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National

In coronavirus scramble for N95 masks, Trump administration pays premium to third-party vendors

By Isaac Stanley-Becker, Desmond Butler and Nick Miroff
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The Trump administration has awarded bulk contracts to third-party vendors in recent weeks in a scramble to obtain N95 respirator masks, and the government has paid the companies more than $5 per unit, nearly eight times what it would have spent in January and February when U.S. intelligence agencies warned of a looming global pandemic, procurement records show.

The N95 masks are essential protective gear for health-care workers and others at elevated risk of coronavirus infection, and the government has recommended that people across the country wear masks and other face coverings when outside. Demand for the masks has created a frenzied, freewheeling global market that has pitted U.S. states against the federal government and rich nations against poorer ones.

Administration officials leaped into the fray late, then embarked on a voracious spending spree. Though U.S. federal agencies made a small number of relatively modest purchases before the second half of March, the government has ordered more than $600 million worth of masks since then.

Large U.S. companies such as Honeywell and 3M have received the biggest orders, but the Trump administration also has signed high-dollar deals with third-party vendors selling masks for many times the standard price.

The Federal Emergency Management Agency awarded a $55 million contract for N95s this month to Panthera Worldwide LLC, which is in the business of tactical training. One of its owners said last year that Panthera's parent company had not had any employees since May 2018, according to sworn testimony.

It also has no history of manufacturing or procuring medical equipment, according to a review of records produced as a result of legal disputes involving the company and its affiliates.

Panthera Worldwide's parent company filed for bankruptcy last fall, and the LLC is no longer recognized in Virginia — where it has its main office — following nonpayment of fees, which according to Virginia code results in "the existence of a limited liability company" being "automatically canceled."

James V. Punelli, one of the company's executives, said he is working his military contacts to obtain the masks.

"We've done DoD medical training over the years and through those contacts with that community were brought sources of supply in order to assist in the COVID-19 response," Punelli said in a text message to The Washington Post, referring to the Defense Department. "We made the connection with FEMA and offered these supplies to them."

Asked about delivery of the masks, Punelli said: "We will provide these masks before May 1 for certain, in full and with a very high-quality product." He said the company is registered as an LLC in Delaware and allowed its Virginia registration to lapse "because we're not doing business in Virginia."

According to its website, Panthera offers "elite training and mission support" for the U.S. military and other agencies. But in 2018, it entered into a 42-year lease handing over its principal asset — a 750-acre training facility in West Virginia — to a separate company that now operates the site. The facility features a mock village for training exercises in anti-terrorism and tactical operations.

EXHIBIT
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"They don't have masks. They're not in that line of business," said Robert Starer, a Virginia businessman who leased the training center from Panthera's owners. "Is it possible that they have a relationship with someone in the world who could provide those masks? Who knows."

Starer is now suing the company's two executives — Punelli and Raymond C. Jones — alleging they overstated the extent of their contracts and customer base, resulting in financial losses for his company. In a complaint filed in Virginia's Hanover County Circuit Court, Starer alleges that the two men misrepresented "estimated revenue" as "actual cash payments . . . based on existing contracts," causing him to suffer cash losses in 2018 and 2019. Punelli and Jones have not responded to the lawsuit, according to an attorney who represents Starer.

Jones did not respond to requests for comment. Punelli said of the lawsuit, "Those frivolous claims are being addressed in due course."

The FEMA contract with Panthera, which was awarded without competitive bidding, has a start date of April 1, according to a summary. Lizzie Litzow, a FEMA spokeswoman, said the Panthera contract is for 10 million masks, adding, "Panthera is not a manufacturer, they are a distributor of N95 masks."

The price that FEMA is paying Panthera per mask, about $5.50, is significantly higher than what the government pays companies such as 3M, which charges as little as 63 cents per N95 mask, with an average cost of about $1.50 for more advanced models, according to a price index. Prestige Ameritech, the largest domestic mask manufacturer, is charging FEMA about 80 cents per mask for the government's order of 12 million N95 respirators, part of a $9.5 million contract that started April 7.

Beyond the premium the federal government is paying to Panthera, the decision to award a contract to an insolvent organization with no apparent expertise in the given field struck experts as unusual.

"Something is amiss there," said Chuck Hagel, a former defense secretary and Republican senator from Nebraska. "This is not how the government procures training or any type of supplies. You just wouldn't do business with somebody like that."

In its bankruptcy filing, Panthera Enterprises estimated that it had as many as 99 creditors and said its liabilities could be as high as $50 million. Punelli said Panthera Worldwide "has no significant debt," but both companies are jointly owned by him and Jones and use the same facilities, according to court records.

Founded as TenX Group in 2011, the parent company is incorporated in Delaware but has its primary office in Leesburg, Va., according to court records. It has received a handful of federal contracts in recent years, primarily for training exercises such as "high-risk driving," according to a contract summary from 2018. But Punelli said in sworn testimony in October 2019 that the subsidiary now under contract with FEMA — focused primarily on "activities outside the country" — was bringing in no income. "Not right now," he told a U.S. attorney who asked whether there were any earnings.

Litzow, in response to questions about FEMA's contract with Panthera, said the agency is "bound by law to follow federal acquisition requirements and processes" and did so in this case. "Per these federal acquisition requirements and processes, the Contracting Officer conducted a contractor responsibility determination."

The Department of Health and Human Services began gathering information on global supplies of N95s in January and posted a formal notice Feb. 24 to companies that it was preparing to place large orders, according to a department spokeswoman. On March 21, HHS bought 600 million N95s from five companies, with the largest orders going to 3M and Honeywell.

If the U.S. government had attempted to make large purchases before then, it would have thrown global markets out of whack, according to Stephanie Bialek, a spokeswoman assigned to the agency's Strategic National Stockpile.

"It is never the intent of the SNS to disrupt the supply chain when supply is able to meet demand, even if demand is high," she said. "Making large government purchases at that time likely would have disrupted supplies."

Among members of the public, too, demand for masks has climbed, as the Centers for Disease Control and Prevention has recommended that Americans wear masks and face coverings when in public. On Wednesday, Gov. Andrew M. Cuomo (D-N.Y.) said he would issue an executive order requiring them for all New York residents.

Purchasing records show the Trump administration has placed at least $628 million worth of orders for masks in recent weeks. HHS has placed more than $400 million in mask orders, and the Department of Veterans Affairs has placed orders worth about $82 million.

One of the biggest buyers is FEMA, which has transformed itself into the supply chain manager for the White House coronavirus task force. The agency proposed a deal in recent weeks to obtain an additional 114 million N95 masks from Nutratrade Australia, whose website says it specializes in bulk shipments of grains, dairy products and other foodstuffs. The FEMA proposal was for $591 million worth of N95 masks, at an average cost of $5.19 per mask, according to documents obtained by The Washington Post.

The agency said late Wednesday that it does not have a contract with Nutratrade Australia. A representative for Nutratrade reached Wednesday declined to respond to questions about the proposed contract.

FEMA is importing most of the medical supplies through a process the Trump administration calls "Project Airbridge," and uses chartered cargo flights to slash delivery times and steer shipments directly to hospitals.

The government pays the cost of the flights, but it hands over approximately half of the supplies to large private medical supply companies, which then distribute them to their clients, according to FEMA.

Critics of the arrangement say it amounts to a lavish giveaway to the private companies, but administration officials say they are just trying to get badly needed supplies to hospitals as quickly as possible.

"All the traditional procurement rules are out the window," said Rick Grimm, executive director of the National Institute of Governmental Purchasing, which trains and advises state and local governments on procurement. Grimm said that when the market is unstable, it can invite price manipulation or the possibility "you may end up with an inferior product you can't use."

Jennifer Ehrlich, a spokeswoman for 3M, said the company has not raised its prices and has taken aggressive legal action against vendors selling its products at a significant markup. The company is planning to increase its output from about 1.1 billion masks per year to 2 billion during the next 12 months, Ehrlich said.

The company has filed several lawsuits within the past week against companies it says have been engaged in price-gouging and fraudulent sales, including one company that tried to sell 45 million 3M masks to New York City officials at bloated prices and another that tried to sell "tens of millions of likely nonexistent 3M N95 respirators at grossly inflated prices to the federal Division of Strategic National Stockpile, all the while falsely affiliating itself with 3M."

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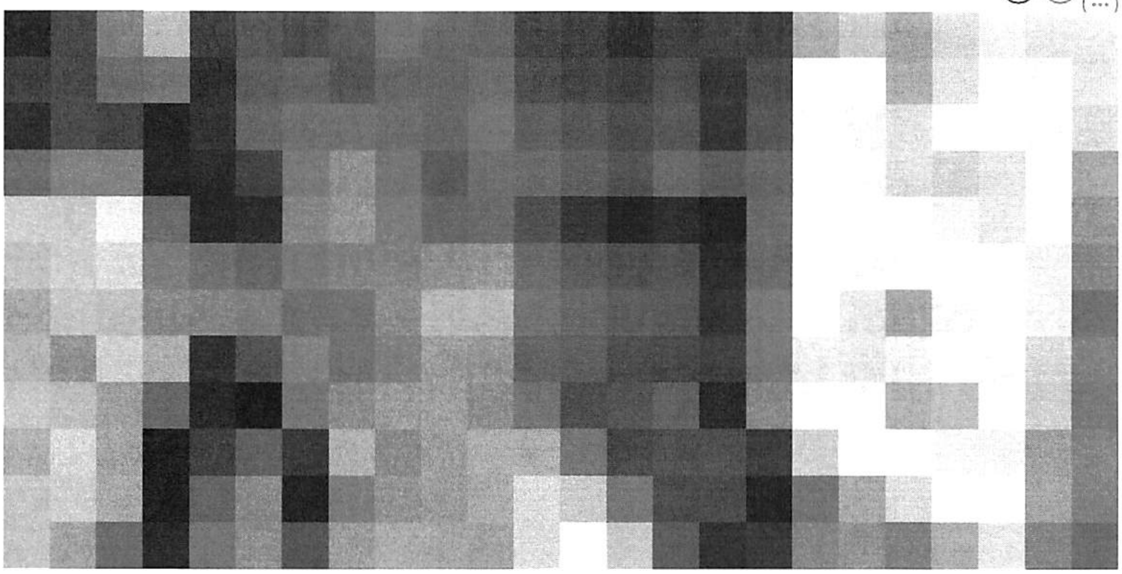
The Trump administration paid a bankrupt company with zero employees $55 million for N95 masks, which it's never manufactured

John Haltiwanger



A pharmacy offering N95 face masks in New York City. Reuters

The Trump administration has awarded a $55 million contract for N95 masks to a company with no experience producing medical supplies and whose parent company filed for bankruptcy protection last year.

The Federal Emergency Management Agency told Insider that the company, Panthera, is scheduled to deliver the masks on April 23.

Former Defense Secretary Chuck Hagel told The Washington Post that something was "amiss" about this order.

The Centers for Disease Control and Prevention recommends that people cover their mouth and nose

Panthera's parent company filed for bankruptcy protection last fall, and one of its owners last year said it'd had no employees since May 2018, The Post reported, citing sworn testimony. It's no longer listed as an LLC in Virginia, where its main office is, after fees went unpaid, the newspaper said.

Panthera, which describes itself as a tactical training company for the US military and other government agencies, has no record of producing medical supplies or equipment, The Post said.

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The company's website says it "provides elite, scenario-based tactical, aviation and intelligence training and instruction for Defense Department, State Department, Federal Agency and Law Enforcement teams who operate in sensitive environments worldwide, to enable those teams to meet their mission goals and requirements."

Panthera's executives are being sued by a Virginia businessman who leased the company's primary asset, a training facility in West Virginia, The Post reported.

James V. Punelli, one of Panthera's executives, told The Post that the company was working with military contacts to obtain the masks.

"We've done [Department of Defense] medical training over the years and through those contacts with that community were brought sources of supply in order to assist in the COVID-19 response," Punelli said in a text message to The Post. "We made the connection with FEMA and offered these supplies to them."

"We will provide these masks before May 1 for certain, in full and with a very high-quality product," Punelli said, adding that the company is registered as an LLC in Delaware.

The Post reported that the Federal Emergency Management Agency was paying Panthera about $5.50 per mask, decidedly more than what the government pays companies with an established background in producing medical supplies such as 3M, which charges about $0.63 per mask.

An N95 respirator made by 3M, which was contracted by the US government to produce extra masks in response to the country's novel coronavirus outbreak. Reuters

Chuck Hagel, a former defense secretary, told The Post something was "amiss" about this order. "This is not how the government procures training or any type of supplies," he said. "You just wouldn't do business with somebody like that."

A FEMA representative told Insider that there was nothing in the standard background checks conducted in relation to government contracts that indicated Panthera "isn't responsible."

"As with any contract, FEMA is bound by law to follow Federal Acquisition requirements and processes. Per these Federal Acquisition requirements and processes, the Contracting Officer conducted a contractor responsibility determination. The Federal Awardee Performance and Integrity Information System (FAPIIS) was examined and Panthera met the necessary requirements. The company did not appear on the Excluded Parties List System (EPLS)," FEMA said, adding that a review did not find Panthera showing "any delinquent federal tax (of more than $3,500) in the last three years."

"FEMA does not enter into contracts unless it has reason to believe they will be successfully executed. The required review led us to conclude that Panthera would able to deliver on their contract," the representative said. "As with any contract if the company cannot deliver or delivers sub-standard product, the agency can use legal means against a company."

The representative said that the ordered equipment hadn't arrived yet but that Panthera had provided written confirmation that the masks were in the shipping phase of delivery. The delivery is scheduled for April 23.

Since mid-March, the government has purchased more than $600 million worth of masks, according to The Post.

The Centers for Disease Control and Prevention recommends that people cover their mouth and nose with a cloth when they're around others but says to "not use a facemask meant for a healthcare worker."

Gov. Andrew Cuomo said this week that residents in New York, which has been hit hardest by the coronavirus outbreak in the US, will be required to wear masks or face coverings in public when it's not possible to follow social-distancing guidelines.

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U.S. Pays High Prices for Masks From Unproven Vendors in Coronavirus Fight

Average price for masks from vendors offering quick delivery is close to $6 apiece, roughly six times the list price

The Trump administration, under fire for its slow response to the coronavirus pandemic, has ordered 600 million N95 masks from major producers.

PHOTO: MICHAEL DWYER/ASSOCIATED PRESS

By Mark Maremont, Austen Hufford and Tom McGinty

April 18, 2020 10:00 am ET

The federal government, scrambling to find N95 masks to protect health-care workers from coronavirus infection, has placed more than $110 million in mask orders at high prices with unproven vendors, according to a Wall Street Journal review of federal contracting data.

Of the more than 20 million N95 masks the government ordered for full delivery by the end of May, at least 80% were ordered from suppliers that either had never done business with the federal government or had only taken on small prior contracts that didn't include medical supplies, according to the data.

Some of the vendors already have missed delivery deadlines or have backed out because of supply problems. The parent company of one supplier is in bankruptcy and its owners have been accused of fraud in lawsuits by multiple business partners.

The average price the government agreed to pay for masks from vendors offering quick delivery is close to $6 apiece, roughly six times the list price but in line with the current market rate. Most of the orders were placed with no-bid contracts, federal databases show. The government generally doesn't pay for goods until they are delivered.

The Trump administration, under fire for its handling of the novel coronavirus pandemic, has signed more than $3 billion in pandemic-related contracts recently. That includes orders for 600 million N95 masks from major established producers like 3M Co. and Honeywell International Inc. for less than $1 each. Those orders stretch out until late 2021 but are starting to trickle in.

3M and other manufacturers are also selling many masks to hospitals through their normal distribution networks. Major vendors like these have previously been vetted and have shown their ability to deliver.

A Trump administration spokeswoman didn't immediately respond to a request for comment.

Meanwhile, the N95 masks, which block 95% of very small particles, including droplets that may contain the coronavirus, are in short supply. That has spawned a marketplace full of middlemen, counterfeits and new entrants sensing large profits.

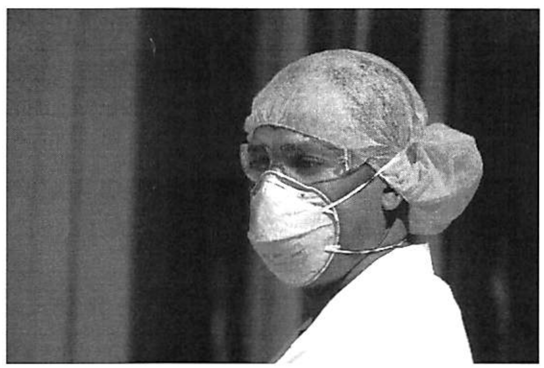
One of the companies trying to navigate this market is more than a week behind on its original April 8 contractual deadline to deliver 785,000 N95 masks for about $7 each, including shipping and distribution costs, to the Department of Veterans Affairs.

The company's president, Bernard Wright Jr., was posting messages on LinkedIn as recently as a few days ago, seeking masks from people claiming to have them. "I am looking to procure 3M N95," he wrote last week. "Needs to be in stock in the US."

The VA has a face mask shortage and is only providing N95 masks to some workers, the Journal reported. "It's late. I know it's late. But there are things I just can't control," Mr. Wright said in an interview. "The VA is not happy with the speed of how things are going."

VA Secretary Robert Wilkie, when asked about the contract Friday, said, "I'm not going to comment on any particular case," adding that he updates the Federal Emergency Management Agency regularly with the department's needs.

Mr. Wright said his firm, Wright Consultants & Associates LLC, usually gets contracts to renovate government hospitals. He signed the $5.5 million contract with the VA on April 1. He said he thought it would be simple to buy masks through his normal network of suppliers. Instead he has been stymied by sellers that don't really have high-quality masks or who jack up the price, he said.



N95 masks, which block 95% of very small particles, including droplets that may contain the coronavirus, are in short supply.

PHOTO: BRENDAN MCDERMID/REUTERS

"It's a market that has been infiltrated by a lot of fraudulent activities and fraudulent personnel," he said.

He said his firm is buying only 3M masks that are in the U.S. Mr. Wright said he recently found a supply and is now working to get them delivered to his warehouse.

The Justice Department on April 10 arrested a Georgia man on charges that he attempted to sell the VA millions of nonexistent masks and other protective gear. Investigators said they are pursuing similar cases against others.

Many local governments and hospitals also are turning to unconventional suppliers and paying rich prices for masks amid the coronavirus pandemic. New York City has cut deals with about 1[illegible] companies to supply face masks, according to city contracting data. Two-thirds of them have no recent history of working with the city.

Market players say demand is so brisk that being even a few minutes late with payment can result in products going to somebody else.

The VA has a face mask shortage and is only providing N95 masks to some workers.
PHOTO: MIKE SEGAR/REUTERS

"The mask comes at 9 o'clock off the truck. At 9:10, in about 10 minutes, it's gone. Like crack and cocaine," said Mohamed Shafeek, a mask broker in Miami who claims to have facilitated the sale of more than four million masks this week alone.

In some ways, the deals are normal: Lawyers make contracts and set up escrow accounts for funds. In the current crisis, however, mask sellers typically provide buyers with a "proof of life" video that shows their warehouse, the date and the goods, Mr. Shafeek said.

Bill Childs, a lawyer for 3M, said vendors have flocked to government contracting agents because "that's where the money is." 3M has filed lawsuits against prospective mask sellers, accusing them of trying to sell to government officials at high prices while pretending to be associated with 3M.

One of the largest federal mask contracts went to a small Virginia company, Panthera Worldwide LLC, which has no history in the mask business and some red flags in its owners' backgrounds.

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In a no-bid contract, Panthera agreed to provide 10 million N95 masks to the Federal Emergency Management Agency for $55.5 million, promising delivery by May 1, according to federal contracting data.

Panthera's parent company is in bankruptcy. Its two owners have been accused of fraud in lawsuits by business associates—which the owners deny—and both had IRS tax liens filed against them in 2018 for alleged unpaid taxes.

"I'm flabbergasted that a contract of that size went to these guys," said Douglas Kahle, a Virginia attorney suing the company's owners for fraud on behalf of a business associate. "It's hard to imagine the government did any sort of due diligence or vetting."

James V. Punelli, a Panthera co-owner, said the entity supplying the masks isn't in bankruptcy and has a successful history as a government contractor. He called the fraud allegations "false and frivolous" and said a lawsuit filed in 2018 was settled "to our satisfaction" on confidential terms.

"We had a very reliable, high-quality source of these surgical masks through our DoD contracting relationships and we will provide these masks before May 1 for certain," he said. He said the company won't discuss sourcing details, but will make a partial shipment to FEMA next week.

FEMA said it has the supplier's word that the masks are genuine. "No advance payments have been made" to Panthera, a FEMA spokeswoman said. "Payment will not be made until FEMA receives, inspects and accepts the shipment of masks."

The mask shortage has spawned a marketplace of new entrants sensing potential profits.
PHOTO: JUSTIN LANE/SHUTTERSTOCK

As for due diligence, the spokeswoman said FEMA followed standard federal rules for acceptable contractors, and found no issues with Panthera. Among those rules: Contractors are supposed to have "a satisfactory record of integrity and business ethics" and "adequate financial resources to perform the contract," according to federal contracting regulations.

Panthera's parent company operated a security-training facility in West Virginia that had some small federal contracts, according to government contracting databases, but ran into financial trouble and filed for bankruptcy last year.

Panthera Worldwide, the entity that won the big FEMA contract, is listed in federal databases as having one prior federal contract, for which it was paid $50,000.

Panthera has told FEMA the masks are in the process of being shipped from the Netherlands, the spokeswoman said. Panthera's contract was reported earlier in the Washington Post.

A $14.7 million VA contract for two million N95 masks was canceled earlier this month, after the first-time federal contractor said its Chinese supplier backed out.

Claire Coder, chief executive of the contractor, a menstrual-products firm called Aunt Flow Corp. in Columbus, Ohio, said her supplier informed customers in late March that exports were being blocked by the Chinese government.

"We called the VA and let them know immediately," Ms. Coder said. "That was our rise-and-fall in the N95 mask business." She said the VA modified the contract to buy 250,000 lower-tech surgical masks from her company for 96 cents each, delivered Wednesday. Similar surgical masks typically sold for less than 20 cents each before the pandemic, but prices for those also have surged.

The largest N95 mask contract given out by the VA, for an initial $35.4 million, was signed at the end of March with a two-year-old company that operates out of a small office in a Washington suburb.

Federal Government Experts LLC agreed to provide the VA six million masks for $5.90 apiece by April 25, with potential for another five million masks at the same price at a later date, for a total of $64.9 million, according to federal contracting data.

"I'm getting ready to step on a Boeing 737 to bring the masks to the VA," said CEO Robert Stewart Jr., reached by phone on Thursday, where he said he was at the Port of Los Angeles about to go through customs. "I'm looking at a few million masks right now."

According to Mr. Stewart's resume, he was a Pentagon contracting official for many years, until leaving for the private sector in 2018.

Federal contracting data shows Mr. Stewart's company also has a deal to provide FEMA with $3.5 million of N95 masks. The company isn't listed in government databases as having any prior federal contracts before the Covid-19 pandemic.

—Ben Kesling contributed to this article.