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May 13, 2020

By email

United States Senate
Attn: Senators Warren and Blumenthal
Washington DC 20510

Re: Response to letter dated April 27, 2020

Dear Senators Warren and Blumenthal:

Thank you for your April 27, 2020 letter. Medline Industries, Inc. is pleased to provide information about its participation in the "Project Air Bridge" program.

As you may know, Medline manufactures and distributes medical supplies in the United States. We serve tens of thousands of healthcare systems, nursing homes, and other medical providers across the country. Our customers are at the frontlines of the COVID-19 pandemic response. To support their efforts, our employees are working tirelessly to procure, ship, import, and distribute as much critical medical equipment as we can, and to do so as quickly as possible. We are proud of the role that Medline plays during the COVID crisis.

We respond to your specific questions and provide more detail about our work over the past two months, below:

1. How was your company selected as a participant in Project Air Bridge?

Medline has no knowledge of the government process that led to our selection for participation in Project Air Bridge.

2. What specific contracts or agreements are in place between you and federal government entities regarding Project Air Bridge? With what agencies has your company signed these agreements?

Medline entered into a Memorandum of Agreement (MOA) with the Department of Homeland Security (DHS) and the Federal Emergency Management Agency (FEMA) on March 30, 2020. A copy of the MOA is attached.

3. How do you receive medical supplies and PPE from Project Air Bridge? What costs do you pay for the federal government's transport of these items, and how does it compare to your typical costs for obtaining items from suppliers?

Project Air Bridge provides airfreight transportation for Medline to expedite movement of some of its products from Asia to the United States. Medline utilizes a network of contract manufacturers

throughout Asia that produce medical supplies, including personal protective equipment (PPE). Medline uses this network to procure the PPE transported on Project Air Bridge, along with product we continue to ship ourselves via air and sea freight.

Prior to the pandemic, Medline shipped almost all of its products by sea, as airfreight costs were approximately 20 to 30 times more expensive than sea freight. However, airfreight lead times are approximately 5 days compared to more than 30 days for sea freight. Thus, since the pandemic started, and notwithstanding the cost differential, Medline moved many PPE shipments by air freight to get product to the U.S. as quickly as possible.

At the same time, procuring adequate supply of air freight became increasingly challenging. While demand for air shipping increased, supply sharply decreased, in large part because commercial airlines stopped traveling between the U.S. and Asia. As a result, securing space on airfreight flights has been extremely difficult. Moreover, to the extent that airfreight is available, average airfreight costs increased from approximately \$3.50 per kg to approximately \$15 per kg for flights from Shanghai to Chicago.

Because of the worldwide shortage of PPE, Medline's acquisition costs for most PPE from manufacturers increased 200-1,500%.

Despite these cost increases, we continue to procure as much PPE as reasonably possible for the U.S. market. The pre-pandemic PPE products that Medline continues to source and sell are being sold, in the vast majority of transactions, at pre-pandemic prices, notwithstanding Medline's much higher acquisition costs for many of these products. New PPE products that Medline sourced in response to the crisis are being sold at prices consistent with pre-pandemic pricing practices.

4. How has your company distributed medical supplies and PPE?

Medline utilizes 45 owned and operated distribution centers to provide medical supplies directly to healthcare providers. As a result of rapidly increasing demand starting in February, all Medline PPE customers were placed on "allocation" in early February, a program whereby customers get a percentage of their demand. Allocation percentages are based on historical usage of each customer.

- a. How is your company or the government determining which half of supplies will be distributed to hotspots, and which half will instead be fed into the "normal supply chain"? For example, are medical supplies being divided into halves by number of unit? Cost? Is each category of medical product being divided separately?*

At least 50 percent of each type of PPE from each flight is distributed to FEMA-designated hot spots by number of unit. For instance, if a flight transports 1,000,000 units of a type of product, no less than 500,000 units are distributed to providers within FEMA-designated hot spots.

- b. Have you been provided with instructions to distribute supplies to COVID-19 "hotspots"? Please provide any lists of hotspots that have been provided to you, as well as any relevant dates for which those lists were current.*

Yes. FEMA provides an updated hot spot list every 96 hours.

- c. *How is your company distributing the supplies that are fed into its “normal supply chain”? Are these supplies going to orders that were placed before the initiation of Project Air Bridge? Are they going to existing customers under renegotiated terms? Are they auctioned to the highest bidder? Please describe your company’s practices in as much detail as possible.*

Medline has historically sold PPE predominantly to health care providers, such as hospitals and nursing homes. At the start of the pandemic, Medline ceased distribution to the relatively small number of resellers (excluding private label products for mass merchandisers) among its customer base, and focused instead on maximizing distribution to end users such as health care systems, hospitals, nursing homes, and other providers. Thus, the vast majority of Medline’s PPE products, including those shipped through Project Air Bridge, were not made available for resale.

Medline has not auctioned any PPE, and is not allocating supply among its customers based on any type of “highest bidder” system. Instead, Medline is allocating supply to existing customers based on their historical (pre-pandemic) ordering patterns. Medline is trying to satisfy demand from new customers to the extent we are able, consistent with our obligations to existing customers.

Medline has not sought to renegotiate terms with existing customers for supplies transported via Project Air Bridge.

The pre-pandemic PPE products that Medline continues to source and sell during the pandemic are being sold, in the vast majority of transactions, at pre-pandemic prices, notwithstanding Medline’s much higher acquisition costs for many of these products.

Any additional capacity Medline created within the PPE category (e.g., new products, substitute products) is made available to both pre-existing and new customers on economic and non-economic terms the same as or similar to pre-pandemic terms, and the new PPE products that Medline sourced in response to the crisis are being sold at prices that are consistent with pre-pandemic pricing practices.

5. *Please provide a full accounting of the distribution of all medical supplies and equipment that you have been provided via Project Air Bridge, including a list of all COVID-19-related supplies and PPE you have received, the quantity of each item, and information on where this quantity has been distributed, including a list of how much each recipient (states, localities, and tribal governments, hospitals or medical systems, or other third-parties) has received.*

Per the MOA, we provide a full accounting to FEMA of the 50 percent of the PPE distributed in the hotspots.

6. *How do you determine selling prices for medical equipment and PPE that you have obtained via Project Air Bridge? What restrictions, if any, dictate your ability to set prices on medical supplies distributed via Project Air Bridge? One report says that your company is required to charge “reasonable” prices.[] Please describe any such requirements in detail. How is the government monitoring and enforcing compliance with such requirements?*

Medline's approach to PPE pricing during the pandemic is described in the responses to Questions 3 and 4c above. Medline has not implemented different pricing practices for supplies transported via Project Air Bridge.

Our MOA with DHS/FEMA requires that our resale price for PPE transported via Project Air Bridge be "reasonable." Medline is confident that it has gone far beyond this requirement for the reasons described above.

Medline has no knowledge of how DHS/FEMA is monitoring and enforcing compliance with this requirement. DHS/FEMA has not asked Medline for information about its pricing of PPE transported via Project Air Bridge.

7. Please provide a full accounting of the cost and pricing of all medical supplies and equipment that you have been provided via Project Air Bridge, including a list of (1) average cost to obtain each type of supply or equipment, (2) your average selling prices for each type of supply or equipment, and (3) your average selling price for each pieces of supply or equipment for each major recipient (states, localities, and tribal governments, hospitals or medical systems, or other third-parties).

Medline was not provided any medical supplies or equipment via Project Air Bridge. As described above, Medline was provided access to airfreight services to move supplies Medline procured in Asia to its U.S. customers. As noted, the pre-pandemic PPE products Medline continues to source and sell during the pandemic are being sold, in the vast majority of transactions, at pre-pandemic prices, and new PPE products that Medline has sourced in response to the crisis are being sold at prices that are consistent with pre-pandemic pricing practices.

8. *Is your company entrusted with distributing pre-existing orders of supplies that are seized by FEMA? Has it been given any directives on how to distribute these supplies?*

Medline is not aware of any seizures of medical supplies by FEMA. Medline was not asked to distribute any medical supplies in FEMA's possession.

* * *

We hope that this information is helpful. Medline and its thousands of employees will continue to work hard every day to supply its customers with critical medical supplies to save lives and fight this terrible pandemic.

Sincerely,

MEDLINE INDUSTRIES, INC.

By: *ML*
Alex M. Liberman
General Counsel

AML:pm
Enclosure

**MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY (DHS/FEMA)
AND
MEDLINE INDUSTRIES, INC.**

I. Parties:

The parties to this Agreement are the Department of Homeland Security/Federal Emergency Management Agency (DHS/FEMA) and Medline Industries, Inc. (“Medline”).

II. Authority:

This Agreement is authorized under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq.

III. Purpose:

This Agreement sets forth the terms by which DHS/FEMA (or, with DHS/FEMA’s coordination, the U.S. Department of Health and Human Services (HHS)) will transport Personal Protective Equipment or other medical supplies (hereinafter “PPE”) on behalf of Medline. The effort underlying this agreement is intended to facilitate the ability of Medline to rapidly provide critical PPE items that are currently in short supply to locations where it is needed most, including end users such as hospitals, and state and local governments. In consideration of DHS/FEMA’s agreement to transport PPE at the Government’s expense, Medline agrees to distribute, in accordance with their responsibilities set forth below, a minimum of 50% of the total transported PPE to DHS/FEMA designated locations specified in Attachment A. Each party will cooperate to carry out its respective responsibilities under this agreement.

IV. Responsibilities:

A. DHS/FEMA Responsibilities:

1. DHS/FEMA (or HHS) will transport, by air, PPE owned by Medline to the United States from the locations identified in **Attachment A**.
2. DHS/FEMA (or HHS) will use existing authority to arrange air transportation services.
3. DHS/FEMA (or HHS) will deliver the shipments to the locations designated in **Attachment A**.

B. Medline Responsibilities:

1. Medline agrees to cooperate to the fullest extent possible with assisting DHS/FEMA (or HHS) at point of origin and point of destination to facilitate the shipment of PPE.
2. Medline agrees to provide a reasonable estimate of the value of the shipment at least 48 hours prior to the shipment for purposes of arranging service with a transportation service provider.
3. Medline agrees that upon receipt of the PPE shipment in the United States, Medline will distribute at least 50% of the PPE medical supplies to Medline existing customers in the locations specified in **Attachment B**, which DHS/FEMA and HHS have determined have the most pressing need. For avoidance of doubt, any sales of such PPE directly to FEMA shall not be deemed to be distribution to the locations specified in **Attachment B**. DHS/FEMA reserves the right to amend the list of locations specified in **Attachment B** at any time.
4. Medline agrees to confirm distribution of the PPE to the locations specified in **Attachment B** via an email to FEMA containing a report on the locations, name of recipient healthcare facilities, and amount of PPE per healthcare facility.
5. Medline agrees to take possession of the PPE shipped at Government's expense at the point of arrival (*i.e.*, the airport). The point(s) of arrival is set forth in **Attachment A**.
6. Medline agrees to distribute the PPE to its customers at a reasonable price (*i.e.*, the price that a prudent and competent buyer would be willing to pay given available data on market conditions).

V. **Points of Contact:** All notices or other written communication related to this MOA shall be in writing and shall be deemed to have been given by the notifying party if delivered by hand, electronic media (with confirmed receipt) or mailed by an overnight delivery service, to the receiving party's below identified contractual representative:

Medline	DHS/FEMA
Name: Alex Liberman	Name: William Roy
Address: 3 Lakes Drive Northfield, IL 60093	Address: 500 C St. SW Washington, D.C. 20472
Telephone: 847-949-3015	Telephone:
Email: aliberman@medline.com	Email: William.f.roy@fema.dhs.gov

Company	DHS/FEMA
Name:	Name: Michael Cameron
Address:	Address: DHS/FEMA 500 C. St, SW Washington, D.C. 20472

Telephone:	Telephone: 202-212-3027
Email:	Email: mike.cameron@fema.dhs.gov

VI. Other Provisions:

A. Nothing in this Agreement is intended to conflict with current law or regulation or the directives of DHS/FEMA or Medline. If a term of this Agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this Agreement shall remain in full force and effect.

B. This agreement with [company] is not contingent upon, or made on the expectation of, any agreement between the U.S. and any other private company. Moreover, [company] will comply with the agreement without regard to the participation or non-participation in the program, or the terms thereof, of any other private company.

C. **Risk of Loss.** All PPE furnished, loaned or bailed by Medline to DHS/FEMA or HHS, or otherwise acquired by DHS/FEMA or HHS for the performance of this MOA are the property of Medline. DHS/FEMA shall not charge Medline for any storage, maintenance or return of any PPE, except in the circumstance that FEMA must store the shipment due to Medline failure to take possession no more than three (3) business days from arrival notification of the shipment at the point of destination. Except as provided for in writing, DHS/FEMA shall bear all risk of loss or damage for all such PPE in DHS/FEMA's possession or for which DHS/FEMA is responsible.

D. This Agreement is between DHS/FEMA and Medline and does not confer or create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or in equity, onto any third person or party (public or private) against the United States, its agencies, its officers or employees, or any person; or against Medline, its officers or employees, or any other person.

E. This Agreement is not a fiscal or funds obligation document. Any services, equipment or personnel provided to DHS/FEMA to accomplish the goals anticipated under this agreement are done so without expectation of reimbursement or the payment of fees related to the provision of such services, equipment, or personnel, unless otherwise agreed. Any specific work or activity that involves the transfer of funds, services, or property among the parties will require execution of a separate agreement and will be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory or other legal authority. This Agreement does not provide such authority. Medline agrees that it has no expectation of payment from FEMA and agrees to waive any claim for compensation of any kind from FEMA or any payment from FEMA in relation to FEMA's transportation of **[Company's]** PPE, except with respect to loss or damage as provided above.

F. This Agreement, upon execution, contains the entire agreement of the parties and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter.

VII. Effective Date:

The terms of this Agreement will become effective upon the signature of both parties.

VIII. Modification:

This Agreement may be modified upon the mutual, written consent of the parties.

IX. Termination:

The terms of this Agreement, as modified with the consent of both parties, will remain in effect until Medline has confirmed the delivery information for the PPE as specified in Section IV.B.4. The Agreement may be extended by mutual written agreement of the parties. Either party upon 5 days' written notice to the other party may terminate this Agreement.

X. Approved by:

William Roy

[William Roy \(Mar 30, 2020\)](#)

William Roy

Director, Operations Division, Office of Response
Federal Emergency Management Agency

03/30/2020

Date

Alex Liberman

[Alex Liberman \(Mar 28, 2020\)](#)

Alex Liberman

General Counsel

Medline Industries, Inc.

03/28/2020

Date