parties were left to fend for themselves during the early months of the pandemic.⁸² This led to fierce competition on the open market for limited supplies—resulting in increased prices and a rush to award contracts to unvetted suppliers as

⁷⁷ *5 Ways the Trump Administration Fell Short of Its Own Pandemic Goals*, Politico (online at www.politico.com/interactives/2020/trump-pandemic-goals/) (accessed on June 15, 2021); Department of Health and Human Services, *Pandemic Influenza Plan 2017 Update* (June 2017) (online at www.cdc.gov/flu/pandemic-resources/pdf/pan-flu-report-2017v2.pdf).

⁷⁸ Memorandum from Peter Navarro through NSA O’Brien to the President, *Move in ‘Trump Time’ to Stay Ahead of Virus Curve* (Mar. 1, 2020) (PHLOW_SSCC_0017388 – 97) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0017388_Redacted.pdf); *Navarro Memos Warning of Mass Coronavirus Death Circulated in January*, Axios (Apr. 7, 2020) (online at www.axios.com/exclusive-navarro-deaths-coronavirus-memos-january-da3f08fb-dce1-4f69-89b5-ea048f8382a9.html).

⁷⁹ *‘We’re Not a Shipping Clerk’: Trump Tells Governors to Step Up Efforts to Get Medical Supplies*, Politico (Mar. 19, 2020) (online at www.politico.com/news/2020/03/19/trump-governors-coronavirus-medical-supplies-137658).

⁸⁰ See, e.g., *Miscalculation at Every Level Left U.S. Unequipped to Fight Coronavirus*, Wall Street Journal (Apr. 29, 2020) (online at www.wsj.com/articles/miscalculation-at-every-level-left-u-s-unequipped-to-fight-coronavirus-11588170921); *U.S. Exported Millions in Masks and Ventilators Ahead of the Coronavirus Crisis*, USA Today (Apr. 2, 2020) (online at www.usatoday.com/story/news/investigations/2020/04/02/us-exports-masks-ppe-china-surged-early-phase-coronavirus/5109747002/).

⁸¹ See, e.g., *Health Care Workers Still Face Daunting Shortages of Masks and Other P.P.E.*, New York Times (Dec. 20, 2020) (online at www.nytimes.com/2020/12/20/health/covid-ppe-shortages.html); Department of Veterans Affairs, Office of Inspector General, *Reporting and Monitoring Personal Protective Equipment Inventory During the Pandemic* (Feb. 24, 2021) (online at www.oversight.gov/sites/default/files/oig-reports/VA/VAOIG-20-02959-62.pdf).

⁸² Select Subcommittee on the Coronavirus Crisis, *Hearing on the Administration’s Efforts to Procure, Stockpile, and Distribute Critical Supplies* (July 2, 2020) (online at <https://coronavirus.house.gov/subcommittee-activity/hearings/administration-s-efforts-procure-stockpile-and-distribute-critical-0>).

quickly as possible. These conditions created a heightened risk of fraud, waste, and abuse of taxpayer resources.⁸³

Documents obtained by the Select Subcommittee show that due to VA’s urgent need to obtain life-saving PPE during the pandemic and the widespread competition to obtain limited supplies, VA expedited awards of multimillion-dollar contracts to unvetted suppliers with minimal diligence. For example, an April 29, 2020, memorandum from VA explained that the agency had a “dire need” for N95 masks, which justified “immediately” awarding the first contract to Mr. Stewart without delay:

Due to the COVID-19 global pandemic creating a dire need for medical equipment, the VA’s need for N95 NIOSH [National Institute for Occupational Safety and Health] Masks for delivery as soon as possible to prevent the spread of the COVID-19 infection to patients and staff within the VA Healthcare system was extremely urgent. As the quantity required was high and the delivery was required urgently, it was critical the requirement be awarded immediately to provide care to our Veterans. Delay of an award would result in serious injury or death to the Veteran public.⁸⁴

In its justification for awarding Mr. Stewart a second contract, VA wrote on May 19, 2020, that officials were “utilizing unconventional means of market research” to identify potential suppliers of PPE, which was “desperately needed” and “becoming more of a challenge everyday to locate and procure.” The agency’s justification explained that it was necessary to award contracts for PPE “as quickly as possible,” stating:

[A]ny vendor provided as a lead from contracting or other sources is being contacted immediately to determine availability of stock. Once a vendor has been identified, the purchase needs to be made as quickly as possible, as we are competing with every other medical facility locally and nationwide for the exact same supplies.⁸⁵

As VA’s Inspector General has recognized, “the need for expedited contracts for medical supplies and other life-saving resources”—coupled with “the challenges of monitoring billions of dollars in pandemic-related emergency spending” and “the ingenuity and speed exhibited by bad actors”—created “a trifecta of high-risk conditions” that increased the risk of fraud, waste, and

⁸³ Congressional Research Service, *COVID-19 and Domestic PPE Production and Distribution: Issues and Policy Options* (Dec. 7, 2020) (R46628) (online at <https://crsreports.congress.gov/product/pdf/R/R46628>).

⁸⁴ Department of Veterans Affairs, *DNF Terminate for Convenience 36E77620C0056* (Apr. 29, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.04.29%20-%20C40%20-%20Memo%20to%20File%20%20P00002_Redacted.pdf).

⁸⁵ Department of Veterans Affairs, *Justification for Single Source Awards IAW FAR 13.106-1 for Over Micro-Purchase Threshold but Not Exceeding the SAT (\$250K), COVID-19 PPE Equipment – N95 Masks/ 1860 & 1860s* (May 19, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%283%29%202020.05.19%20-%20Open%20Market%20Justification%20for%20PPE_Redacted.pdf).

abuse during the pandemic.⁸⁶ Like Mr. Stewart, many bad actors tried to take advantage of the pandemic by seeking large supply contracts that they knowingly could not fulfill.⁸⁷ One high-level VA contracting officer who approved the termination of Mr. Stewart's first contract told the FBI in June 2020 that he was personally involved in "about fifteen investigations" related to potentially fraudulent contracts awarded during the pandemic, noting: "The level of foolishness during COVID-19 had become pure ridiculousness."⁸⁸

In a new report released this week, the Government Accountability Office (GAO) found that VA processed "a historically high percentage of contract actions to deobligate funds" during the pandemic. From March 2020 through May 2021, VA initiated 892 contract actions to deobligate \$398 million of the \$4.6 billion in total funds that were obligated related to the pandemic—a significant increase compared to the five preceding years. VA's termination of Mr. Stewart's \$35.4 million contract was only the second-largest deobligation made by the agency as of August 2020. A senior VA procurement official told GAO that the agency was not fully prepared to address the number of vendors that attempted to "exploit the [pandemic] situation."⁸⁹

Congress must ensure that federal agencies have sufficient resources and take necessary steps to prevent such widespread fraud, waste, and abuse from happening in the future. Mr. Stewart's ability to easily acquire multimillion-dollar contracts highlights the need for VA, FEMA, and other agencies to review and close gaps in their diligence processes related to procurement. Federal agencies also must address longstanding supply chain management issues that predated the pandemic. As an initial matter, agencies that have significant needs for PPE and other critical medical supplies must be well prepared and have supplies stockpiled in advance of the next pandemic, so that they are not so vulnerable to supply shortages and the heightened risk of fraud, waste, and abuse that results therefrom. Although GAO added VA's acquisition management to its High-Risk List in 2019, GAO reported that VA has made limited progress in addressing these challenges in the intervening years. An effective medical supply

⁸⁶ Committee on Veterans' Affairs, Subcommittee on Oversight & Investigations, Testimony of Inspector General Michael Missal, Department of Veterans Affairs, Office of Inspector General, *Hearing on the Pandemic and VA's Medical Supply Chain: Evaluating the Year-Long Response and Modernization* (Mar. 24, 2021) (online at <https://docs.house.gov/meetings/VR/VR08/20210324/111332/HHRG-117-VR08-Wstate-MissalM-20210324-U3.pdf>); see also Department of Veterans Affairs, *Fiscal Year 2020 Agency Financial Report* (Nov. 24, 2020) (online at www.va.gov/finance/docs/afr/2020VAafrFullWeb.pdf) (noting that "the pandemic is creating novel opportunities for bad actors, particularly because of the need to facilitate rapid purchases of essential goods and services.").

⁸⁷ Department of Veterans Affairs, *Fiscal Year 2020 Agency Financial Report* (Nov. 24, 2020) (online at www.va.gov/finance/docs/afr/2020VAafrFullWeb.pdf) ("As VA has struggled to expand its supply chain fast enough to curtail the spread of COVID-19, many companies—some nefarious and some neophytes—have sought contracts for PPE and other medical supplies worth millions of dollars that they cannot fulfill. Some of these potential fraudsters have been identified by VA leaders and referred to the OIG, underscoring the challenges for VA to be vigilant in a chaotic environment.").

⁸⁸ Federal Bureau of Investigation, *Interview* (May 18, 2020) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/%281%29%202020.05.18%20-%20Interview_of_Nathan_Turnipseed_Redacted.pdf).

⁸⁹ Government Accountability Office, *VA COVID-19 Procurements: Pandemic Underscores Urgent Need to Modernize Supply Chain* (June 15, 2021) (GAO-21-280) (online at www.gao.gov/assets/gao-21-280.pdf).

chain—delivering the right item or service, at the right time, to the right place, at the right cost—would help ensure that VA is prepared for future public health emergencies, and that it is positioned to provide quality care to the veterans it serves every day.⁹⁰

⁹⁰ Government Accountability Office, *VA Acquisition Management: Comprehensive Supply Chain Management Strategy Key to Address Existing Challenges* (Mar. 24, 2021) (GAO-21-445T) (online at www.gao.gov/assets/720/713430.pdf).