



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

# PANDEMIC RESPONSE REPORT

## 20-097

AUGUST 2020

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Remote Inspection of Federal Bureau of Prisons Contract Correctional Institution Moshannon Valley, Operated by the Geo Group, Inc.

EVALUATION AND INSPECTIONS DIVISION

## INTRODUCTION



### OIG COVID-19 Inspection Efforts

In response to the coronavirus disease 2019 (COVID-19) pandemic, the U.S. Department of Justice (Department, DOJ) Office of the Inspector General (OIG) initiated a series of remote inspections of Federal Bureau of Prisons (BOP) facilities, including BOP-managed institutions, contract prisons, and Residential Reentry Centers (RRC). In total, these facilities house approximately 157,000 federal inmates. The OIG inspections sought to determine whether these institutions were complying with guidance related to the pandemic, including Centers for Disease Control and Prevention (CDC) guidelines, DOJ policy and guidance, and BOP policy. While the OIG was unable to meet with staff or inmates as part of these remote inspections, the OIG conducted telephone interviews with staff and issued a survey to over 38,000 BOP employees, as well as staff of contract prisons and RRCs.

[DOJ COVID-19 Complaint](#)

[Whistleblower Rights and Protections](#)

On March 23, 2020, the CDC issued guidance specific to correctional institutions noting that the confined nature of correctional facilities, combined with their congregate environments, “heighten[s] the potential for COVID-19 to spread once introduced” into a facility.<sup>1</sup> The BOP issued its own COVID-19 related guidance to its contract prisons beginning in February 2020.<sup>2</sup> On April 1, the BOP modified its underlying contract with contract prison vendors, emphasizing that, in the event of an epidemic or pandemic, the “contractor shall check with the CDC daily for updates and shall implement those changes timely to prevent further spread of the disease.”

Three different vendors, the GEO Group, Inc. (GEO Group); Management & Training Corporation; and CoreCivic, currently operate the BOP’s 11 contract prisons, which house more than 14,500 of the approximately 157,000 federal inmates in BOP custody. GEO Group operates nine of these prisons, while CoreCivic and Management & Training Corporation operate one each. According to the BOP, as of July 10, 98.5 percent of inmates housed in private adult male contract facilities were criminal aliens or non-U.S. citizens subject to possible deportation based on their criminal offense.

As of August 4, 429 inmates and 236 staff in BOP contract prisons had tested positive for COVID-19, according to BOP data. However, testing within these 11 prisons has been limited—only 624 inmates in contract prisons had been tested for COVID-19 as of August 4. At the time of our fieldwork, between April 27 and May 20, 2020, no inmates at Correctional Institution Moshannon Valley (Moshannon), operated by GEO Group and located in Philipsburg,

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<sup>1</sup> CDC, “[Interim Guidance on Management of Coronavirus Disease 2019 \(COVID-19\) in Correctional and Detention Facilities](#),” March 23, 2020 (updated July 14, 2020), [www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html](http://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html) (accessed August 24, 2020).

<sup>2</sup> In 2016, the OIG issued a report on the BOP’s oversight of contract prisons. See DOJ OIG, Review of the Federal Bureau of Prisons’ Monitoring of Contract Prisons, Evaluation and Inspections Report 16-06 (August 2016), [www.oversight.gov/sites/default/files/oig-reports/e1606.pdf](http://www.oversight.gov/sites/default/files/oig-reports/e1606.pdf).

Pennsylvania, had tested positive for COVID-19.<sup>3</sup> As of August 4, there remained no inmate cases, but two staff cases.

Between April 27 and May 20, the DOJ OIG conducted a remote inspection of Moshannon to understand how the COVID-19 pandemic affected the prison and to assess the steps Moshannon officials took to prepare for, prevent, and manage COVID-19 transmission within the prison (see [Appendix 1](#) for the scope and methodology of the inspection). As part of that effort, we considered whether Moshannon's policies and practices complied with BOP directives implementing CDC guidance, as well as DOJ policy and guidance. We conducted this inspection through telephone interviews with Moshannon officials and staff, a GEO Group official, and a BOP official; a review of documents related to the BOP's and Moshannon's management of the COVID-19 pandemic and data regarding Moshannon inmates and Moshannon-related staff and inmate COVID-19 cases provided by the BOP; and the incorporation of Moshannon-specific results from an OIG survey of employees of all 11 BOP contract prisons (see [Appendix 2](#) for a summary of survey results from Moshannon respondents).

## Summary of Inspection Results

The OIG's remote inspection of Moshannon found that:

- The BOP's Privatization Management Branch, which provides guidance to and oversight of contract prison vendors, issued guidance to contract prisons after the BOP issued guidance to BOP-managed institutions between February and April 2020. Contract prisons received most of these guidance documents between 1 and 5 days after comparable guidance was issued to BOP-managed institutions, but some delays were more significant. Given the limited community and lack of institution spread of COVID-19 at that time, the delays did not appear to have a material effect on Moshannon's ability to mitigate the spread of COVID-19 between January and April (see [Appendix 3](#) for a timeline of the BOP's guidance).
- Due to supply issues, for over 2 weeks Moshannon was unable to comply with the April 3 CDC recommendation for individuals to wear cloth face coverings in public settings where social distancing measures are difficult to maintain.
- Moshannon officials adhered to all other applicable COVID-19 related BOP policies and CDC guidelines and regularly communicated changes to staff and inmates.

We also found that Moshannon had factors operating in its favor in responding to the COVID-19 pandemic. Specifically, we found that:

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<sup>3</sup> The current contract between GEO Group and the BOP to house inmates at Moshannon began in April 2016 and is set to expire in March 2026.

- Moshannon had empty housing units available to adequately quarantine all incoming inmates and isolate any inmates who exhibited COVID-19 symptoms.
- Moshannon had sufficient Health Services staff members to effectively address inmate health needs and implement increased COVID-19 staff and inmate screening protocols.

We describe these findings in greater detail, and other observations we made during our inspection, in the [Inspection Results](#) section of this report.

## COVID-19 at Moshannon

Moshannon houses approximately 1,601 low security criminal alien male inmates in a facility in Philipsburg, Pennsylvania. Most inmates at Moshannon are under U.S. Immigration and Customs Enforcement (ICE) detainees, meaning that subsequent to the completion of their criminal sentence they will be transferred to ICE custody pending the completion of their removal proceedings and eventual deportation. Moshannon has 271 staff who provide daily correctional services to inmates.

As of August 4, no Moshannon inmates had tested positive for COVID-19 but two staff members had tested positive. Clearfield County, the county in which Moshannon is located, had reported 142 confirmed positive COVID-19 cases as of August 4.

Inmate Population as of June 5, 2020

 **1,601**

Active Inmate Cases as of August 4, 2020<sup>a</sup>

 **0**

Inmate COVID-19 Deaths as of August 4, 2020

 **0**

Active Inmate COVID-19 Cases Over Time, March 30–August 4, 2020<sup>a</sup>



<sup>a</sup> The BOP defines “active cases” as open and confirmed cases of COVID-19. Once someone has recovered or died, he or she is no longer considered an active case.

**Data Sources:** BOP, GEO Group

Contract Staff as of  
June 5, 2020



**271**

Active Staff Cases as of  
August 4, 2020



**2**

Staff COVID-19 Deaths  
as of August 4, 2020



**0**

Active Staff COVID-19 Cases Over Time, March 30–August 4, 2020



**Data Sources:** BOP, GEO Group

Total Confirmed Clearfield County COVID-19 Cases Over Time,  
March 30–August 4, 2020<sup>a</sup>



<sup>a</sup> Total confirmed cases are cumulative positive COVID-19 cases.

**Data Source:** Johns Hopkins University Center for Systems Science and Engineering

# TABLE OF CONTENTS

INSPECTION RESULTS .....	1
The BOP’s Delays in Issuing Guidance to Contract Prisons.....	1
Personal Protective Equipment .....	3
Social Distancing and Quarantine Measures .....	4
Conditions of Confinement.....	7
Staff Movement Restrictions.....	7
Health Screening and Medical Capacity .....	7
COVID-19 Testing.....	9
Other Aspects of Moshannon’s Experiences with or Management of COVID-19 .....	9
Use of Home Confinement and Compassionate Release Authorities .....	10
APPENDIX 1: SCOPE AND METHODOLOGY OF THE INSPECTION .....	13
APPENDIX 2: OIG COVID-19 SELECTED SURVEY RESULTS FOR MOSHANNON .....	14
APPENDIX 3: TIMELINE OF BOP GUIDANCE.....	20
APPENDIX 4: GEO GROUP’S RESPONSE TO THE DRAFT REPORT .....	23
APPENDIX 5: THE BOP’S RESPONSE TO THE DRAFT REPORT.....	25
APPENDIX 6: OIG ANALYSIS OF THE BOP’S RESPONSE.....	29

# INSPECTION RESULTS

## The BOP's Delays in Issuing Guidance to Contract Prisons

We found that Moshannon implemented strategies outlined in the BOP's technical directions and CDC guidance but note that the BOP did not always issue technical directions to contract prisons at the same time it issued comparable guidance to BOP institutions between January and April 2020.<sup>4</sup> For Moshannon, given the limited community and lack of institution spread at that time, the delays we discuss below did not appear to have a material effect on its ability to mitigate the spread of COVID-19 during that time. Nonetheless, we discuss these delays to assist the BOP in its continued efforts to effectively manage the COVID-19 pandemic at its contract prisons and because we believe that moving forward it is important that the BOP share with contract prisons, as soon as practicable, the preventive measures it has taken at BOP institutions, even if those measures are also outlined in CDC guidance.

In reviewing the issuance of COVID-19 technical directions to BOP contract prisons between January 31 and April 13, we found that contract prisons received most of these guidance documents within 1 and 5 days after comparable guidance was issued to BOP-managed institutions. However, we identified the following instances in which the delay was more significant:

- On January 31, the BOP issued to its institutions guidance that included screening for newly arriving inmates; the BOP did not distribute a similar technical direction to contract prisons until February 26.<sup>5</sup> According to Moshannon's Facility Administrator, Moshannon began screening incoming inmates for COVID-19 on February 28.<sup>6</sup>
- On March 20, the BOP issued to its institutions guidance outlining steps for limiting outside medical and dental trips.<sup>7</sup> The BOP never issued the guidance to contract prisons.

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<sup>4</sup> The BOP's privatization contracts include a clause defining a technical direction as providing "technical direction on contract performance." A technical direction does not include "additional work that is outside the scope of the contract" or "action that would cause an increase or a decrease in contract pricing."

<sup>5</sup> BOP, Guidance on 2019 Novel Coronavirus Infection for Inmate Screening and Management, January 31, 2020. The same guidance was issued to contract prisons as Technical Direction: Corona Virus Notification, February 26, 2020. Subsequent guidance reinforcing this requirement was issued to BOP institutions on February 29 as BOP, Guidance Update for Coronavirus Disease 2019, February 29, 2020. The same guidance was distributed to contract prisons, in a more timely manner, on March 3. BOP, Technical Direction: Corona Virus Update, March 3, 2020.

<sup>6</sup> Whereas the BOP uses the term Warden to describe the chief executive of an institution, GEO Group uses Facility Administrator.

<sup>7</sup> BOP, Guidance for Prioritizing Outside Medical and Dental Trips During the COVID-19 Pandemic, March 20, 2020.

- On March 13, the BOP provided both BOP-managed institutions and contract prison operators with initial guidance to limit inmate movement and congregate gatherings.<sup>8</sup> Most significantly, this guidance advised institutions to stagger meal and recreation times to limit the number of inmates who came into close contact with one another. On March 31, the BOP provided guidance advising its institutions to further limit movement and congregate gatherings but did not provide similar guidance to contract prisons until April 8.<sup>9</sup>
- On April 6, the BOP issued to its institutions guidance requiring implementation of an April 3 CDC recommendation for individuals to wear cloth face coverings in public settings where social distancing measures are difficult to maintain. The BOP issued the guidance to contract prisons on April 16.<sup>10</sup>

A BOP official also asserted that the underlying contract between the BOP and contract prison vendors required the vendors to comply with the CDC's COVID-19 guidance. The official further told the OIG that this information "was available on the CDC website, which the contractors are required to follow." The official added that on April 1, to "ensure better clarification of daily reviews and timely implementation" of CDC guidance, the BOP modified its contract with its contract prison vendors, to require them, in the event of an epidemic or pandemic, "to check with the CDC daily for updates and...implement those changes timely to prevent further spread of the disease." As a result, the BOP official stated that additional BOP technical direction would not have been necessary for GEO Group to take actions in advance of BOP guidance.

GEO Group leadership confirmed to the OIG that the BOP did modify its contract with GEO Group in early April 2020. GEO Group did not wholly agree with the BOP's interpretation of earlier contract requirements. Specifically, GEO Group leadership explained that, "as the authority on the treatment of infectious disease, we would certainly make every effort to follow the CDC's guidelines as quickly as possible, but we could not simply follow their guidance without considering contractual terms and requirements and the Federal Acquisition Regulation." GEO Group added that the CDC issued its "Interim Guidance on Management of Coronavirus Disease (COVID-19) in Correctional and Detention Facilities" on March 23 and that GEO Group "opened

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<sup>8</sup> BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Two Action Plan, March 13, 2020. According to the BOP, this guidance was provided by the BOP to the contractors' corporate offices as a "best practice measure" while each contractor developed specific COVID-19 response plans.

<sup>9</sup> BOP, memorandum for All Chief Executive Officers, COVID-19 Phase Five Action Plan, March 31, 2020. The guidance directed institutions to limit inmate movement by April 1, 2020. Relevant inmate movement restriction guidance was issued to contract prisons on April 8 as Technical Direction: Establishment of COVID Community Health Point of Contact, April 8, 2020.

<sup>10</sup> CDC, "[Recommendation Regarding the Use of Cloth Face Coverings, Especially in Areas of Significant Community-Based Transmission](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html)," April 3, 2020, [www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html) (accessed August 24, 2020). BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Update—Use of Face Masks, April 6, 2020. The guidance indicated that the BOP would be distributing cloth face coverings. This guidance was issued to contract prisons as Technical Direction: COVID-19, Phase Six Action Plan, April 16, 2020.

discussions with BOP immediately as implementing the CDC’s guidelines would impact both facility operations and operating expenses.” In response to the working draft of this report, GEO Group stated that it will “continue working with the BOP to ensure we are meeting all emerging requirements as our response to this pandemic continues.”

For Moshannon, given the limited community and lack of institution spread during that time, BOP delays in technical direction issuance did not appear to have a material effect on its ability to mitigate the spread of COVID-19 between January and April. Although we did not identify any specific impact on Moshannon’s management of COVID-19 arising from the BOP’s delayed guidance, the BOP must continue to maintain effective oversight of its contract prison vendors to ensure that inmates receive the same quality of care in BOP-managed institutions and contract prisons. The prompt issuance of guidance to contract prison vendors, even that which reiterates CDC guidance, is vital to this effort and will continue to be so as the BOP is likely to develop additional guidance as its knowledge of COVID-19 preventive measures continues to develop.

## **Personal Protective Equipment**

Based on our review of relevant guidance, documentation, and discussions with Moshannon management officials and staff, we found that Moshannon was not able to comply with a CDC recommendation regarding the use of face coverings.<sup>11</sup> While Moshannon provided its staff with three surgical masks per week beginning on April 1, it did not distribute face coverings to inmates until the week of April 21—nearly 3 weeks after the CDC recommendation on April 3 that individuals wear cloth face coverings in public settings where social distancing measures are difficult to maintain.<sup>12</sup> According to GEO Group management, factors that contributed to the distribution delay include supply chain and inventory issues. Management further stated that there had been a limited level of institution and community spread of COVID-19 prior to the distribution of face coverings to Moshannon inmates.

As noted above, we found that the BOP did not issue guidance to Moshannon (or other contract prisons) on the CDC recommendation until April 16, although it issued guidance to BOP-managed institutions on April 6.<sup>13</sup> For Moshannon, given the limited community and lack of institution spread, the 18-day delay between when the CDC made its recommendation and when

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<sup>11</sup> The CDC defines personal protective equipment (PPE) as “a variety of barriers used alone or in combination to protect mucous membranes, skin, and clothing from contact with infectious agents.” Depending on the situation, PPE may include gloves, surgical masks, N95 respirators, goggles, face shields, and gowns. Cloth face coverings are intended to keep the wearer from spreading respiratory secretions when talking, sneezing, or coughing. The CDC does not consider cloth face coverings to be PPE.

<sup>12</sup> CDC, “Use of Cloth Face Coverings.” Moshannon officials told us that it began providing its staff with three surgical masks per week on April 1 and that staff are were required to wear masks at all times. Moshannon officials also told us that inmates are were also strongly encouraged wear face coverings.

<sup>13</sup> BOP, memorandum for All Chief Executive Officers, April 6, 2020. The guidance indicated that the BOP would be distributing cloth face coverings to institutions. BOP, Technical Direction, April 16, 2020.

Moshannon distributed face coverings to all staff and inmates did not appear to have a material effect on efforts to contain the spread of COVID-19 at the prison. However, as we stated above, we believe that the BOP should have advised Moshannon and other contract prisons of the requirement to provide face coverings at the same time it advised its own institutions to do so, regardless of the availability of face coverings at that time.

Despite the delay in distributing face coverings, we found that Moshannon complied with all other BOP and CDC guidance regarding the use of personal protective equipment (PPE).<sup>14</sup> Specifically, Moshannon procedures required staff to wear surgical masks, face shields, eye protection, gloves, and/or gowns when:

- performing screening and temperature checks of staff, contractors, and visitors upon arrival at the facility;
- screening newly admitted inmates; and
- interacting with inmates who were quarantined or isolated.<sup>15</sup>

According to our survey results, 100 percent of Moshannon respondents stated that the institution had provided them PPE. While 11 percent of Moshannon respondents stated that they would like more PPE provided for staff, this percentage is far less than the 38 percent of respondents from all contract prisons and the 68 percent of BOP staff working at BOP-managed institutions who stated the same. In response to the working draft of this report, GEO Group informed the OIG that Moshannon has ample PPE on hand, the BOP shipped three reusable cloth face coverings per inmate to Moshannon, and Moshannon staff issued them to inmates on July 29.

## **Social Distancing and Quarantine Measures**

We found that, in accordance with BOP guidance, Moshannon modified its operations to implement social distancing.<sup>16</sup> Specifically, on March 13, staff began staggering shift start times to limit the number of people entering the institution and passing through security checkpoints at the same time. On the same date, Moshannon began enhancing oversight of sanitation practices. In April, institution staff implemented more comprehensive operational changes to increase social

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<sup>14</sup> A Moshannon official noted that while inmates were encouraged to wear face coverings, they did not always do so.

<sup>15</sup> BOP, Technical Direction, COVID-19 Phase Four Action Plan, March 27, 2020. We also found that Moshannon's procedures provided staff with guidance for the application and removal of PPE.

<sup>16</sup> Social distancing, also called "physical distancing," means keeping at least 6 feet between people and avoiding group gatherings. In a correctional setting, the CDC recommends implementing a host of strategies to increase the physical space between inmates (ideally 6 feet between all individuals, regardless of symptoms), noting that not all strategies will be feasible in all facilities and that strategies will need to be tailored to individual spaces within the facility and the needs of the population and staff. See CDC, "Interim Guidance."

distancing. Most significantly, management largely limited inmate movement to within individual housing units.

At Moshannon, general population inmates live in one of 4 buildings, each divided into 6 housing units containing approximately 60 inmates. These housing units are barracks, or open dormitory style, in which inmate beds are in close proximity and are adjacent to shared communal spaces.

Additional changes to operations to increase social distancing included but were not limited to:

- suspending educational programs and other group activities;
- modifying food services by bringing meals directly to inmate housing units, as opposed to serving inmates in a centralized dining hall;
- allowing only one housing unit to use the recreation facilities at a time; and
- marking the ground in various high traffic areas throughout the institution to enforce social distancing.

Moshannon officials told us that inmates have been diligent in practicing social distancing. Only 4 percent of Moshannon staff who responded to our survey indicated an immediate need for increased social distancing measures for inmate and staff.

A BOP On-site Contract Monitor explained that Moshannon has 1 medical isolation unit with 12 cells, including 2 negative pressure cells.<sup>17</sup> Moshannon also has 2 additional housing units that can be used to quarantine an additional 119 inmates. Unlike inmates in the general population, inmates in the medical isolation and quarantine units are confined to individual cells.<sup>18</sup> Based on our discussions with Moshannon and BOP officials, as well as our review of Moshannon and BOP documentation, we determined that Moshannon officials took the following medical isolation and quarantine actions:

- On March 16, Moshannon began to quarantine all incoming inmates for 14 days before medically clearing the inmates to enter the general population.

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<sup>17</sup> Isolation is used to separate people who (1) are infected with the virus (those who are sick with COVID-19 and those who are asymptomatic); (2) are awaiting test results; or (3) have COVID-19 symptoms from people who are not infected. In a correctional setting, the CDC recommends using the term “medical isolation” to distinguish the isolation from punitive action. See CDC, “Interim Guidance.”

<sup>18</sup> Quarantine is used to keep someone who might have been exposed to COVID-19 away from others for 14 days to help prevent the spread of disease and determine whether the person develops symptoms. In a correctional setting, the CDC recommends, ideally, quarantining an inmate in a single cell with solid walls and a solid door that closes. If symptoms develop during the 14-day period, the inmate should be placed in medical isolation and evaluated for COVID-19. See CDC, “Interim Guidance.”

- On March 17, upon identification of an inmate with COVID-19 symptoms, Moshannon began medically isolating inmates who had COVID-19 symptoms (no symptomatic inmates tested positive for COVID-19).
- On March 19, in concert with the BOP, Moshannon established a central reporting process for identifying inmates who had COVID-19 symptoms.

Ninety-six percent of Moshannon staff who responded to our survey stated that inmates were quarantined for 14 days upon arrival to the institution, and 91 percent stated that symptomatic inmates were placed in medical isolation.



The image on the left shows an empty medical isolation cell. The image on the right shows social distancing markers in the hallway of the medical isolation unit.

Source: Moshannon

## Conditions of Confinement

In accordance with BOP guidance issued on March 13, Moshannon suspended social visits while allowing in-person legal visits on a case-by-case basis.<sup>19</sup> Moshannon also suspended other visitation such as outside educational providers. As mentioned above, general population inmates were confined to their housing units and experienced a reduction in programming opportunities but continued to be able to occupy communal spaces within their housing units. Each housing unit has its own communal space equipped with a television, phones, computers, and showers. Moshannon officials told us that inmates received extended computer access due to the suspension of visitation. Additionally, as of April 16, inmates received a total 500 free minutes of telephone time a month (increased from 300 paid minutes per month) to communicate with their families. Further, inmates continued to have access to commissary items. Lastly, mail delivery continued, and mail was disinfected prior to inmate handling.

## Staff Movement Restrictions

On April 13, the BOP issued a memorandum stating that “compartmentalization of staff and inmate movement will continue to help slow the cross-contamination of work spaces and housing units.”<sup>20</sup> The memorandum directed that staff post assignments would not be changed unless to fill a vacant post. Moshannon management told us that it did not have staffing issues (97 percent of staff positions were filled) and therefore assigned staff to fixed rather than rotational posts. We were also told that Moshannon developed contingency staffing plans in the event that the institution experienced a large number of staff absences.<sup>21</sup>

## Health Screening and Medical Capacity

As stated above, Moshannon received BOP guidance on screening newly arriving inmates on February 26, several weeks after similar guidance was issued to BOP-managed institutions on January 31. On March 3, Moshannon received additional guidance from the BOP reinforcing the requirement to screen all incoming inmates.<sup>22</sup> Further, on March 13, Moshannon received BOP guidance requiring enhanced staff screening in areas with “sustained community transmission.”<sup>23</sup> On March 26, the BOP issued to its institutions guidance to begin enhanced staff screening regardless of whether the institution was in an area of sustained community transmission.<sup>24</sup> The

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<sup>19</sup> BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19), March 13, 2020. The memorandum suspended social visits for 30 days.

<sup>20</sup> BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Six Action Plan, April 13, 2020.

<sup>21</sup> Moshannon management told us that it prepared a series of staffing contingency plans and was prepared to operate the institution at a 25 percent staffing level if necessary.

<sup>22</sup> BOP, Technical Direction, March 3, 2020.

<sup>23</sup> BOP, memorandum for All Chief Executive Officers, March 13, 2020.

<sup>24</sup> BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19), Phase Four Action Plan, March 26, 2020.

BOP issued similar guidance to contract prisons on March 27.<sup>25</sup> We found that Moshannon implemented the above described guidance in a timely manner. We also found that Moshannon medical staff were able to address BOP requirements for COVID-19 medical response and capacity.

According to Moshannon's Facility Administrator, Moshannon began screening incoming inmates for COVID-19 on February 28. On March 21, Moshannon began enhanced screening of all staff with a temperature check and a symptom questionnaire upon entry into the facility.<sup>26</sup> Staff presenting a temperature over 100.4 degrees or exhibiting any other disqualifying symptoms were denied entry to the facility, directed to the Human Resources Department for further instruction, and advised to seek personal medical treatment. According to Moshannon officials, staff were not permitted to return to work without receiving medical clearance from a health provider.<sup>27</sup> All Moshannon staff we surveyed stated that staff were screened for symptoms at least once a day.

As stated above, inmates at Moshannon were screened and placed in quarantine for 14 days upon initial arrival and inmates exhibiting COVID-19 symptoms were placed in medical isolation. Health Services staff performed intake screenings of newly arriving inmates and placed inmates in quarantine if they were asymptomatic or medical isolation if they were symptomatic. After 14 days of monitoring and screening, if a quarantined inmate did not exhibit any symptoms the inmate was released to the general population. We were told that symptomatic inmates were more closely monitored and tested for COVID-19 in accordance with the procedures we describe in the next section.

Health Services staff did not routinely screen general population inmates for COVID-19, but Moshannon management explained that it encouraged general population inmates to report the onset of any COVID-19 symptoms as soon as possible. In compliance with BOP guidance, for inmates with COVID-19 like symptoms Moshannon waived the co-pay that inmates normally would have paid to seek medical attention.

Moshannon Health Services staff includes a Physician, a Physician's Assistant, a Nurse Practitioner, and 16 Nurses. The Physician's Assistant stated that that the prison had sufficient staff and medical equipment to address the regular and COVID-19 related medical needs of its inmates. In

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<sup>25</sup> BOP, Technical Direction: Coronavirus (COVID-19) Phase Four Action Plan, March 27, 2020.

<sup>26</sup> According to the Facility Administrator, Moshannon began screening some staff for COVID-19 as early as February 26 and required all staff to complete an initial COVID-19 symptom and risk screening form by March 6.

<sup>27</sup> Moshannon officials told us that staff were notified of their leave options through emails, posted signage, conference calls, and conversations with Human Resources officials. Although no staff members tested positive for COVID-19, a GEO Group official told us that COVID-19 positive staff members would be placed on paid administrative leave until they could safely return to work.

response to our survey, only 1 of the 76 Moshannon staff respondents expressed an immediate need for more medical supplies.

## **COVID-19 Testing**

On March 13, the BOP issued COVID-19 testing guidance to BOP-managed institutions and contract prison vendors requiring them to test symptomatic inmates for COVID-19 consistent with local health authority protocols.<sup>28</sup> We found that Moshannon did so. As noted previously, if Health Services staff determined that an inmate was potentially symptomatic, the inmate was placed in the medical isolation unit. Before receiving a COVID-19 test, the inmate was tested for influenza and given a chest x-ray. If this screening did not rule out COVID-19, the inmate was tested for COVID-19. Moshannon tested its first inmate for COVID-19 on March 18. As of June 5, Health Services staff had tested four inmates, none of whom tested positive. According to BOP data, Moshannon received tests results within 2 to 3 days after administering the test. Moshannon officials, including the Physician's Assistant, reported having an adequate supply of COVID-19 test kits and did not report any issues with testing inmates.<sup>29</sup>

At the time of our remote inspection, neither BOP nor CDC guidance required institutions to test all inmates for COVID-19. As a result, Moshannon staff could not be sure that COVID-19 was never introduced into the prison. However, the low levels of COVID-19 transmission in the community surrounding Moshannon (142 cases as of August 4) decreases the likelihood of transmission at the institution relative to that of institutions located in more densely populated communities with known outbreaks.

At the time of our remote inspection, neither BOP nor CDC guidance required institutions to test staff for COVID-19. Moshannon staff had to be tested by community health providers; BOP data as of June 5 indicates that four staff members were tested for COVID-19 and none tested positive.

## **Other Aspects of Moshannon's Experiences with or Management of COVID-19**

### **Cleaning and Sanitation**

As of March 12, Moshannon increased cleaning and disinfecting procedures in compliance with CDC recommendations. Moshannon officials stated that all inmate housing units and common areas had hand sanitizer stations and the stations were refilled regularly. Additionally, Moshannon officials told us that inmates were provided with soap two times per week and were provided with five bottles of disinfectant spray. A GEO Group official responsible for oversight into company-wide procurement told us that he was in close contact with sanitation supply vendors to ensure the receipt of cleaning and sanitation supplies. Similarly, Moshannon's Facility Administrator added that the supply of cleaning and sanitation products was not disrupted by the

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<sup>28</sup> BOP, memorandum for All Chief Executive Officers, March 13, 2020.

<sup>29</sup> Incoming inmates were also screened daily during their 14-day quarantine.

pandemic. Moshannon officials stated that the inmates were diligent in cleaning and disinfecting the institution. Results from the OIG survey of contract prison staff indicate that 5 percent of Moshannon respondents reported an immediate need for more cleaning supplies. This number is much lower than the 22 percent of staff from all contract prisons stating the same.

## Communication

According to our interviews with Moshannon staff and the survey results, Moshannon staff felt that the COVID-19 guidance provided by GEO Group, the Facility Administrator, and their direct supervisors was timely, clear, and comprehensive. According to Moshannon staff, the Facility Administrator, along with other key officials, conducted several town hall meetings to communicate COVID-19 guidance and news. Approximately 90 percent of respondents surveyed felt that guidance provided to staff and inmates was timely, clear, and comprehensive.<sup>30</sup>

## Use of Home Confinement and Compassionate Release Authorities

In response to the COVID-19 pandemic, the Attorney General authorized the BOP, consistent with pandemic-related legislation enacted in late March 2020, to reduce the federal prison population by transferring inmates from prison to home confinement.<sup>31</sup> In an April 3 memorandum, the Attorney General also directed the BOP to “immediately maximize appropriate transfers to home confinement of all appropriate inmates” at those prisons “where COVID-19 is materially affecting operations.”<sup>32</sup> The BOP assigned to its Central Office the responsibility for developing policy guidance and initially identifying inmates who would be considered for possible release to home confinement. Over the next 5 weeks, the Central Office issued three guidance memoranda and sought to assist institutions in identifying eligible inmates by providing them with rosters of inmates that the Central Office determined might be eligible for transfer to home confinement pursuant to the BOP’s guidance. The Central Office’s initial policy guidance in early April was focused on transferring to home confinement those inmates who faced the greatest risks from COVID-19 infection, including elderly inmates. In late April, the BOP began to expand its use of home confinement to cover inmates other than those who were elderly or at high risk for COVID-19, as determined by CDC guidance. In addition, the BOP allowed institution Wardens to identify inmates otherwise ineligible for home confinement under Central Office guidance criteria and to seek approval from the Central Office to transfer those inmates to home confinement.

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<sup>30</sup> Moshannon officials told us that Moshannon management instituted morale and welfare teams composed of local staff to check on the well-being of staff and inmates during the COVID-19 pandemic.

<sup>31</sup> Home confinement, also known as home detention, is a custody option whereby inmates serve a portion of their sentence at home while being monitored.

<sup>32</sup> William P. Barr, Attorney General, memorandum for Director of Bureau of Prisons, [Increasing Use of Home Confinement at Institutions Most Affected by COVID-19](https://www.justice.gov/file/1266661/download), April 3, 2020, www.justice.gov/file/1266661/download (accessed August 24, 2020).

BOP memoranda on transfer of inmates to home confinement indicate that inmates subject to a detainer were excluded from being considered for transfer. That exclusion was particularly relevant to Moshannon since, as described above, most of the 1,629 inmates at the facility were subject to ICE detainees.

On April 5, Moshannon received a BOP Central Office roster that identified 67 Moshannon inmates who were potentially eligible for release to home confinement. Moshannon staff reviewed these, as well as an additional 72 inmates, to determine whether they were in fact eligible for transfer to home confinement.<sup>33</sup> As of July 29, 1 of these 139 inmates had been approved for transfer to home confinement, first by Moshannon and then by the BOP, and left Moshannon. This inmate was determined by an immigration judge not to be removable from the United States following the completion of his criminal sentence and was otherwise determined by Moshannon and the BOP to be eligible for transfer to home confinement consistent with pandemic-related legislation and BOP guidance. None of the remaining inmates were eligible for transfer to home confinement because they either had an active detainer or were deemed ineligible for home confinement because their removability was being determined by an immigration judge through DOJ's Institutional Hearing and Removal Program.<sup>34</sup>

Another means by which inmates can be transferred from prison to home is through a reduction to their sentence pursuant to the compassionate release statute, 18 U.S.C. § 3582(c)(1)A)(i).<sup>35</sup> Under the statute, either the BOP or an inmate may request that a federal judge reduce the inmate's sentence for "extraordinary and compelling reasons," such as age, a terminal illness, other physical or medical conditions, or family circumstances. An inmate must first submit a compassionate release request to the Warden of his or her institution; but the inmate is permitted to file a motion directly with the court if the petition is denied, or 30 days after the inmate files the initial petition, whichever occurs first.

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<sup>33</sup> Inmates who were not on the BOP-provided roster, as well their attorneys, also requested that Moshannon officials review their eligibility for transfer to home confinement.

<sup>34</sup> As part of the Institutional Hearing and Removal Program, ICE identifies federal inmates who may be removable from the United States and initiates removal proceedings before an immigration judge while the inmate is still serving his or her criminal sentence.

<sup>35</sup> For more information about how the BOP manages its compassionate release program, see BOP Program Statement 5050.50, Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582 and 4205(g), January 17, 2019. In 2013, the OIG issued a report examining the BOP's compassionate release program. The OIG found, at that time, that the program had been poorly managed and inconsistently implemented. See DOJ OIG, *The Federal Bureau of Prisons' Compassionate Release Program*, E&I Report I-2013-006 (April 2013), [www.oig.justice.gov/reports/2013/e1306.pdf](http://www.oig.justice.gov/reports/2013/e1306.pdf).

As a result of the COVID-19 outbreak, Moshannon received 38 compassionate release requests from inmates. According to Moshannon's Facility Administrator, as of May 12 no inmate had been granted compassionate release since the institution's COVID-19 outbreak.<sup>36</sup>

To provide more insight into this issue, the OIG will report separately on the Department's and the BOP's use of home confinement and other early release authorities provided under the Coronavirus Aid, Relief, and Economic Security Act to manage the spread of COVID-19 within BOP facilities.<sup>37</sup>

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<sup>36</sup> If an inmate is approved for compassionate release, the inmate would still be subject to potential ICE detention and removal proceedings.

<sup>37</sup> Pub. L. No. 116-136.

## **SCOPE AND METHODOLOGY OF THE INSPECTION**

The OIG conducted this inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (January 2012). We conducted this inspection remotely because of CDC guidelines and DOJ policy on social distancing. This inspection included telephone interviews with Moshannon officials, review of documents produced by the BOP related to the BOP's and Moshannon's management of the COVID-19 pandemic, the results of an OIG survey issued to all BOP staff, and analysis of BOP and COVID-19 data. The photographs included in the report were taken by Moshannon officials, at our request, to illustrate the housing units we describe in the report.

To understand BOP contract prison staff concerns, impacts, and immediate needs related to COVID-19, we issued an anonymous, electronic survey to all BOP contract prison employees from May 1 through May 11, 2020. We issued 2,689 invitations for employees to take the survey and received 774 responses, a 29 percent response rate. Moshannon staff represented 90 of the 774 total responses (approximately 12 percent). We received responses from 33 percent (90 of 271) of the invitations we sent to Moshannon staff.

We conducted telephone interviews with the Lieutenant, Supervisory Case Manager, Unit Manager, Physician's Assistant, and two Correctional Officers. We also conducted a group teleconference with Moshannon management, including the Facility Administrator, Health Services Administrator, Assistant Facility Administrator, Chief of Security, and Business Manager. Finally, we conducted telephone interviews with a BOP On-site Contract Monitor, and a GEO Group corporate official.

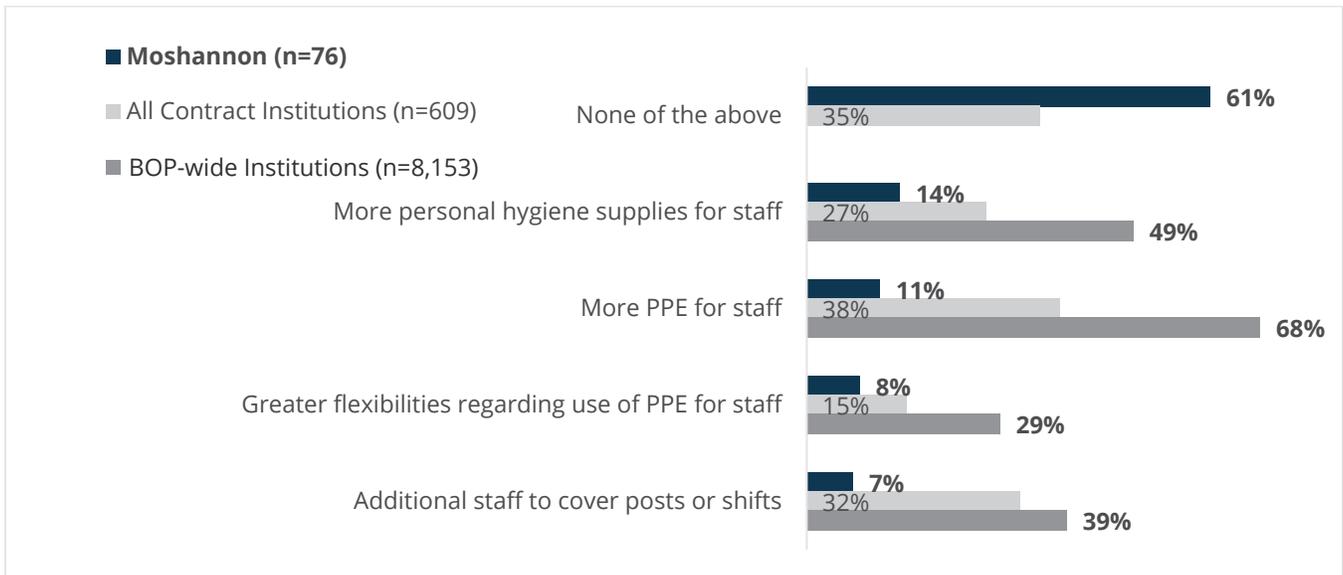
The main issues we assessed through our interviews and data requests were the institution's compliance with BOP directives and CDC guidance related to PPE, social distancing, quarantine, conditions of confinement, staff movement, testing, medical response and capacity, COVID-19 testing, cleaning procedures, sanitation, communication, and morale and welfare. We also assessed actions taken to reduce the inmate population through implementation of relevant authorities.

We reviewed CDC guidelines and BOP-wide guidance and procedures, as well as the information and guidance provided to Moshannon staff and inmates, including emails from Moshannon management, PPE and cleaning supplies inventory documents, staff respiratory program fit test results, documentation of staff COVID-19 screening, documentation of inmate COVID-19 screening in the quarantine area, and Moshannon staffing reports.

## OIG COVID-19 SELECTED SURVEY RESULTS FOR MOSHANNON

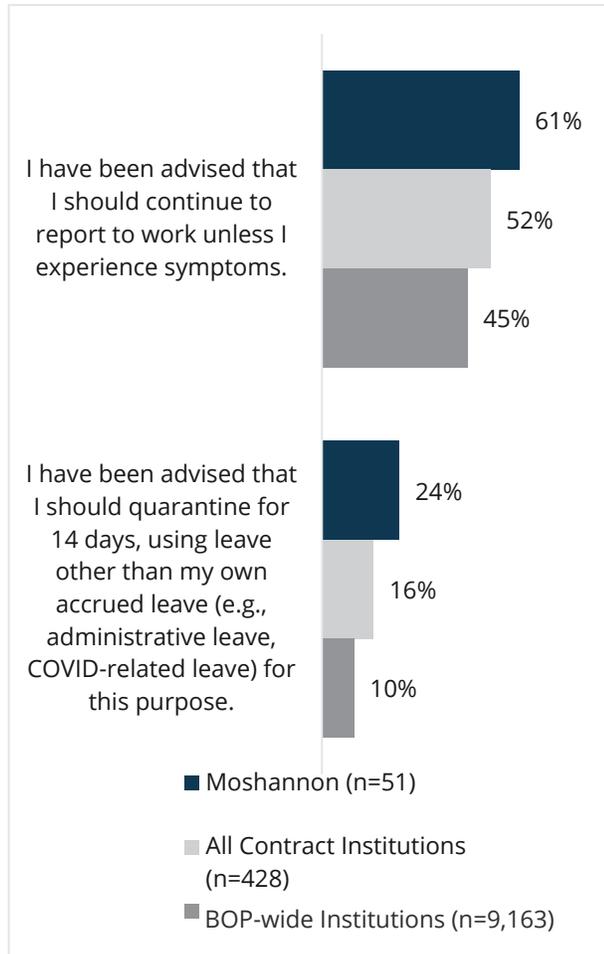
Open Period: <b>May 1–11, 2020</b>	Invitations Sent: <b>2,689</b>	Overall Responses: <b>774 (of 2,689)</b>	Moshannon Responses: <b>90 (of 271)</b>
Moshannon Responses by Department			
<b>Correctional Services: 36%   Correctional Programs: 14%   Administrative/Executive Staff: 13%   All Other Departments: 37%</b>			

Which of the following are immediate needs for your institution during the COVID-19 pandemic? (Top 5 Responses\*)



Notes: Personal hygiene supplies are defined as soap and hand sanitizer. The BOP-wide survey did not include a “none of the above” answer option. Also, 8 percent of Moshannon respondents answered “Other.”

**Which of the following statements best describes the current guidance you have received from institution leadership about what you should do if you have been exposed to COVID-19? (Top 2 Responses)**



**How strongly do you agree with the following statements about the adequacy of the guidance you have received about what you should do if you have been exposed to COVID-19? (All Responses)**

Respondents rated each item on a 5-point scale, with "strongly disagree" worth 1 point and "strongly agree" worth 5 points. "Don't know" responses are excluded.

	<b>Moshannon Rating</b>	<b>Contract Prison Rating</b>	<b>BOP-wide Rating</b>
The guidance was timely.	<b>4.35</b>	3.49	3.18
The guidance was clear.	<b>4.35</b>	3.53	2.97
The guidance was comprehensive.	<b>4.35</b>	3.55	3.03

**How strongly do you agree with the following statements about the adequacy of the practices your institution is taking to mitigate the risk of spreading COVID-19? (Top 3 and Bottom 3 Responses)**

<i>Respondents rated each item on a 5-point scale, with "strongly disagree" worth 1 point and "strongly agree" worth 5 points. "Don't know" responses are excluded.</i>	<b>Moshannon Rating (n=78)</b>	<b>Contract Prison Rating (n=638)</b>	<b>BOP-wide Rating (n=8,978)</b>
<b>Three Practices Rated Highest:</b>			
<b>Toilets, sinks, and showers are regularly cleaned and sanitized.</b>	4.69	4.21	3.95
<b>Inmates have an opportunity to shower at least three times a week.</b>	4.68	4.33	4.27
<b>Inmates diagnosed with, or showing symptoms of, COVID-19 are being sufficiently segregated from other inmates to mitigate the virus spreading.</b>	4.68	4.26	3.94
<b>Three Practices Rated Lowest:</b>			
<b>Staff are provided a sufficient supply of hand sanitizer.</b>	4.43	3.79	3.18
<b>Inmates are provided a sufficient supply of hand sanitizer where sinks are not available.</b>	4.22	3.61	3.07
<b>Staff are provided a sufficient supply of uniforms.</b>	4.18	3.59	N/A*

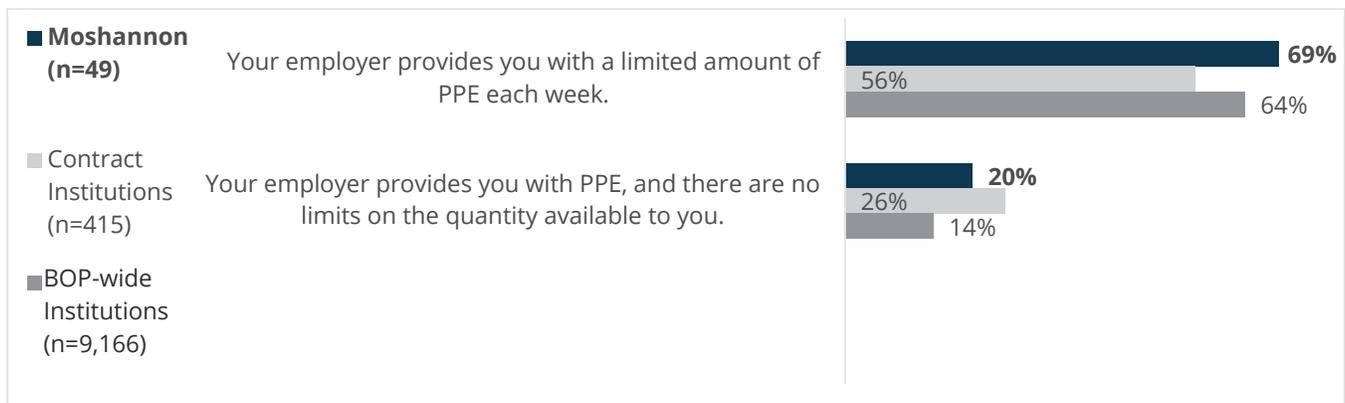
\* The BOP-wide survey did not include this answer option.

Please identify which, if any, of the following social distancing measures your institution is currently employing to increase the amount of space between staff and inmates. (Top 5 Responses)

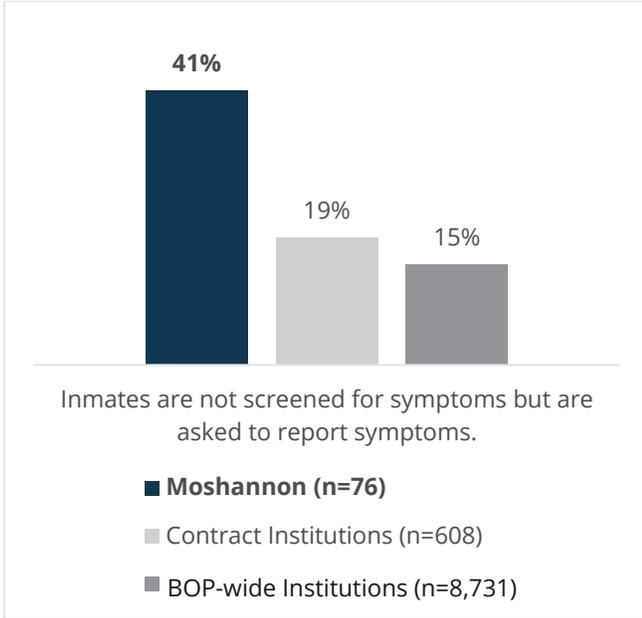
	Moshannon Percent of Respondents (n=75)	Contract Prisons Percent of Respondents (n=585)	BOP-wide Percent of Respondents (n=8,435)
Inmates are placed on full or partial lockdown status in which inmate movement has been significantly reduced.	93%	74%	N/A*
Daily schedules are adjusted so that only one housing unit at a time is allowed to enter common space (e.g., the inmate cafeteria, Health Services clinic, library, classrooms, chapel, workspace, or recreation space).	67%	43%	44%
The amount of time that inmates are required to remain in their housing units each day has been increased.	63%	35%	59%
Work details are reconfigured to provide more space between inmates while they are working.	63%	35%	12%
The number of inmates participating in a program or activity at one time has been reduced.	58%	33%	42%

\* This question was not asked on the BOP survey.

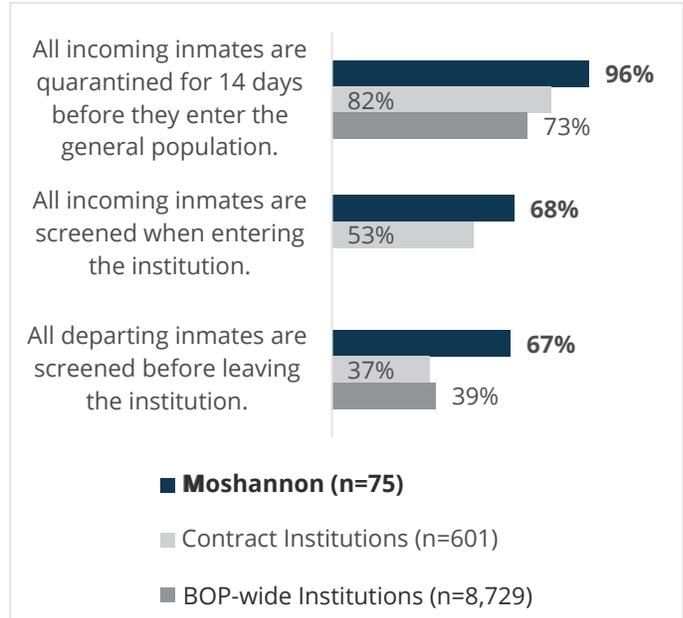
Which of the following statements best describes the current guidance you have received from facility leadership about your use of personal protective equipment (PPE)? (Top 2 Responses)



Which of the following statements best describes the current approach to COVID-19 screening of existing inmates (temperature check, questioning about other symptoms) at your institution? (Top Response)

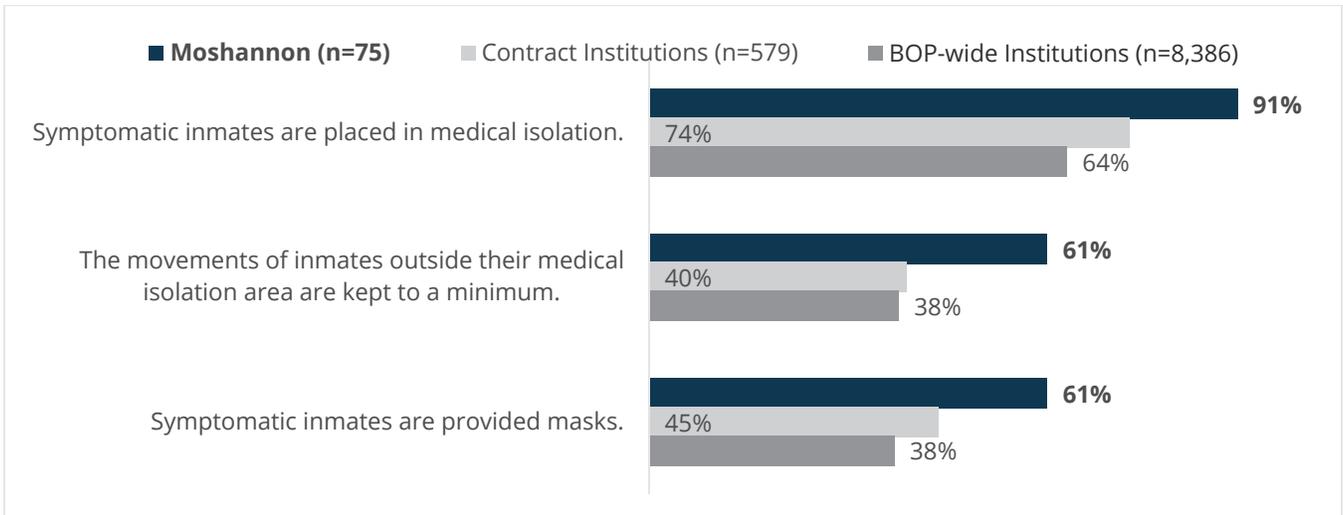


Please identify which, if any, of the following COVID-19 measures for screening incoming and departing inmates (temperature check, questioning about other symptoms) your institution is currently taking. (Top 3 Responses)

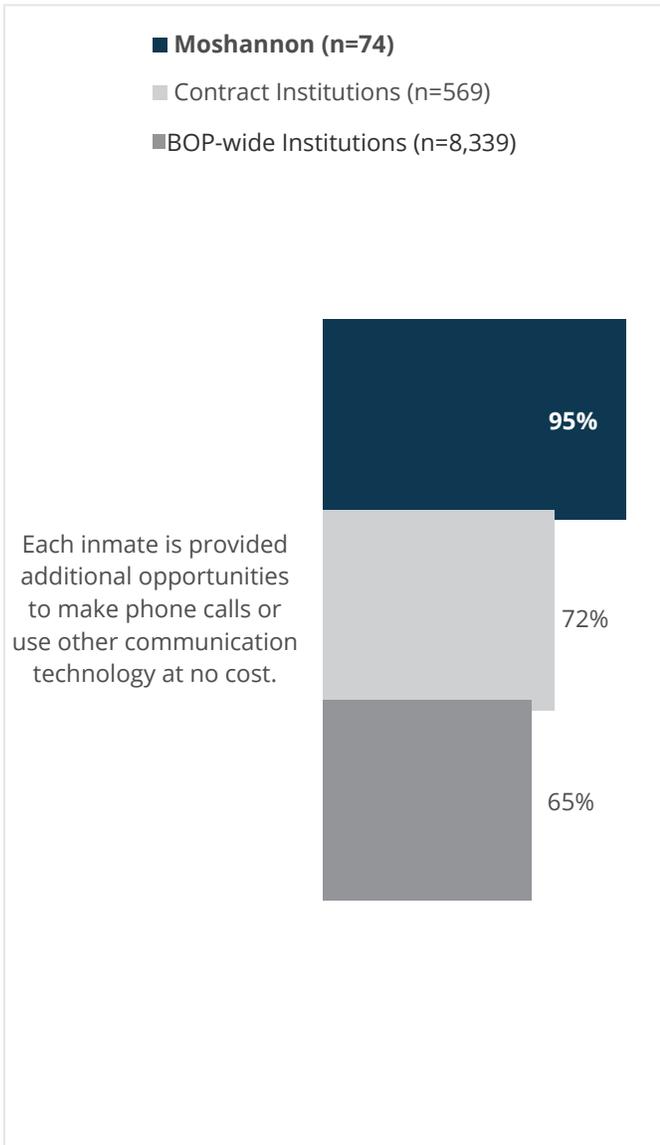


Note: The BOP-wide survey did not include an "all incoming inmates are quarantined for 14 days before they enter the general population" answer option.

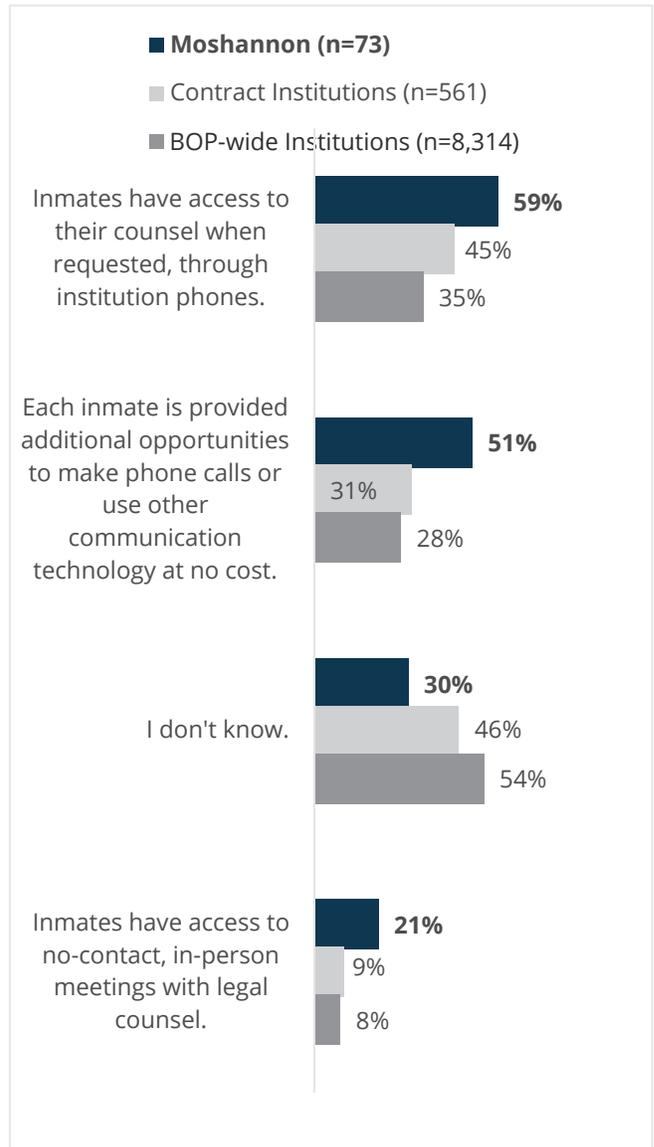
Please identify which, if any, of the following measures your institution is currently employing to manage inmates with COVID-19 symptoms. (Top 3 Responses)



Please identify which, if any, of the following strategies your institution is currently employing to facilitate inmates' ability to communicate with family and friends outside the institution with whom they would normally interact. (Top Response)



Please identify which, if any, of the following strategies your institution is currently employing to facilitate inmates' ability to communicate with legal counsel. (Top 4 Responses)



## TIMELINE OF BOP GUIDANCE

January	31	<p><b>The BOP Issued Action Plan Phase One:</b></p> <ul style="list-style-type: none"> <li>Identified the potential risk of exposure within BOP facilities and informed recipients about risk factors, symptoms to look for, and preventive measures</li> <li>Recommended screening all new inmate arrivals to the BOP for COVID-19 risk factors and symptoms using a provided screening questionnaire</li> <li>Recommended use of PPE for those in close contact with individuals who are suspected of being infected or individuals who have been diagnosed with COVID-19</li> </ul>
		<p><b>The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase One.</b></p>
February	26	<p><b>The BOP Issued Updated Guidance for COVID-19 to BOP Medical Staff:</b></p> <ul style="list-style-type: none"> <li>Recommended screening staff with potential risk factors and all new inmate arrivals using a screening questionnaire</li> <li>Recommended conducting fit-testing for N95 respirator masks, disseminating information about proper PPE use, and establishing baseline supplies of PPE</li> <li>Recommended establishing communication with local public health authorities, identifying possible quarantine areas, and alerting visitors that people with illnesses would not be allowed to visit</li> </ul>
	29	
	3	<p><b>The BOP Issued Technical Direction to Contract Prisons Consistent with Updated Guidance for COVID-19 to BOP Medical Staff.</b></p>
March	9	The BOP issued screening and leave guidance for staff.
	11	The World Health Organization declared COVID-19 a pandemic.
	13	<p><b>The BOP Issued Action Plan Phase Two:</b></p> <ul style="list-style-type: none"> <li>Suspended internal inmate movements for 30 days (exceptions for medical treatment and other exigencies) and legal visits (exceptions on a case-by-case basis), social visits, and volunteer visits</li> <li>Canceled staff travel and training</li> <li>Instructed institutions to assess inventories of food, medicine, cleaning supplies, and sanitation supplies</li> <li>Required screening of staff (by self-reporting and temperature checks) "in areas with sustained community transmission," as well as all new BOP inmates and quarantining inmates where appropriate (those with exposure risk factors or symptoms)</li> <li>Required Wardens to modify operations to maximize social distancing, such as staggering meal and recreation times, for 30 days</li> </ul>
		The BOP issued a memorandum to Chief Executive Officers outlining necessary inmate mental health treatment and services during social distancing.
		<b>The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase Two.</b>
		<b>The BOP Issued an Update to Action Plan Phase Two:</b>
		<ul style="list-style-type: none"> <li>Stated that additional accommodations could be made for staff in high risk categories</li> </ul>
	18	<p><b>The BOP Issued Action Plan Phase Three:</b></p> <ul style="list-style-type: none"> <li>Provided guidance for noninstitutional locations that perform administrative services</li> </ul>
		<p><b>The BOP Issued Technical Direction to Contract Prisons on COVID-19 Reporting:</b></p> <ul style="list-style-type: none"> <li>Required contract prisons to complete and daily submit a chart that identifies both new and running totals of identified COVID-19 cases</li> </ul>

19

The first two BOP staff were presumed positive for COVID-19.

The BOP Issued Technical Direction to Contract Prisons Consistent with Update to Action Plan Phase Two.

20

The BOP issued guidance reprioritizing outside medical and dental trips.

21

The first BOP inmate tested positive for COVID-19.

23

The CDC issued Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities.

**The BOP Issued Action Plan Phase Four:**

- Required all new inmates to be screened using a screening questionnaire and temperature check. If asymptomatic, inmates were to be quarantined for at least 14 days or until cleared by medical staff. If symptomatic, inmates were to remain in isolation until they tested negative for COVID-19 and were medically cleared.
- Required all inmates to be screened upon exiting the facility; any symptomatic inmates were to be placed in isolation.
- Required all staff/contractors/other visitors to be screened upon entering the facility using a screening questionnaire and temperature check
- Required institutions to develop alternatives to in-person court appearances
- Required all non-bargaining unit positions to comply with and participate in the respiratory protection program, including completing medical clearance, training, and fit-testing for N95 masks

26

27

The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase Four.

28

**The BOP Issued an Update to Action Plan Phase Four:**

- Required inmates transferring within the BOP, in addition to new inmates, to be screened upon arrival

**The BOP Issued Action Plan Phase Five:**

- Enacted a 14-day nationwide action, effective April 1, to minimize movement within BOP facilities
- Emphasized continued and ongoing screening of all inmates to identify symptomatic cases and encourage early reporting of symptoms by inmates
- Required prompt and thorough contact tracing investigations for symptomatic cases, quarantining close contacts of suspected or confirmed COVID-19 cases, and isolating any inmates with symptoms similar to COVID-19
- Emphasized good hygiene and cleaning practices
- Required institutions to limit staff movements to the areas to which they were assigned
- Limited inmate movements to prevent group gatherings and maximize social distancing
- Directed inmate work details to continue with appropriate screening
- Worked with the U.S. Marshals Service to limit inmate movements between institutions
- Required all staff to be fit-tested for N95 respirators (included shaving all facial hair)
- Announced that UNICOR had initiated the manufacturing of face masks for inmates

31

**The BOP Issued Technical Direction to Contract Prisons:**

- Announced no sick call co-pays for COVID-like symptoms

April	3	The BOP issued a memorandum directing Chief Executive Officers to: (1) establish a point of contact with local public health officials and local hospitals, if not already established, and (2) be responsive and transparent with outside stakeholders to demonstrate that the BOP is taking aggressive action to mitigate the spread of COVID-19.
		The CDC issued new guidance recommending the use of cloth face coverings in addition to social distancing.
	4	<b>The BOP Issued Home Confinement Technical Direction to Contract Prisons:</b> <ul style="list-style-type: none"> <li>• Provided guidance on reviewing at-risk inmates for placement in home confinement and a roster to aid in the identification of inmates potentially eligible for home confinement</li> </ul>
	6	The BOP issued a memorandum to Chief Executive Officers indicating that it was working to issue face masks to all staff and inmates to lessen the spread of COVID-19 by asymptomatic or pre-symptomatic individuals.
	7	The BOP issued a memorandum to Chief Executive Officers establishing that all inmates being released or transferred from a BOP facility into the community were to be placed in quarantine for 14 days prior to release.
	8	<b>The BOP Issued Technical Directions to Contract Prisons Consistent with Action Plan Phase Five and on Community Health Points of Contact and Responsiveness to Outside Stakeholders.</b>
	13	<b>The BOP Issued Action Plan Phase Six:</b> <ul style="list-style-type: none"> <li>• Extended guidance issued in Phase Five through May 18</li> </ul>
	16	<b>The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase Six and Mandates Issuance of Face Coverings at Contract Prisons.</b>
May	24	The BOP expanded COVID-19 testing to include asymptomatic inmates following the acquisition of rapid ribonucleic acid testing equipment at select BOP facilities.
	3	The CDC updated guidelines to increase the period of recommended isolation from 7 to 10 days. For persons recovered from COVID-19 illness, the CDC recommended that isolation be maintained for at least 10 days after illness onset and at least 3 days (72 hours) after recovery.
	18	<b>The BOP Issued Action Plan Phase Seven:</b> <ul style="list-style-type: none"> <li>• Extended guidance issued in Phase Six through June 30</li> </ul>
June	19	<b>The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase Seven.</b>
		<b>The BOP Issued Action Plan Phase Eight:</b> <ul style="list-style-type: none"> <li>• Extended guidance issued in Phase Seven through July 31</li> <li>• Established new procedures for in-person court trips and inmate movement between BOP institutions</li> <li>• Required COVID-19 testing of all incoming inmates</li> </ul>
	30	
July	2	<b>The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase Eight.</b>

Source: OIG analysis of documents provided by the BOP

## GEO GROUP'S RESPONSE TO THE DRAFT REPORT



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### VIA EMAIL

August 21, 2020

Mr. Michael Pannone  
Deputy Assistant Inspector General  
Evaluations and Inspections  
U.S. Department of Justice

Dear Mr. Pannone:

I write in response to your August 19, 2020, memorandum where you transmitted a formal draft of your report titled, "Remote Inspection of Federal Bureau of Prisons Contract Correctional Institution Moshannon Valley, Operated by the GEO Group, Inc., Assignment Number A-2020-007B." Thank you for the opportunity to review the formal draft report. We also acknowledge the instruction not to disclose the contents of this report other than for official review and comment.

As you know, we previously reviewed the August 7, 2020, "working draft" of this report and made a few minor, technical corrections. We have reviewed the redlined "formal draft" and have no further edits to suggest.

Thank you for your partnership and transparency as you and your talented team conducted this thorough and professional review. We appreciate the opportunity from the Bureau of Prisons to support their important law enforcement mission, and for the opportunity to highlight the excellent work of the Moshannon Correctional Facility team in response to the COVID-19 pandemic.

If I can provide you with any additional information, please let me know.

Sincerely,

*DANIEL RAGSDALE*

Dan Ragsdale  
Executive Vice President  
Contract Compliance

## THE BOP'S RESPONSE TO THE DRAFT REPORT



U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director

Washington, D.C. 20534

August 25, 2020

MEMORANDUM FOR RENÉ ROCQUE LEE  
 ACTING ASSISTANT INSPECTOR GENERAL  
 EVALUATION AND INSPECTIONS

FROM:

*Gene Beasley*  
 Gene Beasley  
 Deputy Director

SUBJECT:

Response to the Office of Inspector General's (OIG)  
 Draft Audit Report: Remote Inspection of Federal  
 Bureau of Prisons Correctional Institution  
 Moshannon Valley, Operated by The GEO Group, Inc.  
 (A-2020-007B)

The Bureau of Prisons (BOP) appreciates the opportunity to provide a response to the Office of the Inspector General's above referenced report. The BOP would like to address the following areas in the draft report.

**Draft Report:** Page 1, 1<sup>st</sup> paragraph, last sentence, "... and because we believe that moving forward, it is important that the BOP share with contract prisons, as soon as practicable, the preventative measures it has taken at BOP-managed institutions, even if those measures are also outlined in CDC guidance."

Page 3, 2<sup>nd</sup> paragraph, "Although we did not identify any specific impact on Moshannon's management of COVID-19 arising from the BOP's delayed guidance, the BOP must continue to maintain effective oversight of its contract prison vendors to ensure that inmates receive the same quality of care in BOP-managed institutions and contract prisons. The prompt issuance of guidance to contract prison vendors, even that which reiterates CDC guidance, is vital to this effort and will continue to be so as the BOP is likely to develop additional guidance as its knowledge of COVID-19 preventive measures continues to develop."

**BOP's Response:** Neither the FAR nor the relevant privatization contracts require issuance of Technical Direction. It is a discretionary tool held by the Contracting Officer's (COR) Representative to provide technical direction on contract performance. See *infra* Privatization Contract Clause G.1 Technical Direction ("The COR **may at times** provide technical direction on contract performance.") (emphasis added). Upon determining a TD is practical, they are issued within 5 days. This process aligns with authorities in the FAR and is adhered to by the BOP. As the TD is a discretionary tool, G.1 does not establish a threshold for when an event becomes so significant as to require technical direction.

Furthermore, mandating the issuance of TDs when significant events occur: (1) gives the appearance that private providers would await direction from BOP prior to taking required action(s) in response to such significant events; and (2) may cause confusion regarding the distinction between TDs and contract modifications. Any delay to act poses potential serious risk to inmates, staff, and surrounding communities. It is incumbent upon each provider to adhere to contract requirements and implement action accordingly.

Lastly, on information and belief, the BOP's action phase plans in response to COVID-19 were posted on its public website within one business day of issuance to BOP-managed facilities. This rendered the information readily available to private providers, negating the need for Technical Direction.

Relevant Definitions Provided As Referenced Below:

The term "Contract Modification" is defined by the Federal Acquisition Regulation (FAR) as "any written change in the terms of a contract." FAR 2.101. The authority for executing modifications solely rests with the contracting officer (CO). See FAR 1.602-2(d)(5). The contracting officer's representative (COR) is responsible for assisting the CO in the technical monitoring or administration of the contract. FAR 1.604. To this end, BOP's privatization contracts include a clause defining "Technical Direction" as providing "technical direction on contract performance." An example of this clause is attached below.

G.1 CONTRACTING OFFICER'S REPRESENTATIVE (COR)

A. An individual that shall be named after contract award is hereby designated to act as Contracting Officer's Representative

(COR) under this contract. Additional COR's may be appointed as needed.

B. The COR is responsible, as applicable, for: receiving all deliverables, inspecting and accepting the supplies or services provided here under in accordance with the terms and conditions of this contract; providing direction to the contractor which clarifies the contract effort, fills in details or otherwise serves to accomplish the contractual Scope of Work; evaluating performance; and certifying all invoices/vouchers for acceptance of the supplies or services furnished for payment.

C. The COR does not have the authority to alter the contractor's obligations under the contract, and/or modify any of the expressed terms, conditions, specifications, or cost of the agreement. If as a result of technical discussions it is desirable to alter/change contractual obligations or the Scope of Work, the Contracting Officer shall issue such changes.

#### G.2 TECHNICAL DIRECTION

(a) The COR may at times provide technical direction on contract performance. Technical Direction includes:

(1) Direction to the Contractor which will assist them in accomplishing the requirements of the contract.

(2) Comments on and approval of services.

(b) Technical Direction does not include:

(1) Additional work outside the scope of the contract.

(2) A change as defined by the "Changes" clause.

(3) Any action that would cause an increase or a decrease in contract pricing.

(4) Any action that would alter the period of performance.

(5) Changes any of the other expressed terms or conditions of the contract.

(c) Technical direction will be issued in writing or confirmed in writing within five (5) days after oral issuance. The contracting officer will be copied on any technical direction issued by the contracting officer representative.

(e) If, in the contractor's opinion, any instruction or direction by the contracting officer representative(s) falls within any of the categories defined in paragraph (b) of the clause, the contractor shall not proceed but shall notify the contracting officer in writing within three (3) days after receiving it and shall request that the contracting officer take appropriate action as described in this paragraph. Upon receiving this notification, the contracting officer shall:

(1) Advise the contractor in writing as soon as practicable, but no later than 15 days after receipt of the contractor's notification, that the technical direction is within the scope of the contract effort and does not constitute a change under the "Changes" clause of the contract.

(2) Advise the contractor within a reasonable time that the government will issue a written modification to the contract; or

(3) Advise the contractor that the technical direction is outside the scope of the contract and is thereby rescinded.

(f) A failure of the contractor and contracting officer to agree as to whether the technical direction is within the scope of the contract, or a failure to agree upon the contract action to be taken with respect thereto, shall be subject to the provisions of the clause entitled "Disputes" in this contract.

(g) Any action(s) taken by the contractor, in response to any direction given by any person acting on behalf of the government or any government official other than the contracting officer or the contracting officer representative, shall be at the contractor's risk.

**Draft Report:** Pages 2-3, last paragraph, "GEO Group added that the CDC issued its "Interim Guidance on Management of Coronavirus Disease (COVID-19) in Correctional and Detention Facilities" on March 23 and that GEO Group "opened discussions with BOP immediately as implementing the CDC's guidelines would impact both facility operations and operating expenses.""

**BOP's Response:** Costs incurred by contract requirements does not negate the timely implementation of a requirement. Private providers can submit a request for equitable adjustment for the BOP's consideration within 30 days of requirement changes.

## OIG ANALYSIS OF THE BOP'S RESPONSE

The OIG provided a draft of this report to GEO Group and the BOP for their comment. GEO Group's response is included as [Appendix 4](#) to this report and does not require analysis by the OIG. The BOP's response is included in [Appendix 5](#) to this report. Below is the OIG's analysis of the BOP's response.

### Highlights of the BOP's Response

In its response to a draft of this report, the BOP stated that it is not required to issue technical direction to contract prison vendors. Further, the BOP stated that mandating the issuance of technical direction in response to significant events could cause contract prison vendors to await direction from the BOP prior to taking required action(s) and may cause confusion regarding the distinction between technical directions and contract modifications. Lastly, the BOP asserted that its action phase plans were readily available for contract prison vendors because they were published on BOP's website within 1 business day of issuance to BOP-managed facilities.

### OIG Analysis

Our report did not state that the BOP was required to issue technical direction to its contract prison vendors. We stated, and continue to maintain, that, in the context of mitigating the effects of the pandemic on inmates within the ambit of the BOP's care and custody, it would be prudent and important that the BOP share with contract prison vendors, as soon as practicable, the preventive measures it has taken at BOP-managed institutions. In our report, we noted that with certain exceptions the BOP did issue comparable guidance to contract prison vendors soon after it issued it to BOP-managed institutions. We recognize the immense challenges that the COVID-19 pandemic has presented to the BOP. Our purpose was to convey that, under these exigent conditions, the BOP should make every effort to communicate in a timely manner the same information to its contract prison vendors as it communicates to BOP-managed facilities.

The intention of the OIG's remote inspections of BOP-managed institutions, contract prisons, and RRCs is to assist the BOP in its continued efforts to effectively manage the COVID-19 pandemic. Therefore, we described some delays by the BOP in issuing to contract prison vendors technical direction about guidance the BOP was providing to its own facilities. We did so to highlight a potential risk area for the BOP to consider as it moves forward in its efforts to protect inmates in its custody and staff from COVID-19. While we recognize that the BOP believes it is not obligated to issue technical direction, we believe that communication through technical direction is an important tool that can help the BOP's oversight of its contract prison vendors.