

City of New York
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

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VIA ELECTRONIC MAIL

January 31, 2022

Hon. David C. Banks
Chancellor
New York City Public Schools
Department of Education
52 Chambers Street, Room 314
New York, NY 10007

Re: SCI Investigation into the Ordering, Receipt,
Inventory, and Distribution of Personal Protective
Equipment by the Department of Education in
Response to the Covid-19 Pandemic
SCI Case #: 2020-3984

Dear Chancellor Banks:

The Office of the Special Commissioner of Investigation (“SCI”) conducted a self-initiated investigation into the manner in which Personal Protective Equipment (“PPE”) is being ordered, received, inventoried, and distributed by the New York City Department of Education (“DOE”) in response to the Covid-19 pandemic.

I. Background

In response to the Covid-19 pandemic, it was announced on March 16, 2020, that New York City schools would close. Initially, there was an anticipated reopening date of April 20, 2020. On April 11, 2020, however, it was announced that schools would remain closed for the remainder of the 2019-2020 school year. The onset of the pandemic created a drastic and sudden increase in the need for PPE items at DOE buildings, specifically masks, gloves, hand sanitizer, disinfecting wipes, and cleaning supplies. The DOE responded to this need using vendors with contracts, which pre-existed the pandemic, to supply PPE items and to provide trucking services to deliver these PPE items to DOE facilities. Initially, PPE items – many of which had never been required by DOE facilities – were ordered, received, and distributed centrally through the DOE Division of School Facilities (“DSF”) and its distribution centers located in each borough. As the pandemic matured and vendors were able to incorporate PPE items – many of which had initially been special-order items – into their regular catalogs, DOE facilities gained the ability to

order these items directly through the DOE's Financial Accounting Management Information System ("FAMIS"), as they would with most other supplies.

II. PPE Ordering and Distribution Process:

a. Process of the Division of School Facilities

The DSF "is primarily responsible for the maintenance, repair, and the safe, efficient operation of all facilities under the jurisdiction of the City of New York's school system. Currently, there are over 1,300 buildings that make up the Department of Education infrastructure."¹ DSF Director of Field Operations Philip Napolitano ("Napolitano") detailed to SCI investigators the procedure by which DSF purchases PPE items in response to the Covid-19 pandemic. DSF procures PPE items through DSF-contracted vendor Strategic Distribution Inc. ("SDI"), as well as the New York City Department of Citywide Administrative Services ("DCAS"). DSF began contracting with SDI in the early 2000s, with various subsequent contract extensions. DSF has two contracts with SDI – one for custodial supplies and another for mechanical maintenance. Although DSF has opened Requests for Bids ("RFBs") for the custodial supplies contract, SDI has been the only vendor able to meet the requirements of that contract. An RFB is presently open for both the custodial supply and mechanical maintenance contracts. In anticipation of the spread of the Covid-19 pandemic, DSF began ordering PPE items from SDI in late February/early March 2020, initially beginning with cleaning supplies, but later expanding to masks, gloves, gowns, etc. in late May/early June 2020.

Napolitano explained that PPE items were originally non-catalog items for SDI, so when DSF requested PPE items from SDI, SDI took bids from three vendors/distributors that could provide the non-catalog PPE items.² SDI then provided DSF with samples of the products from each vendor/distributor and DSF approved the items for SDI to purchase. In some instances, only one vendor was able to provide the quantity of PPE items required, rendering the three-bid process impossible. Napolitano was not sure how many times this happened. All PPE items provided to schools were approved by DSF first. Initially, SDI was able to have some PPE items delivered directly to individual schools, but most were delivered to the central DSF facility on Vernon Boulevard in Queens and unloaded there. DSF created a distribution list for the DSF trucking department, who reloaded the PPE items on their trucks and delivered them to individual schools. DSF maintains a master list of all PPE items ordered, delivered, and distributed to the schools. The amount of PPE items that each school received was determined solely by DSF based on the size and enrollment of each school.

Napolitano told SCI investigators that everything ordered from SDI, and paid for by DSF, was received. The only issue was the sheer bulk of PPE items ordered, which resulted occasionally in SDI being unable to provide all the PPE items requested from one particular vendor for a specific item, though SDI was ultimately able to provide the requested quantities of the specific items from multiple vendors.

¹ Accessed from <https://www.opt-osfns.org/nycdsf/dsf.aspx#page=aboutus> on October 25, 2021.

² "Catalog items" are items readily available from a vendor from a known supplier and listed with stated prices in the vendor's catalog. "Non-catalog" items are not readily available from a vendor, so a supplier and price must be determined through a bidding process.

In anticipation of the reopening of schools for in-class learning for the 2020-2021 school year, DOE Office of the First Deputy Chancellor (“OFDC”) published the “2020-21 School Year Reopening Playbook for Principals” on August 10, 2020, which was provided to school principals and superintendents. Schools were advised that DSF would maintain a budget to purchase PPE items for the schools and advised that school staff should request PPE items from their custodian engineer, who was responsible for maintaining the school’s PPE inventory and requesting further PPE items from DSF.

On August 25, 2020, DSF published a circular titled “2020-21 School Year Re-Opening Plan,” which was distributed to custodian engineers. This circular sets general procedures and practices for cleaning and disinfecting school buildings. The circular also states that all custodian engineers will be provided at least one electrostatic disinfectant sprayer for this purpose. Additionally, the circular states that PPE items will be centrally funded and provided to schools, and lists what PPE items will be provided. A “School Purchasing Update” from OFDC dated August 31, 2020, informed schools that PPE items and Covid-19-related cleaning supplies would be centrally funded and that schools were not expected to use their own budget to purchase these items. The Update also notes that principals are not prohibited from using their own funds to purchase additional supplies.

An “Updated Guidance on Distribution of Health and Safety Supplies to Schools” from OFDC dated September 3, 2020, informed schools that they would be provided a 30-day supply of PPE items and cleaning supplies free of charge which could be replenished by the school’s custodian engineer. This document also lists the type of PPE items that will be provided, and in some instances, what PPE items will be provided to certain staff members (e.g., N95 masks will be provided to school nurses).³

It should be noted that although it appears there was no written guidance provided from DSF to custodian engineers from March 16, 2020 to August 25, 2020, Napolitano told SCI investigators that as PPE deliveries were being received at DSF headquarters and being shipped to schools before the written guidance, he would regularly inform the relevant DSF Borough Director which custodian engineers should be expecting deliveries. The DSF Borough Directors would then inform the custodian engineers to expect the deliveries.

On October 8, 2020, DSF published a circular titled “Personal Protective Equipment Distribution Program,” which was provided to custodian engineers. This circular states that, as of October 8, 2020, custodians can order PPE items directly from DSF vendor SDI through FAMIS, and that custodians should have a 30-day supply of PPE items on hand at each school. Additionally, this circular lays out guidelines for what PPE items are available for whom, and guidelines for the intended uses of the PPE items.

Napolitano told SCI investigators that the DSF PPE borough distribution sites are still active for emergency resupply. According to Napolitano, DSF has never provided guidance to individual schools regarding the storage, inventory, or distribution of PPE items at the school level.

³ There was some confusion before this guidance was issued. In September 2020, Brooklyn North Executive Superintendent Karen Watts reported to SCI that administrators at P.S. 376K, P.S. 75K, and P.S. 299K had provided a supply list of PPE items to families of students who would be attending class in person. These PPE items included masks, hand sanitizer, disinfecting wipes, cleaning supplies, and isopropyl alcohol. A subsequent letter to the families informed them to disregard the supply list because all PPE items would be supplied by the city. That case (SCI Case #: 2020-3689) was incorporated into this case.

In addition to SDI, Napolitano explained that, at the beginning of the Covid-19 pandemic, some PPE items – specifically N95 masks – were supplied by DCAS, who had existing stockpiles. In this situation, requests were submitted by email from Napolitano to DCAS Chief of Staff to the Deputy Commissioner of the Office of Citywide Procurement Lawrence Siegel (“Siegel”). Upon DCAS approval, PPE items were delivered to the DSF headquarters at Vernon Boulevard, where they were unloaded and reloaded by the DSF trucking department for distribution to individual schools.⁴ All schools received PPE items from DCAS, specifically N95 masks for school nurses.⁵

SCI investigators spoke with Siegel who said that in the early stages of the Covid-19 pandemic, DCAS and DSF coordinated to ensure that they were not competing against each other in procuring PPE items given that the production and supply chain for such items was in disarray at the time. Siegel added that DCAS typically has a three to six month supply of items that they distribute. If needed by DSF, the PPE items were delivered directly to DSF headquarters at Vernon Boulevard. Siegel said that, as the Covid-19 pandemic progressed, DCAS would assist DSF in procuring items that DSF had trouble attaining, specifically N95 masks. Siegel added that DCAS also performed the same duties for many other city agencies.

DSF Deputy Director of Facilities Management Services Louis Fevola (“Fevola”) told SCI investigators that at the beginning of the Covid-19 pandemic, there was no inventory control at the Vernon Boulevard facility because of the pace of incoming and outgoing deliveries of PPE items. Deliveries would be received and immediately loaded on trucks for delivery to individual schools. Fevola outlined the inventory control system that had been developed. After the PPE items arrived at DSF, DSF Deputy Director of Field Operations Mark Voros (“Voros”) would send Fevola and DSF Supervisor of Trucking Harry Lalousis (“Lalousis”) a distribution list itemizing what PPE items each school would be receiving. Lalousis and DSF Construction Laborer Jeff Winn broke the distribution list down by zip code and developed individual trucking routes. Once the trucking routes were established, two copies of the “run sheet” were printed – one was kept with the trucking department and the other was given to the truck driver. Once the PPE items were delivered to the schools, the DOE employee receiving the PPE items signed the run sheet, which was then returned to the trucking department for proof of delivery. Fevola provided SCI investigators with copies of the signed run sheets. Fevola said that two trucking companies – Triple Crown Maffucci Storage Corp. (“Triple Crown”) and NY Go Express Inc. (“Go Express”) – are contracted to deliver PPE items. Between the two companies, 25-30 trucks completed deliveries daily starting in late February/early March 2020. If one of the contracted companies was unable to complete a day’s scheduled deliveries, a DSF trucker would complete them using one of DSF’s own trucks. DSF attempted to have SDI deliver PPE items directly to schools themselves at the onset of the Covid-19 pandemic, but SDI was unable to handle the volume of deliveries with the number of trucks they had available. Fevola said there were five PPE distribution centers located in each borough inside DOE

⁴ Prior to the Covid-19 pandemic, the DSF trucking department was not responsible for delivering any newly-ordered items to DOE locations, but was used for restructuring (transporting furniture and equipment between DOE facilities) and removing bulk waste (e.g., electronics) from DOE facilities for disposal at DSF headquarters.

⁵ According to DOE Director of Nursing Gail Adman (“Adman”), N95 masks are not daily use items and should only be used when the nurse is providing aerosolized treatments to students, when they are in contact with a potentially exposed student, or when they are in the school’s isolation rooms. Adman added that, for N95 masks to be effective, the nurses must be fit tested for their masks, and that the majority of nurses had already completed a N95 fit check prior to the Covid-19 pandemic.

facilities with available storage space to house excess PPE items that could be signed for by school custodians to replenish their schools' PPE supply.

SCI investigators spoke with the six DSF Borough Directors.⁶ Queens Borough Director Hugh DiDonna ("DiDonna") told SCI investigators that early in the Covid-19 pandemic, he or one of his deputy directors would receive and approve email requests from custodians for cleaning supplies from DSF headquarters at Vernon Boulevard, which was also the Queens PPE distribution site. When he was notified by DSF personnel at Vernon Boulevard that deliveries of PPE items were ready to be delivered, DiDonna or one of his deputies would inform the custodians to expect the deliveries at their schools. DiDonna said that PPE storage and distribution at the school level is determined by the individual school's custodian and principal. He added that all schools should be in possession of a 30-day supply of PPE items, and that the individual schools are responsible for determining the "burn rate" of PPE items at their schools. DiDonna also said that any custodial staff member could pick up PPE items from the Queens PPE distribution site at the direction of the custodian engineer.

Staten Island DSF Borough Director Anthony Salvadore ("Salvadore") told SCI investigators that, upon notification from DSF headquarters, he would inform his custodians to expect deliveries of PPE items and directed them to obtain receipts for whatever PPE items were delivered. He would also hold a weekly video meeting with deputy directors and custodians to ensure that each school had an adequate supply of PPE items. Salvadore said that the Staten Island PPE distribution Center is located at the Petrides Complex on Ocean Terrace. Early in the Covid-19 pandemic, custodians would pick up PPE items at the Staten Island distribution center on a supply and demand basis, which did not allow them to keep an inventory. As the turnover rate at the Staten Island distribution center slowed, they were able to keep an inventory. Salvadore provided SCI investigators a running inventory list for the distribution site. Salvadore said that the process required the custodian to email the distribution center and copy the DSF deputy director of facilities for the district. After approval, the custodian was able to pick up the PPE items. He said that any custodial staff member could pick up PPE items from the Staten Island PPE distribution site. Salvadore added that the storage and distribution of PPE items at the school level is determined by each individual school's custodian and principal.

Brooklyn North DSF Borough Director Joseph Lazarus ("Lazarus") told SCI investigators that he would be notified by DSF headquarters when schools would be getting deliveries of PPE items and would then notify the custodians at the individual schools to expect the deliveries. The Brooklyn North distribution site is at Boy's and Girl's High School on Fulton Street. Early in the Covid-19 pandemic, a small percentage of PPE items were made available for pick-up by custodians on a walk-in basis, but later custodians first had to submit an email request to the distribution site that required approval prior to pick-up. Lazarus said that custodian engineers picked up PPE items from the Brooklyn North PPE distribution site, but other custodial staff members may accompany them if assistance was needed.

Brooklyn South DSF Borough Director Mark Harri ("Harri") told SCI investigators that PPE items were shipped to schools from DSF headquarters. He would correspond with DSF headquarters, and then he or a deputy director would inform the school custodians to expect deliveries. Harri said that the Brooklyn South distribution site is at P.S. 239 on Neptune Avenue, and that the custodian at P.S. 239 was

⁶ Brooklyn is divided into two zones: Brooklyn North and Brooklyn South.

responsible for receiving deliveries and adding the PPE items to the inventory. Harri and his six deputy directors are in charge of the distribution site. Harri said that a custodian would make a request for PPE items to a deputy director, who then approved the request and scheduled a time to meet the custodian at the distribution site. He said that any custodial staff member could pick up PPE items from the Brooklyn South PPE distribution site, but it was typically the custodian engineers. Harri said that the turnover rate for PPE items was so rapid in the early days of the Covid-19 pandemic that the inventory focused mainly on more expensive items, such as air purifiers. He also said that there was a list of which custodians had visited the site, but the list may not accurately reflect what PPE items had been picked up by each custodian.⁷

Bronx DSF Borough Director Jean DelGrosso (“DelGrosso”) told SCI investigators that early in the Covid-19 pandemic there was some disorganization regarding deliveries made directly to schools by UPS or FedEx without the knowledge of the custodial staff. For deliveries by DSF, DelGrosso notified custodians to expect deliveries. The Bronx distribution site is located at the DSF borough office on Zerega Avenue and had an inventory system in place from the beginning of the pandemic. When a custodian needed to pick up PPE items from the distribution site, they were required to sign-out any PPE items they were receiving. She said that any custodial staff member could pick up PPE items from the Bronx PPE distribution site.⁸

Manhattan DSF Borough Director John Rodriguez (“Rodriguez”) told SCI investigators that he would correspond with DSF headquarters regarding requests for PPE items, and then he or a deputy director would inform the school custodians to expect deliveries. The Manhattan PPE distribution site is at the Martin Luther King, Jr. Educational Complex on Amsterdam Avenue. The custodial engineer of that complex keeps an inventory of the PPE items available, but to Rodriguez’s knowledge, there was no log of which custodians picked up what PPE items due to the high turnover rate at the distribution site. Rodriguez said that there was no specific plan regarding how custodians would request PPE items from the distribution site, but it would usually be initiated by a phone call or email from the custodian engineer. Any member of the custodial staff could pick up PPE items, but it was usually the custodian engineer.⁹

SCI investigators reviewed an audit report from the Office of the Comptroller (“Comptroller”) titled “Audit Report on the Safety Measures Implemented by the New York City Department of Education in Response to the Covid-19 Pandemic.” This audit report found that the “DOE has identified specific benchmarks for establishing whether schools have met the DOE’s standards for being open for in-person instruction and developed procedures for its school-based personnel to meet those benchmarks. However, overall, DOE has not produced sufficient evidence that it can reasonably ensure that the agencies’ Covid-19 procedures, particularly those relating to cleaning, disinfection, and air quality, are being carried out on a consistent basis....” The audit report found that the DOE PPE items were considered “necessary supplies” to safely maintain in-person instruction, and the procedures to ensure schools had adequate PPE items included maintaining a 30-day supply of PPE items at each school and having each school’s custodian engineer respond to a weekly survey regarding their PPE inventory. To expand on that, the

⁷ Harri provided SCI investigators with an inventory list for the distribution site.

⁸ DelGrosso provided SCI investigators with an inventory list for the distribution site and a list of PPE items signed-out by custodian engineers.

⁹ Rodriguez provided SCI investigators with the distribution site inventory list.

audit found that the DOE determined that DSF deputy directors may conduct spot checks at the school level to ensure that each school had a 30-day supply and, therefore, ensure compliance with this procedure. Lastly, the audit found that DOE/DSF management's expectation is that the DSF deputy directors are familiar with their monitoring responsibilities and are carrying them out. The audit noted that DSF was unable to identify which schools had been visited by DSF deputy directors and when they were visited. The audit suggested that DSF consider establishing a set schedule for DSF deputy directors to visit the schools assigned to them and a mechanism to ensure these visits are made. The DOE responded to this suggestion by stating that DSF deputy directors are a secondary line of supervision as the custodian engineer of the school is primarily responsible for ensuring that they and their staff fulfill their maintenance duties.

b. Process of the Office of Food and Nutrition Services

The DOE Office of Food and Nutrition Services ("OFNS") is responsible for providing meals to students in the New York City school system. OFNS Assistant Director of Capital Projects Zachary Elkort ("Elkort") told SCI investigators that OFNS orders PPE items for workers at the school level – specifically masks because OFNS had already provided workers with gloves and cleaning supplies. Elkort said that site managers can order masks from the OFNS catalog, which would be delivered from the OFNS warehouse in Long Island City by an OFNS-contracted trucking company.

SCI investigators spoke with OFNS Warehouse Director Carey Liebman ("Liebman") who said that in March/April 2020, OFNS began ordering masks from OFNS-contracted vendor SDI. Liebman said that this ordering was not done in conjunction with DSF. He added that in mid-April 2020, OFNS also began procuring masks from the NYC Office of Emergency Management Services. OFNS provides masks for school-level workers as well as OFNS feeding hubs, which are community-based food banks.

Liebman said that at the beginning of the Covid-19 pandemic, the number of masks that were distributed to each OFNS site was determined by the size of the site and the amount of people served by the site, but also had to take into account the number of masks OFNS had access to at the time. Liebman added that, once the initial deliveries of masks were complete, OFNS school managers could place orders for masks from the OFNS catalog to restock. Liebman provided SCI investigators with the OFNS distribution list for masks for the initial deliveries. He said that masks were delivered to OFNS sites by OFNS-contracted vendor A1 Trucking, who had already been contracted with OFNS prior to the Covid-19 pandemic to make deliveries to schools of typical OFNS supplies. Upon delivery of these masks, an OFNS employee at the school would sign for the delivery and would be provided with a receipt for their records. Liebman said that deliveries were not exclusively for PPE items, but also other routine OFNS items.

c. SCI Survey of Random Schools

SCI investigators interviewed staff at 26 randomly selected schools throughout New York City to ascertain their processes for ordering, storing, and distributing PPE items for their respective schools. SCI

investigators spoke with administrative staff, custodial staff, nursing staff, and food service staff at those schools.¹⁰

SCI investigators spoke with administrative staff at 24 schools – mostly principals, but sometimes assistant principals. Of all the administrative staff asked, almost 22% had made purchases of PPE items in addition to what was supplied by DSF. None of the administrative staff responding received outside grants or donations for PPE items. Staff members were required to sign out PPE items at only 30% of the schools surveyed, and only 20% of those asked kept a distribution sheet to track PPE items given to staff members. Almost 88% of administrative staff asked created an inventory sheet to track PPE items. At only approximately 22% of schools asked were teachers required to keep track of PPE items at the classroom level.

SCI investigators spoke with custodial staff at 19 schools. None of them reported any PPE items ever having gone missing or any instance of an employee having stolen PPE items. All of them had moved to directly ordering PPE items through FAMIS as opposed to through DSF as had been done earlier in the Covid-19 pandemic. Almost 74% of custodial staff asked had visited a DSF PPE borough distribution site at some point during the pandemic. When custodians were asked if the custodian personally confirmed the receipt of all PPE items delivered, all of those asked replied that they did. Approximately 21% of the custodians asked were given receipts by the truckers delivering the PPE items. PPE items were stored in a locked room at almost all of the schools surveyed, but only about 54% of those asked kept a running inventory of PPE items at the school.¹¹ Only about 17% of custodial staff asked reported changing their process for ordering, storing, and distributing PPE items during the pandemic.

Nursing staff at 19 schools were questioned specifically about N95 masks.¹² All were asked whether they had been provided N95 masks in preparation for the 2020-2021 school year, and all answered that they had. Approximately 82% of the nursing staff asked said they were personally fitted for N95 masks. Of the nurses asked whether the N95 masks were stored in a locked area, all replied that they were. None of the nurses asked had run out of N95 masks at any point. None of the nurses asked reported that school staff had requested an N95 mask. None of the nurses asked said that any N95 masks had gone missing.

Food service staff were interviewed at 21 schools. They overwhelmingly received PPE items from OFNS and not from the school. Only one school's food service staff responded that they received PPE items from the school and not OFNS. Ninety percent of food service staff asked told SCI investigators that PPE items for food staff were stored in a locked area. None of the food service staff at schools asked

¹⁰ SCI investigators were unable to speak to staff from each department (i.e., administrative, custodial, nursing, and food service) at each school. Further, not all staff at all schools were asked each question in the survey, so the percentages indicated are based on the total number of schools asked a particular question.

¹¹ Only one custodian reported that PPE items were not kept in a locked room. That custodian told SCI investigators that PPE items were stored in the auditorium because that was the only space large enough to store them. The custodian said the auditorium was not locked, but no one used the auditorium and the entrance was located directly in front of school safety officers, and the school was operating remotely at the time SCI investigators conducted the interview.

¹² Of the 19 nurses interviewed by SCI investigators, four were employed directly by DOE, nine were employed by the New York City Department of Health and Mental Hygiene and assigned to their respective schools, five were employed by private firms under contract to DOE, and one apparently did not provide employment information.

said that the procedure for ordering and storing PPE items had changed during the Covid-19 pandemic. Approximately 88% of food service staff asked kept an inventory of PPE items for food staff.

d. PPE Theft Investigations by SCI

SCI has received six complaints of theft of PPE items from DOE facilities since the beginning of the Covid-19 pandemic.¹³ SCI substantiated theft of PPE items by DOE employees in two cases. SCI did not substantiate theft of PPE items in the other four investigations.¹⁴

In the first substantiated complaint, SCI found that New York City Office of School Support Services Cleaner Mohamed Mozeb (“Mozeb”), assigned to Public School 140 in Manhattan, removed several boxes of N95 masks, hand sanitizer, and gloves from the locked office of the School Safety Commanding Officer without authority or permission.¹⁵ Mozeb, who had a key to the office, removed the items on April 13, 2020 – the same day the school received a shipment of PPE items. Mozeb returned some of the masks and gloves, but denied taking any hand sanitizer. Mozeb was arrested by officers of the New York City Police Department (“NYPD”) and issued a Desk Appearance Ticket, but the New York County District Attorney declined to prosecute the case.

In the second substantiated complaint, SCI made findings against several DOE employees who were present and/or employed at Herbert H. Lehman High School and Bronx Collegiate Academy, both located in the Bronx.¹⁶ Specifically, SCI substantiated that Teacher Charis Britt, Teacher Donald Amell, Paraprofessional Norma Chavez, and Substitute Teacher George Romero improperly removed PPE items from the Lehman Recreation Center on April 10, 2020.¹⁷ All four were caught on video removing items from the site director’s office, which doubled as a storage room for PPE items. The items – which included masks, face shields, hand sanitizer, gloves, disinfecting wipes, protective gowns, and tissues – had a total value of \$232.00. Though a complaint was made with the NYPD, no criminal charges were ultimately filed.

III. Vendor Contracts

a. The Department of Education’s Centrally-Managed Personal Protective Equipment Contracts in General

SCI investigators spoke with DOE Senior Executive Director of the Division of Contracts and Purchasing (“DCP”) Charlotte Hamamgian (“Hamamgian”) who provided SCI investigators with a list of the following vendors who supplied PPE items –among other things – as part of DOE’s centrally managed contracts:

¹³ None of the schools involved in these investigations were included in the survey of random schools.

¹⁴ The four unsubstantiated complaints alleged thefts of PPE items at Intermediate School 211 in Brooklyn (SCI #: 2020-2298), Explorations Academy High School in the Bronx (SCI #: 2020-4340), Theatre Arts Production Company School in the Bronx (SCI #: 2021-0580), and Richmond Hill High School in Queens (SCI #: 2021-1186).

¹⁵ SCI submitted its findings in this investigation (SCI #: 2020-2557) in a letter to the Chancellor dated December 8, 2020.

¹⁶ SCI submitted its findings in this investigation (SCI #: 2020-2534) in a letter to the Chancellor dated October 12, 2021.

¹⁷ Allegations of wrongdoing were made regarding several other employees. However, those allegations were investigated and, ultimately, unsubstantiated.

- Chase Office Supplies,
- Delta Education LLC,
- Fastenal Company,
- Savoy Medical Products LLC,
- School Specialty Inc.,
- SDI,
- Staples Contract & Commercial LLC,
- State of New York (to provide cleaning supplies), and
- United Supply Corp.

Hamamgian gave SCI investigators copies of all vendor contracts for vendors providing PPE items to DOE. The vendor contracts include:

- four with SDI,
- one with Triple Crown,
- one with Go Express,
- three with United Supply Corp.,
- one with the State of New York d/b/a Corcraft,
- one with Staples Contract & Commercial LLC,
- one with School Specialty Inc.,
- one with Savoy Medical Products LLC,
- three with Delta Education LLC,
- one with Fastenal Company,
- one with APPCO Paper & Plastics Corp., and
- one with Chase Office Supplies Ltd.

Hamamgian said that there was a threshold of \$15,000 at which point certain bidding requirements begin, but this only applied to bidders not already contracted by DOE. When a purchase order is uploaded into the DCP system, the system automatically requires certain documents to be uploaded once a bidding threshold has been activated. The thresholds are based solely on dollar amounts and not the quantity of items sought. Any purchase order exceeding \$25,000 requires that a formal contract be registered with the Comptroller. Hamamgian also provided SCI investigators with a spreadsheet containing 565 individual purchase orders placed directly by schools with a variety of vendors, all below \$25,000 with no contract attached to them.

b. Vendor Strategic Distribution Inc.

DSF Director of Contracts and Technical Services Stephen Valente (“Valente”) explained to SCI investigators that DSF drafts a request for proposals (“RFP”) for contracts like the one awarded to SDI and provides the RFP to DCP. DCP then vets the contract through its legal department, publishes the RFP, and awards the contract to one of the responding vendors. Valente then manages the contract on behalf of DSF, including payment to the vendor.

DSF Deputy Director of Materials Management Jason Zotos (“Zotos”) told SCI investigators that the contract with SDI had two main parts – maintenance materials and custodial equipment. Zotos estimated that the maintenance materials portion of the contract was worth about \$20 million, and the custodial equipment portion of the contract was worth about \$40 million. He estimated that the total cost of PPE items ordered from SDI by DSF in response to the Covid-19 pandemic was an additional \$50 million. Zotos was unsure if any contract increases with SDI were required to order the PPE items.

Zotos explained that he and the three employees he supervised were responsible for receiving SDI invoices and reconciling them item by item with supporting documentation to ensure that what was ordered from SDI was paid for and received. He said that, since DSF began ordering PPE items from SDI, only two line items on an invoice lacked documentation and SDI provided a credit for each on the next order. Zotos had no direct knowledge of any mark-ups added by SDI, but said that mark-ups were typically 12% to 17%. He could not say if mark-ups applied by SDI were always clearly shown to DSF.¹⁸

In an email chain between DOE Deputy Auditor General Todd Middler (“Middler”) and Office of the Comptroller Audit Supervisor Sharifa Gow-Jones reviewed by SCI investigators, Middler said that there had been no changes to the contract that DOE had with SDI as a result of the Covid-19 pandemic, nor was there an updated price list for cleaning supplies procured through the contract. Middler also said that items were added or removed from the catalog used by schools to make orders for their respective schools on May 21, 2020 – some directly related to the Covid-19 pandemic, some based on regular market forces. Items were also added on October 7, 2020, which were directly related to the Covid-19 pandemic.

SCI investigators spoke with SDI Vice President of Maintenance and Repair Operations Lori Kaufman (“Kaufman”). Kaufman said that she had a conference call with about 15 people on March 12, 2020, including DSF Director of Field Operations Napolitano, DSF Deputy Director of Field Operations Voros, and DSF Executive Director John Shea. During this call, DSF requested that SDI order hand sanitizer and cleaning supplies. Cleaning supplies were already part of the SDI catalog, so the request only increased the quantity needed at the fixed catalog price. Hand sanitizer, however, was a non-catalog item for SDI at the time, so she contacted multiple manufacturers for price quotes. Kaufman provided the quoted prices to DSF for approval prior to ordering. SDI now has four brands of hand sanitizer in the catalog to combat any supply chain issues.

Regarding non-catalog items, Kaufman said that SDI would obtain at least three bids, provide DSF with samples of each product and the quoted prices, and select the lowest bid. She said that SDI does not pay up front for these items. She also said that there were instances when manufacturers or suppliers could not meet the demand for the quantity of masks and disinfecting wipes requested, so multiple manufacturers or suppliers had to be used. SDI was unable to purchase N95 masks (which had been a catalog item prior to the Covid-19 pandemic) during the early stages of the pandemic, so they had to obtain bids for surgical masks. Multiple bids were accepted to meet the quantity needed. SDI now has a stockpile of approximately one million masks at their warehouse, allowing them to be a catalog item. Similarly, Clorox disinfecting wipes were a catalog item prior to the Covid-19 pandemic, but Clorox made the

¹⁸ Zotos provided SCI investigators a complete list of invoices from SDI and spreadsheets listing what PPE items were ordered by DSF.

decision to sell them only to hospitals when the Covid-19 pandemic began. SDI had to take bids from multiple suppliers and manufacturers to provide the desired quantity of disinfecting wipes. The decision to use multiple manufacturers was a joint decision between SDI and DSF to ensure that no supply chain issues were encountered.

Kaufman was unsure if there was a cap on mark-ups for non-catalog items in the SDI contract with DSF. The mark-up on PPE items ranged from 9% to 17%, and Kaufman estimated that the average mark-up was 9.7%. She said that the mark-up was usually a set amount, but if DSF requested that SDI break up and repackage an item into specific amounts, then an additional mark-up of 2% would be applied due to the additional labor involved. In the event that SDI shipped PPE items directly to DOE facilities using their own trucks, SDI would apply the freight shipping cost to the total price of the PPE items being delivered.

Kaufman said that SDI provided the following PPE items to DOE in response to the Covid-19 pandemic:

- hand sanitizer,
- hand sanitizer dispensers,
- electrostatic backpack sprayers,
- hypochlorous acid tablets for the electrostatic backpack sprayers,
- masks (child- and adult-sized),
- face shields,
- hospital gowns,
- thermometers,
- air quality monitors, and
- floor decals and signage.

SCI investigators reviewed an audit report from the Comptroller titled “Audit Report on the Department of Education’s Monitoring of Its Custodial Supplies Contract with Strategic Distribution Inc.” The audit report, dated June 30, 2021, found that the “DOE had no evidence that it performed price analyses to assess whether it paid reasonable prices for catalog items” provided to the DOE by SDI. Furthermore, the audit found that the “contract specifies that all SDI catalog item prices must include SDI’s profit, overhead and other cost associated with SDI’s performance of the contract,” but SDI reports only a single price for each item in its catalog, inclusive of all costs and profit. While the audit determined the aforementioned deficiencies in the DOE’s management of the SDI contract, it should be noted that in regards to PPE items procured by the DOE through SDI, PPE items were not included in SDI’s catalog during the onset of the Covid-19 pandemic, and the supply chain for procuring PPE items early on in the pandemic would not have allowed accurate pricing analyses anyway given the PPE shortage.

c. Comparison of Payments to Vendor Strategic Distribution Inc. Pre-Covid-19 and Post-Covid-19

DSF Deputy Director of Materials Management Zotos provided SCI investigators with the amount paid to vendor SDI in the six months prior to the onset of the Covid-19 pandemic in March 2020, and the six months including and after March 2020. From September 2019 through February 2020, SDI was paid \$15,926,052 to provide custodial supplies and PPE items to DOE facilities. From March 2020 through August 2020, SDI was paid \$57,786,241 to meet the drastically increased need for these items. Thus, as the main supplier of custodial supplies and PPE items to DOE facilities, SDI earned 3.6 times more to supply these items in the six months after the Covid-19 pandemic began than they earned in the six months leading up to the pandemic.

d. Vendor Triple Crown

SCI investigators received the “DCP Request for Authorization to Contract with Triple Crown Maffucci Storage Corp.” (“RFA”) from DCP Director of Compliance and Investigations Daphnie Agami. The RFA noted that Triple Crown was contracted for a period of five years for an estimated annual amount of \$358,584 and an estimated 5-year total of \$1,792,670 to provide “moving and the relocation of classroom and office furniture, and equipment services in DOE schools and administrative buildings.” The RFP “consisted of five Aggregate Classes (“ACs”), each covering a geographical area: AC 1 was the Bronx (Districts 7-12); AC 2 was Queens (Districts 24-30); AC 3 was Manhattan (Districts 1-6); AC 4 was North Brooklyn (Districts 13-16, 19, 23, 32); and, AC 5 was South Brooklyn and Richmond (Districts 17, 18, 20, 21, 22, 31). A total of 16 bids were received.” AC 1-4 were awarded through prior RFAs to vendors other than Triple Crown. The lowest bidder for AC 5 was actually Flatbush Moving Van Company, whose bid was approximately \$27,000 lower than Triple Crown, but they had to withdraw their bid due to an unrelated obligation with the Board of Elections.

e. Comparison of Payments to Vendors Go Express and Triple Crown Pre-Covid-19 and Post-Covid-19

DSF Deputy Director of Finance Steven Kassan (“Kassan”) provided SCI investigators with the amount paid to trucking vendors Triple Crown and Go Express in the six months prior to the onset of the Covid-19 pandemic in March 2020, and the six months including and after March 2020.¹⁹ From September 2019 through February 2020, Go Express was paid \$262,305 to provide trucking services to DOE facilities. From March 2020 through August 2020, Go Express was paid \$918,369 to meet the increased need for their trucking services. From September 2019 through February 2020, Triple Crown was paid \$11,771 to provide trucking services to DOE facilities. From March 2020 through August 2020, Triple Crown was paid \$1,601,911 to meet the increased need for their trucking services. Thus, Go Express earned 3.5 times more in the six months after the Covid-19 pandemic began than they earned in the six months leading up to the pandemic, and Triple Crown earned 136 times more in the same period

¹⁹ It should be noted that, prior to the Covid-19 pandemic, Go Express was responsible for bulk waste pickups from DOE facilities, while Triple Crown was responsible for restructuring (i.e., moving items such as furniture and equipment between DOE facilities).

than they had in the six months before the pandemic. Total trucking expenditures between the two vendors rose from \$274,076 to \$2,520,280 – an almost tenfold increase.

Deputy Director Kassan said that the vendors were paid by the truckload – Go Express earned \$603 per load, while Triple Crown earned \$650 per load (except for loads, which required additional re-packaging and sorting, for which Triple Crown earned \$770 per load).

f. Review of PPE Contracts by SCI

SCI investigators reviewed four centrally managed DOE contracts that related to the procurement and distribution of PPE items in response to the Covid-19 pandemic. The first contract is with Triple Crown for the period from January 13, 2020 to January 12, 2025. The contract is to provide all labor, material, and supervision required and necessary to perform moving, relocation, and related services in designated schools and buildings. It also includes providing commercial moving and relocations operations and services, and the supply and delivery of packing materials when ordered to do so. Other services required to be provided under this contract include picking up designated material, transportation and delivery as directed, work by a furniture mover helper for relocations, work by a packer/packager to prepare for a move, and providing one truck and its driver to deliver moving materials to a site and to remove them. The drivers/laborers are required to report and check in at the security desk and all employees must sign in with security. On completion of service, the contractor must get a ticket signed and deliver one copy to the custodian engineer and one copy to the contract manager. Contractors shall maintain separate and accurate books, records, documents, other evidence as well as accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of the contract. Based on the contract, there were no requirements that vendors have active GPS systems installed in their trucks and the contract does not indicate whether or not DOE/DSF is entitled to this information. GPS is not covered in the contract. PPE procurement and distribution is not specifically outlined in the contract.

The second contract is with Go Express for the period from February 24, 2017 to February 23, 2022. The contract is to provide vehicles and personnel for the pick-up and delivery of mechanics' materials and supplies (e.g., floor tiles, doors, radiators). Although PPE is not discussed specifically, if PPE items are a scheduled delivery, the driver is responsible for its delivery. There are no requirements that vendors have active GPS systems installed in their trucks and the contract does not indicate whether or not DOE/DSF is entitled to this information. GPS was not covered in the contract.

The third contract is with SDI for the period from July 10, 2010 to June 30, 2015, extended to June 2021. The contract requires SDI to provide indoor delivery of custodial supplies within five days after order to 1,200 facilities throughout New York City under the jurisdiction of DSF. Custodial supplies are currently provided by SDI. The DOE requests unit prices for 300 high usage items and a percentage discount off the latest available distributor's price list. All prices must include delivery charges that would be incurred for shipments made to facilities within the five boroughs, including inside delivery to the ground level or basement. The DOE also requests pricing for non-catalog items. The DOE's competitive bidding requirements include the following limitations: from \$1 to \$250, bids are not required; from over \$250 to \$5,000, three bids must be solicited verbally or in writing; from over \$5,000 to \$15,000, three bids must be solicited in writing. The contractor will use commercially responsible efforts to establish

and maintain procurement processes that comply with the above DOE competitive bidding requirements to provide the following information to the DOE with respect to the non-catalog items requested: (i) price, (ii) expected timeline for delivery, and (iii) the manufacturer, distributor, or supplier of non-catalog items.

The fourth contract is also with SDI for the period from April 1, 2020 to March 31, 2025. The contract is for the purchase of disposable food service products and some non-disposable items to be delivered to the OFNS warehouse and 285 citywide high school locations within the DOE. It is funded through OFNS.

IV. Conclusion and Recommendation

The onset of the Covid-19 pandemic created a drastic and sudden increase in the need for PPE items at DOE facilities. Many of these PPE items – such as masks, hand sanitizer, and disinfecting wipes – had not previously been required for the operation of DOE facilities. Consequently, most PPE items were not in the existing inventory of DOE facilities, nor were they regularly available through existing DOE vendors. The Division of School Facilities managed to fulfill the need for PPE items through existing contracted vendors, namely vendor SDI for supplies and vendors Go Express and Triple Crown for trucking. The sudden explosion in the need for the procurement and delivery of these PPE items greatly increased the amount paid to these contracted vendors. When compared to the six months before the pandemic began and the six months after the pandemic began, vendor SDI's business of providing custodial supplies, including PPE items, to the DOE almost quadrupled, with SDI receiving an average mark-up of 9.7% of the cost of all PPE items supplied. Similarly, payments for trucking services provided to the DOE by vendors Go Express and Triple Crown increased almost tenfold from the pre-pandemic six-month period to the post-pandemic six-month period.

Initially, PPE items were ordered, received, and distributed centrally through DSF and its distribution centers located in each borough, and picked up by custodial staff of the individual DOE facilities. Inventory control by DSF was lacking due to the pace of incoming and outgoing deliveries, but improved over time. There was no guidance for the inventory and distribution of PPE items at the DOE facility level, and some facilities had better tracking procedures than others. By October 2020, custodial staff at DOE facilities were able to order PPE items through FAMIS and have them shipped directly to those facilities.

Given the difficulties associated with a global medical emergency, the sudden need for the procurement of vast amounts of PPE items, and the logistics of receiving and distributing these items without an established and proven procedure, there is a strong likelihood that a certain amount of PPE items were unaccounted for or went missing at some point during this undertaking. Due to the lack of consistent inventorying and tracking at both the DOE borough distribution center level and the facility level, it is impossible to determine to what extent PPE items went missing, particularly during the earliest phases of the pandemic. Additionally, although there do not appear to have been any shortages of PPE items at any DOE facilities, it should be noted that schools were closed from March 2020 to late September 2020, and when schools reopened between September 21, 2020 and October 1, 2020, (depending on the

grade) for the 2020-2021 school year, many students chose the option of remote learning.²⁰ Consequently, it cannot be said with certainty that there would not have been PPE shortages had all schools been at or near full capacity during that time.

SCI recognizes that the need for PPE items due to the Covid-19 pandemic was unforeseeable, that there was initially a steep learning curve on the part of the DOE to procure and distribute PPE items at the volume necessary to supply DOE facilities, and that the DOE ultimately developed an efficient system to order PPE items at the school level through FAMIS. SCI offers the following Policy and Procedure Recommendations (“PPRs”) to ensure uniformity throughout the DOE in the event of another unforeseen supply emergency:

- 1) The DOE should designate a single citywide emergency supply coordinator who is responsible for developing and overseeing a procedure to ensure uniformity in the ordering, distribution, and inventory process of emergency supplies for all DOE facilities.
- 2) Each individual DOE facility should designate an officer responsible for the ordering, receipt, and on-site inventory of emergency supplies at the facility level, according to the procedure developed and overseen by, and in conjunction with, the designated DOE citywide emergency supply coordinator.

We are sending a copy of this letter to the DOE Office of Legal Services. Should you have any inquiries regarding the above, please contact David Casanova, the assigned attorney for this matter, at (212) 510-1419 or dcasanova@nycsci.org.

Please notify SCI within 30 days of receipt of this letter of what, if any, action has been taken or is contemplated with respect to the findings detailed herein. Thank you for your attention to this matter.

Sincerely,

ANASTASIA COLEMAN
Special Commissioner of Investigation
for the New York City School District

By: /s/ Daniel I. Schlachet
Daniel I. Schlachet
First Deputy Commissioner

AC:DS:DC:lr

cc: Elizabeth Vladeck, Esq.
Karen Antoine, Esq.
Katherine Rodi, Esq.

²⁰ For instance, only 26% of New York City public school students had attended any in-person classes by late October 2020. Shapiro, Eliza. “Only 26% of N.Y.C. Students Attend In-Person Classes, Far From Goal.” *The New York Times*, 26 Oct. 2020, <https://www.nytimes.com/2020/10/26/nyregion/nyc-schools-attendance.html>.