

From: Windom, John H.
Sent: 14 Mar 2018 17:50:18 +0000
To: Truex, Matthew; Blackburn, Scott R.
Cc: Foster, Michele (SES)
Subject: RE: any other NDAs come in?

Tracking.
Thx
Jw

Sent with Good (www.good.com)

From: Truex, Matthew
Sent: Wednesday, March 14, 2018 10:24:21 AM
To: Windom, John H.; Blackburn, Scott R.
Cc: Foster, Michele (SES)
Subject: RE: any other NDAs come in?

John – To some extent, yes, however, in instances where VA is having specific individuals provide reviews/feedback I still prefer to have NDAs as we are pulling them behind the veil to some extent. I briefly consulted with OGC and their recommendation is to continue to request the NDAs.

Thanks,
Matt

Matthew Truex
Contracting Officer
Department of Veterans Affairs
Office of Procurement, Acquisition and Logistics
Technology Acquisition Center
23 Christopher Way
Eatontown, New Jersey 07724
Office: (b) (6)
Mobile: (b) (6)
e-mail: (b) (6)@va.gov



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From: Windom, John H.
Sent: Wednesday, March 14, 2018 12:48 PM
To: Truex, Matthew; Blackburn, Scott R.
Cc: Foster, Michele (SES)
Subject: RE: any other NDAs come in?

NDAs are a moot point after the public posting, correct?
Jw

Sent with Good (www.good.com)

From: Truex, Matthew
Sent: Wednesday, March 14, 2018 9:45:41 AM
To: Blackburn, Scott R.
Cc: Windom, John H.; Foster, Michele (SES)
Subject: RE: any other NDAs come in?

Mr. Blackburn,

I have received NDAs for all individuals except (b) (6) and (b) (6)

NDAs are in hand for (b) (6) Dr. Moskowitz, Mr. Sherman, Mr. Perlmutter, and (b) (6) Those with signed NDAs have all been sent a link to the RFP files.

Thanks,
Matt

Matthew Truex
Contracting Officer
Department of Veterans Affairs
Office of Procurement, Acquisition and Logistics
Technology Acquisition Center
23 Christopher Way
Eatontown, New Jersey 07724
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From: Truex, Matthew
Sent: Tuesday, March 13, 2018 2:17 PM
To: Blackburn, Scott R.; Windom, John H.; Foster, Michele (SES)
Subject: RE: any other NDAs come in?

Mr. Blackburn – As you may have seen, NDAs were just received from Mr. Perlmutter and Mr. Sherman. I am in the process of providing (b) (6) Mr. Perlmutter and Mr. Sherman access to the RFP files via the Army's SAFE site.

Thanks,
Matt

Matthew Truex
Contracting Officer
Department of Veterans Affairs
Office of Procurement, Acquisition and Logistics
Technology Acquisition Center
23 Christopher Way
Eatontown, New Jersey 07724
Office: (b) (6)
Mobile: (b) (6)
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From: Truex, Matthew
Sent: Tuesday, March 13, 2018 12:32 PM
To: Blackburn, Scott R.; Windom, John H.; Foster, Michele (SES)
Subject: RE: any other NDAs come in?

Absolutely, will do Mr. Blackburn. The only NDA I have received is from (b) (6) as stated yesterday.

Matthew Truex
Contracting Officer
Department of Veterans Affairs
Office of Procurement, Acquisition and Logistics
Technology Acquisition Center
23 Christopher Way
Eatontown, New Jersey 07724
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From: Blackburn, Scott R.
Sent: Tuesday, March 13, 2018 11:41 AM
To: Truex, Matthew; Windom, John H.; Foster, Michele (SES)
Subject: any other NDAs come in?

Let me know if/when they do. The Secretary is monitoring very closely so I want to give him a little "here is where we are" by the end of the day.

Once again – thanks for your patience and support with this. I want to make sure we do this all in the right way so leaning on you guys for help. I do think this is important for external validation, buy-in, and maybe even a few slight course corrections before signing if they do find anything that we need to improve (extra sets of eyes and different perspectives is always good – especially on a contract of this significance and magnitude).

Scott Blackburn
Acting CIO & Executive-in-Charge, Office of Information & Technology
Department of Veterans Affairs

From: Blackburn, Scott R.
Sent: 14 Mar 2018 09:56:12 -0700
To: (b) (6)
Cc: Windom, John H.; Truex, Matthew; Foster, Michele (SES); (b) (6)
Subject: RE: VA EHR

Thanks so much, (b) (6)

From: (b) (6) [mailto:(b) (6)@imail.org]
Sent: Wednesday, March 14, 2018 11:52 AM
To: Blackburn, Scott R.
Cc: Windom, John H.; Truex, Matthew; Foster, Michele (SES); (b) (6)
Subject: [EXTERNAL] RE: VA EHR

Scott,

I have attached my signed NDA. I look forward to visiting tomorrow. Thanks (b) (6)

From: Blackburn, Scott R. [mailto:(b) (6)@va.gov]
Sent: Monday, March 12, 2018 7:08 PM
To: (b) (6)@imail.org>
Cc: Windom, John H. <(b) (6)@va.gov>; Truex, Matthew (b) (6)@va.gov>; Foster, Michele (SES) <(b) (6)@va.gov>; (b) (6)@va.gov>
Subject: RE: VA EHR

(b) (6)

Thank you for agreeing to be an extra set of outside eyes as we at VA finalize our EHR contract. We appreciate your vast experience and expertise; and want to make sure we get to the best place possible for Veterans, the country and taxpayers. As we are incredibly grateful to you for volunteering your time, we want to make this as easy as possible for you. Here are 3 next steps.

- 1) We will need you to sign the attached NDA. Please return to Matt Truex (cc'd).
- 2) Matt will then send you the latest package under separate cover.
- 3) Given government contracts are different than what you are used to reading, we would propose a quick phone call so that we can orient you to the contract and help focus you on the parts where your expertise will be most valuable. Matt Truex will lead this from our side and has told me is available between tomorrow from 9:30-11am ET or I am sure he can also find other times if these don't work for you. I will ask (b) (6) (cc'd) here to help set up a time.

Thanks again!
Scott

From: (b) (6) [mailto:(b) (6)@imail.org]
Sent: Monday, March 12, 2018 4:34 PM
To: Blackburn, Scott R.
Subject: [EXTERNAL] Re: VA EHR

Yes, I would be glad to help. What is the next step? (b) (6)

Sent from (b) (6) Phone

On Mar 12, 2018, at 6:54 AM, Blackburn, Scott R. <(b) (6)@va.gov> wrote:

(b) (6)

I hope this finds you well. On behalf of Secretary Shulkin I wanted to see if we could enlist your help. We are very close to finalizing our EHR deal with Cerner; however we want to make sure we get a few extra set of eyes on it to make sure we are doing right by Veterans, the country and taxpayers. Would you have the time/ability to conduct a quick high level review and provide input in the next week or so? You were referred to us by Dr. Bruce Moskowitz.

Thanks so much,
Scott

Scott Blackburn

Acting CIO & Executive-in-Charge, Office of Information & Technology
Department of Veterans Affairs

From: (b) (6)
Sent: 14 Mar 2018 15:52:19 +0000
To: Blackburn, Scott R.
Cc: Windom, John H.; Truex, Matthew; Foster, Michele (SES); (b) (6)
Subject: [EXTERNAL] RE: VA EHR
Attachments: NDA EHRM Stan Huff signed 180314.pdf

Scott,

I have attached my signed NDA. I look forward to visiting tomorrow. Thanks, (b) (6)

From: Blackburn, Scott R. [mailto:(b) (6)@va.gov]
Sent: Monday, March 12, 2018 7:08 PM
To: (b) (6)@imail.org>
Cc: Windom, John H. <(b) (6)@va.gov>; Truex, Matthew <(b) (6)@va.gov>; Foster, Michele (SES) <(b) (6)@va.gov>; (b) (6)@va.gov>
Subject: RE: VA EHR

(b) (6)

Thank you for agreeing to be an extra set of outside eyes as we at VA finalize our EHR contract. We appreciate your vast experience and expertise; and want to make sure we get to the best place possible for Veterans, the country and taxpayers. As we are incredibly grateful to you for volunteering your time, we want to make this as easy as possible for you. Here are 3 next steps.

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Thanks again!
Scott

From: (b) (6) [mailto:(b) (6)@imail.org]
Sent: Monday, March 12, 2018 4:34 PM
To: Blackburn, Scott R.
Subject: [EXTERNAL] Re: VA EHR

Yes, I would be glad to help. What is the next step? (b) (6)

Sent from (b) (6) iPhone

On Mar 12, 2018, at 6:54 AM, Blackburn, Scott R. (b) (6)@va.gov wrote:

(b) (6)

I hope this finds you well. On behalf of Secretary Shulkin I wanted to see if we could enlist your help. We are very close to finalizing our EHR deal with Cerner; however we want to make sure we get a few extra set of eyes on it to make sure we are doing right by Veterans, the country and taxpayers. Would you have the time/ability to conduct a quick high level review and provide input in the next week or so? You were referred to us by Dr. Bruce Moskowitz.

Thanks so much,
Scott

Scott Blackburn

Acting CIO & Executive-in-Charge, Office of Information & Technology
Department of Veterans Affairs

NON-DISCLOSURE AGREEMENT

1. I acknowledge that I have been selected to participate in the planning for an electronic health record acquisition. In the course of participating in this acquisition, I may be or have been given access to or entrusted with Source Selection Information (as defined in Federal Acquisition Regulation (FAR) 2.101 and 3.104), and/or other sensitive Government data marked or considered as "proprietary" (e.g., restrictive legend per FAR 52.215-1) that I cannot release to others nor can I use for the financial benefit of others or myself.

Source Selection Information is defined in FAR 2.101 & 3.104 and other sensitive Government data includes data marked or considered as "proprietary" (e.g., restrictive legend per FAR 52.215-1). Data includes all data, information and software, regardless of the medium (e.g. electronic or paper) and/or format in which the data exists, and includes data which is derived from, based on, incorporates, includes or refers to such Source Selection and/or proprietary data (collectively referred to herein as "the data"). Any data which is derived from, based on, incorporates, includes or refers to data shall be treated as Source Selection, or proprietary data and shall be subject to the terms of this Non-Disclosure Agreement.

2. I understand that 41 U.S.C. § 423, commonly referred to as the Procurement Integrity Act, and now codified at U.S.C.A. § § 2101-2107, and provisions FAR 3.104 govern the release of proprietary and source selection information. I certify that I will not disclose any contractor bid, solicitation, proprietary, or source selection information directly or indirectly to any person other than a person authorized by the head of agency or the contracting officer to receive such information. I understand that unauthorized disclosure of such information may subject me to substantial administrative, civil and criminal penalties, including fines, imprisonment, and loss of employment under the Procurement Integrity Act or other applicable laws and regulations.

3. I certify that I will not discuss evaluation of source selection matters with any unauthorized individuals (including Government personnel), even after contract award, without specific prior approval from proper authority.

4. These provisions are consistent with, and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling. These statutes and Executive orders include the following:

- ☐ Executive Order No. 12958;
- ☐ The Privacy Act (5 U.S.C. § 552a);
- ☐ The Trade Secrets Act (18 U.S.C. § 1905);
- ☐ Section 7211 of title 5, United States Code (governing disclosures to Congress);
- ☐ Section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military);

☐ Section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Action (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats);

☐ The Intelligence Identities Protection Act of 1982 (50 U.S.C. § 421 *et seq.*) (governing disclosures that could expose confidential Government agents); and

☐ The statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. § 783(b)).

Additionally, pursuant to 38 Code of Federal Regulations 1.201, all VA employees with knowledge or information about actual or possible violations of criminal law related to VA programs, operations, facilities, contracts, or information technology systems shall immediately report such knowledge or information to their supervisor, any management official, or directly to the Office of (b) (6)

Signature: _____

Name Printed: _____

Title: Chief Medical Informatics Officer

Organization: Intermountain Healthcare

Organizational Conflict(s) of Interest (OCIs): None Known

From: (b) (6)
Sent: 14 Mar 2018 06:40:49 -0500
To: Blackburn, Scott R.; Truex, Matthew
Cc: Windom, John H.
Subject: RE: [EXTERNAL] RE: VA EHR

Good morning, I believe we have everyone scheduled for tomorrow here is the breakdown:

8:30AM

(b) (6)

11:30AM

(b) (6)

I have yet to hear back from the three folks you emailed last night.

Thanks,

(b) (6)

From: Blackburn, Scott R.
Sent: Tuesday, March 13, 2018 11:07 PM
To: (b) (6); Truex, Matthew
Cc: Windom, John H.
Subject: FW: [EXTERNAL] RE: VA EHR
Importance: High

Let's try to get everyone else lined up on the timeline I previously laid out. I don't want to ruin his vacation. At the same time I don't want this to drag on.

From: (b) (6) @mayo.edu]
Sent: Tuesday, March 13, 2018 11:04 PM
To: Blackburn, Scott R.
Cc: (b) (6); Truex, Matthew
Subject: Re: [EXTERNAL] RE: VA EHR

Tomorrow or next Thursday? I am on the Big Sur coast now on vacation. Cell coverage spotty. (b) (6)
(b) (6)

Sent from my iPhone

On Mar 13, 2018, at 1:46 PM, Blackburn, Scott R. <(b) (6)@va.gov> wrote:

(b) (6) - thank you so much! 2 next steps.

- 1) Matt (cc'd here) will send you the latest package of material to review.

- 2) (b) (6) (also cc'd here) will reach out to you to schedule some time this week so that Matt/team can orient you to what Matt will be sending to you. Government contracts are very different than typical private sector contracts (longer and some would say more bureaucratic). So in order to help we'll jump on the phone so that Matt can walk you through what sections to look at and what you can ignore.

Thanks again!
Scott

From: (b) (6) [REDACTED]@mayo.edu]
Sent: Tuesday, March 13, 2018 12:43 PM
To: Blackburn, Scott R.
Subject: Re: [EXTERNAL] VA EHR

Thank you for the invitation to provide input. I am glad for accept. Please let me know how I can be of service. I will be traveling largely out of cell coverage the next day (b) (6)

Sent from my iPhone

On Mar 12, 2018, at 6:55 AM, Blackburn, Scott R. <(b) (6)@va.gov> wrote:

(b) (6)

I hope this finds you well. On behalf of Secretary Shulkin I wanted to see if we could enlist your help. We are very close to finalizing our EHR deal with Cerner; however we want to make sure we get a few extra set of eyes on it to make sure we are doing right by Veterans, the country and taxpayers. Would you have the time/ability to conduct a quick high level review and provide input in the next week or so? You were referred to us by Dr. Bruce Moskowitz.

Thanks so much,
Scott

Scott Blackburn
Acting CIO & Executive-in-Charge, Office of Information & Technology
Department of Veterans Affairs

From: Foster, Michele (SES)
Sent: 13 Mar 2018 14:09:34 -0700
To: Windom, John H.
Subject: RE: VHA EHR - 2 calls that my assistant will set up

Thanks John-I'll be on the train headed your way Thursday morning but (b) (6) will be with Matt.
R/Michele

Michele R. Foster
Associate Executive Director
Office of Acquisition Operations
Technology Acquisition Center (TAC)
Department of Veterans Affairs
23 Christopher Way
Eatontown, NJ 07724
Ofc: (b) (6)



From: Windom, John H.
Sent: Tuesday, March 13, 2018 5:07 PM
To: Truex, Matthew
Cc: Foster, Michele (SES)
Subject: FW: VHA EHR - 2 calls that my assistant will set up

Matt,
I will speak for 5 minutes and turn over to you. My comments will likely revolved around the D&F.
Very painful.
Thx
John

John H. Windom, Senior Executive Service (SES)
Program Executive for Electronic Health Record Modernization (PEO EHRM)
Special Advisor to the Under Secretary for Health
811 Vermont Avenue NW (b) (6)
Washington, DC 20420
(b) (6)@va.gov
Office: (b) (6)
Mobile: (b) (6)
Executive Assistant: (b) (6) - Appointments and Scheduling
(b) (6)@va.gov Office: (b) (6)

From: Blackburn, Scott R.
Sent: Tuesday, March 13, 2018 5:04 PM
To: Marc Sherman
Cc: IP: (b) (6) @gmail.com; Bruce Moskowitz; Truex, Matthew; Windom, John H.; DJS; (b) (6)
(b) (6) Fleck, Robert R. (OGC); Foster, Michele (SES)
Subject: VHA EHR - 2 calls that my assistant will set up

Marc/Bruce/Ike – thank you so much for the prompt replies. I just spoke to Bruce. We've got 100% participation (b) (6) and we are moving forward. Matt Truex (cc'd, our contracting officer) is making sure everyone has the right material. (b) (6) (my assistant, cc'd here) will be organizing a few phone calls in 2 steps:

Step 1 – Basic orientation to the government contract structure. This will be a 30-45 minute orientation so that folks know what they are looking at. John Windom and Matt Truex will host this and clue people into the parts to focus on and parts that are standard government things that are less relevant. This can be done in groups (ideally) or in one-offs to fit to accommodate people's busy schedules. (b) (6) has already scheduled 2 times in case these work for you. If they do not, she will work with your schedulers to find other times in the next 24-48 hours (sooner the better).

- Thursday 8:30-9:15am ET – (b) (6) confirmed
- Thursday 11:30am-12:15pm ET – (b) (6) confirmed

Step 2 – Feedback calls. Per Bruce's idea, we'll schedule 2 separate feedback calls for early next week. Both 90 minutes each. We are aiming for Monday, Tuesday or Wednesday at the latest. (b) (6) will set these up.

- CIOs ((b) (6)) – and of course each of you are encouraged to join)
- Doctors ((b) (6)) – and of course each of you are encouraged to join)

Let me know how this sounds. Thank you again for your support and assistance on this critical matter.

Scott

From: Marc Sherman [mailto:(b) (6) @gmail.com]
Sent: Tuesday, March 13, 2018 1:40 PM
To: Blackburn, Scott R.
Cc: IP; (b) (6) @gmail.com; Bruce Moskowitz; Truex, Matthew; Windom, John H.; DJS
Subject: [EXTERNAL] Re: VA EHR NDA

Scott, Matt and John

Thank you for the NDA draft that you sent along and the organized approach. I have attached the following to close the loop:

1. a marked up version of the NDA with a few necessary adjustments in red-line so you can see the changes that were made,
2. a blank copy of the amended NDA for Bruce and Ike to sign, and

3. a signed version by me of the amended NDA.
Thanks and happy to help as requested.

Marc

On Tue, Mar 13, 2018 at 10:31 AM, Blackburn, Scott R. <(b) (6)@va.gov> wrote:
Ike, Bruce, Marc:

Thank each of you for agreeing to lend an extra set of outside eyes on the EHR contract. We appreciate your support and want to make sure we get to the best place possible for Veterans, the country and taxpayers. As we are incredibly grateful to you for volunteering your time, we want to make this as easy as possible for you. Here are 3 next steps.

- 1) We will need you to sign the attached NDA. Please return to Matt Truex (cc'd).
- 2) Matt will then send you the latest package under separate cover.
- 3) Given government contracts are different than what you are used to reading, we would propose a quick phone call so that we can orient you to the contract and help focus you on the parts where your expertise will be most valuable. Matt Truex (who is the government contracting officer) and John Windom (who is our EHR leader) will lead this from our side. I will ask (b) (6) cc'd here to help set up a time. We can either do this all together, if calendars match up, or separately if need be.

We have also connected with (b) (6) and (b) (6) who all have all received the NDA and we are working with them. I am hoping to connect with (b) (6) today.

Thanks again!
Scott

Scott Blackburn

Acting CIO & Executive-in-Charge, Office of Information & Technology
Department of Veterans Affairs

From: Bruce Moskowitz
Sent: 13 Mar 2018 14:59:21 -0400
To: Blackburn, Scott R.;Truex, Matthew;Windom, John H.
Cc: DJS;IP;(b) (6)@gmail.com
Subject: [EXTERNAL] NDA.pdf
Attachments: NDA.pdf

Sent from my iPad
Bruce Moskowitz M.D.

NON-DISCLOSURE AGREEMENT (Dated March 13, 2018)

1. I acknowledge that I have been selected to participate in the planning for an electronic health record acquisition. In the course of participating in this acquisition, I may be or have been given access to or entrusted with Source Selection Information (as defined in Federal Acquisition Regulation (FAR) 2.101 and 3.104), and/or other sensitive Government data marked as "proprietary" (e.g., restrictive legend per FAR 52.215-1) that I cannot release to others nor can I use for the financial benefit of others or myself.

Source Selection Information is defined in FAR 2.101 & 3.104 and other sensitive Government data includes data marked as "proprietary" (e.g., restrictive legend per FAR 52.215-1). Data includes all data, information and software, regardless of the medium (e.g. electronic or paper) and/or format in which the data exists, and includes data which is derived from, based on, incorporates, includes or refers to such Source Selection and/or proprietary data (collectively referred to herein as "the data"). Any data which is derived from, based on, incorporates, includes or refers to data shall be treated as Source Selection, or proprietary data and shall be subject to the terms of this Non-Disclosure Agreement.

2. I understand that 41 U.S.C. § 423, commonly referred to as the Procurement Integrity Act, and now codified at U.S.C.A. § § 2101-2107, and provisions FAR 3.104 govern the release of proprietary and source selection information. As it relates to the information that has been made available to me pursuant to this Non-Disclosure Agreement, I certify that I will not disclose any contractor bid, solicitation, proprietary, or Source Selection Information directly or indirectly to any person other than the President of the United States or a member of his administration to whom the President authorizes, another person subject to an equally restrictive Non-Disclosure Agreement related to the subject matter of this Agreement, the Secretary of the Department of Veterans Affairs or a person authorized by the head of agency or the contracting officer to receive such information. I understand that unauthorized disclosure of such information may subject me to substantial administrative, civil and criminal penalties, including fines, imprisonment, and loss of employment under the Procurement Integrity Act or other applicable laws and regulations.

3. I certify that I will not discuss evaluation of source selection matters with any unauthorized individuals (including Government personnel other than those set out in Paragraph 2 above), even after contract award, without specific prior approval from proper authority.

4. These provisions are consistent with, and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling. These statutes and Executive orders include the following:

NON-DISCLOSURE AGREEMENT

Planning for an electronic health record acquisition

Dated Tuesday March 13, 2018

Page | 2

- ☐ Executive Order No. 12958;
- ☐ The Privacy Act (5 U.S.C. § 552a);
- ☐ The Trade Secrets Act (18 U.S.C. § 1905);
- ☐ Section 7211 of title 5, United States Code (governing disclosures to Congress);
- ☐ Section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military);
- ☐ Section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Action (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats);
- ☐ The Intelligence Identities Protection Act of 1982 (50 U.S.C. § 421 *et seq.*) (governing disclosures that could expose confidential Government agents); and
- ☐ The statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. § 783(b)).

Additionally, pursuant to 38 Code of Federal Regulations 1.201, all VA employees with knowledge or information about actual or possible violations of criminal law related to VA programs, operations, facilities, contracts, or information technology systems shall immediately report such knowledge or information to their supervisor, any management official, or directly to the Office of Inspector General.

Signature

(b) (6)

BRUCE MOSKOWITZ, M.D.

1411 N. FLAGER DR.

(b) (6)

WEST PALM BEACH, FL 33401

Name Printed:

(b) (6)

Organizational Conflict(s) of Interest (OCIs):

From: IP
Sent: 13 Mar 2018 18:07:06 +0000
To: Marc Sherman;Blackburn, Scott R.
Cc: (b) (6) @gmail.com;Bruce Moskowitz;Truex, Matthew;Windom, John H.;DJS
Subject: [EXTERNAL] RE: VA EHR NDA
Attachments: Perlmutter.EHR NDA v2 mbs.pdf

Attached is my signed NDA. Thank you.

From: Marc Sherman [mailto:(b) (6) @gmail.com]
Sent: Tuesday, March 13, 2018 1:40 PM
To: Blackburn, Scott R.
Cc: IP; (b) (6) @gmail.com; Bruce Moskowitz; Truex, Matthew; Windom, John H.; DJS
Subject: Re: VA EHR NDA

Scott, Matt and John

Thank you for the NDA draft that you sent along and the organized approach. I have attached the following to close the loop:

1. a marked up version of the NDA with a few necessary adjustments in red-line so you can see the changes that were made,
2. a blank copy of the amended NDA for Bruce and Ike to sign, and
3. a signed version by me of the amended NDA.

Thanks and happy to help as requested.

Marc

On Tue, Mar 13, 2018 at 10:31 AM, Blackburn, Scott R. <(b) (6) @va.gov> wrote:
Ike, Bruce, Marc:

Thank each of you for agreeing to lend an extra set of outside eyes on the EHR contract. We appreciate your support and want to make sure we get to the best place possible for Veterans, the country and taxpayers. As we are incredibly grateful to you for volunteering your time, we want to make this as easy as possible for you. Here are 3 next steps.

- 1) We will need you to sign the attached NDA. Please return to Matt Truex (cc'd).
- 2) Matt will then send you the latest package under separate cover.
- 3) Given government contracts are different than what you are used to reading, we would propose a quick phone call so that we can orient you to the contract and help focus you on the parts where your expertise will be most valuable. Matt Truex (who is the government contracting officer) and John Windom (who is our EHR leader) will lead this from our side. I will ask (b) (6) (b) (6) (cc'd) here to help set up a time. We can either do this all together, if calendars match up, or separately if need be.

We have also connected with (b) (6) and (b) (6) who all have all received the NDA and we are working with them. I am hoping to connect with (b) (6) today.

Thanks again!
Scott

Scott Blackburn

Acting CIO & Executive-in-Charge, Office of Information & Technology
Department of Veterans Affairs

NON-DISCLOSURE AGREEMENT (Dated March 13, 2018)

1. I acknowledge that I have been selected to participate in the planning for an electronic health record acquisition. In the course of participating in this acquisition, I may be or have been given access to or entrusted with Source Selection Information (as defined in Federal Acquisition Regulation (FAR) 2.101 and 3.104), and/or other sensitive Government data marked as "proprietary" (e.g., restrictive legend per FAR 52.215-1) that I cannot release to others nor can I use for the financial benefit of others or myself.

Source Selection Information is defined in FAR 2.101 & 3.104 and other sensitive Government data includes data marked as "proprietary" (e.g., restrictive legend per FAR 52.215-1). Data includes all data, information and software, regardless of the medium (e.g. electronic or paper) and/or format in which the data exists, and includes data which is derived from, based on, incorporates, includes or refers to such Source Selection and/or proprietary data (collectively referred to herein as "the data"). Any data which is derived from, based on, incorporates, includes or refers to data shall be treated as Source Selection, or proprietary data and shall be subject to the terms of this Non-Disclosure Agreement.

2. I understand that 41 U.S.C. § 423, commonly referred to as the Procurement Integrity Act, and now codified at U.S.C.A. §§ 2101-2107, and provisions FAR 3.104 govern the release of proprietary and source selection information. As it relates to the information that has been made available to me pursuant to this Non-Disclosure Agreement, I certify that I will not disclose any contractor bid, solicitation, proprietary, or Source Selection Information directly or indirectly to any person other than the President of the United States or a member of his administration to whom the President authorizes, another person subject to an equally restrictive Non-Disclosure Agreement related to the subject matter of this Agreement, the Secretary of the Department of Veterans Affairs or a person authorized by the head of agency or the contracting officer to receive such information. I understand that unauthorized disclosure of such information may subject me to substantial administrative, civil and criminal penalties, including fines, imprisonment, and loss of employment under the Procurement Integrity Act or other applicable laws and regulations.

3. I certify that I will not discuss evaluation of source selection matters with any unauthorized individuals (including Government personnel other than those set out in Paragraph 2 above), even after contract award, without specific prior approval from proper authority.

4. These provisions are consistent with, and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling. These statutes and Executive orders include the following:

NON-DISCLOSURE AGREEMENT

Planning for an electronic health record acquisition

Dated Tuesday March 13, 2018

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-
- ☐ Executive Order No. 12958;
- ☐ The Privacy Act (5 U.S.C. § 552a);
- ☐ The Trade Secrets Act (18 U.S.C. § 1905);
- ☐ Section 7211 of title 5, United States Code (governing disclosures to Congress);
- ☐ Section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military);
- ☐ Section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Action (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats);
- ☐ The Intelligence Identities Protection Act of 1982 (50 U.S.C. § 421 *et seq.*) (governing disclosures that could expose confidential Government agents); and
- ☐ The statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. § 783(b)).

Additionally, pursuant to 38 Code of Federal Regulations 1.201, all VA employees with knowledge or information about actual or possible violations of criminal law related to VA programs, operations, facilities, contracts, or information technology systems shall immediately report such knowledge or information to their supervisor, any management official, or directly to the Office of Inspector General.

Signature

(b) (6)

Name Printed: Isaac Perlmutter

Organizational Conflict(s) of Interest (OCIs):

From: Marc Sherman
Sent: 13 Mar 2018 13:39:36 -0400
To: Blackburn, Scott R.
Cc: IP; (b) (6) @gmail.com; Bruce Moskowitz; Truex, Matthew; Windom, John H.; DJS
Subject: [EXTERNAL] Re: VA EHR NDA
Attachments: EHR NDA v2.pdf, EHR NDA v2 mbs.pdf, EHR NDA v2 RL.pdf

Scott, Matt and John

Thank you for the NDA draft that you sent along and the organized approach. I have attached the following to close the loop:

1. a marked up version of the NDA with a few necessary adjustments in red-line so you can see the changes that were made,
2. a blank copy of the amended NDA for Bruce and Ike to sign, and
3. a signed version by me of the amended NDA.

Thanks and happy to help as requested.

Marc

On Tue, Mar 13, 2018 at 10:31 AM, Blackburn, Scott R. <(b) (6) @va.gov> wrote:

Ike, Bruce, Marc:

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lead this from our side. I will ask (b) (6) (cc'd) here to help set up a time. We can either do this all together, if calendars match up, or separately if need be.

We have also connected with (b) (6) (b) (6) and (b) (6) who all have all received the NDA and we are working with them. I am hoping to connect with (b) (6) today.

Thanks again!

Scott

Scott Blackburn

Acting CIO & Executive-in-Charge, Office of Information & Technology

Department of Veterans Affairs

NON-DISCLOSURE AGREEMENT (Dated March 13, 2018)

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3. I certify that I will not discuss evaluation of source selection matters with any unauthorized individuals (including Government personnel other than those set out in Paragraph 2 above), even after contract award, without specific prior approval from proper authority.

4. These provisions are consistent with, and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling. These statutes and Executive orders include the following:

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Planning for an electronic health record acquisition

Dated Tuesday March 13, 2018

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- ☐ The Privacy Act (5 U.S.C. § 552a);
- ☐ The Trade Secrets Act (18 U.S.C. § 1905);
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- ☐ Section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military);
- ☐ Section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Action (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats);
- ☐ The Intelligence Identities Protection Act of 1982 (50 U.S.C. § 421 *et seq.*) (governing disclosures that could expose confidential Government agents); and
- ☐ The statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. § 783(b)).

Additionally, pursuant to 38 Code of Federal Regulations 1.201, all VA employees with knowledge or information about actual or possible violations of criminal law related to VA programs, operations, facilities, contracts, or information technology systems shall immediately report such knowledge or information to their supervisor, any management official, or directly to the Office of Inspector General.

Signature:

(b) (6)

A large black rectangular redaction box covers the signature area.

Name Printed: Marc Sherman

Organizational Conflict(s) of Interest (OCIs):

From: Foster, Michele (SES)
Sent: 13 Mar 2018 08:08:07 -0700
To: Windom, John H.
Subject: RE: VA EHR NDA

John,

Thanks- I keep reminding myself of your note where you said "more people have read our RFP than have read the Bible" and I just giggle. I think that is becoming more accurate by the day!

R/Michele

Michele R. Foster
Associate Executive Director
Office of Procurement, Acquisition & Logistics
Technology Acquisition Center (TAC)
Department of Veterans Affairs
23 Christopher Way
Eatontown, NJ 07724
Ofc: (b) (6)



From: Windom, John H.
Sent: Tuesday, March 13, 2018 11:01 AM
To: Foster, Michele (SES)
Subject: FW: VA EHR NDA

Welcome to my world.

Jw

Sent with Good (www.good.com)

From: Blackburn, Scott R.
Sent: Tuesday, March 13, 2018 7:31:27 AM
To: IP; (b) (6) @gmail.com; (b) (6) @gmail.com; Bruce Moskowitz
Cc: Truex, Matthew; Windom, John H.; DJS
Subject: VA EHR NDA

Ike, Bruce, Marc:

Thank each of you for agreeing to lend an extra set of outside eyes on the EHR contract. We appreciate your support and want to make sure we get to the best place possible for Veterans, the country and taxpayers. As we are incredibly grateful to you for volunteering your time, we want to make this as easy as possible for you. Here are 3 next steps.

- 1) We will need you to sign the attached NDA. Please return to Matt Truex (cc'd).
- 2) Matt will then send you the latest package under separate cover.
- 3) Given government contracts are different than what you are used to reading, we would propose a quick phone call so that we can orient you to the contract and help focus you on the parts where your expertise will be most valuable. Matt Truex (who is the government contracting officer) and John Windom (who is our EHR leader) will lead this from our side. I will ask (b) (6) (b) (6) cc'd) here to help set up a time. We can either do this all together, if calendars match up, or separately if need be.

We have also connected with (b) (6) who all have all received the NDA and we are working with them. I am hoping to connect with (b) (6) (b) (6) today.

Thanks again!
Scott

Scott Blackburn

Acting CIO & Executive-in-Charge, Office of Information & Technology
Department of Veterans Affairs

From: (b) (6)
Sent: 13 Mar 2018 03:28:35 +0000
To: Blackburn, Scott R.
Cc: Windom, John H.; Truex, Matthew; Foster, Michele (SES); (b) (6)
Subject: [EXTERNAL] RE: VA EHR

I am glad to help. Thanks, (b) (6)

From: Blackburn, Scott R. [mailto:(b) (6)@va.gov]
Sent: Monday, March 12, 2018 7:45 PM
To: (b) (6)@imail.org>
Cc: Windom, John H. <(b) (6)@va.gov>; Truex, Matthew (b) (6)@va.gov>; Foster, Michele (SES) <(b) (6)@va.gov>; (b) (6)@va.gov>
Subject: RE: VA EHR

Thanks (b) (6) We will make one of those times work. We will confirm tomorrow. Thanks so much for doing this.

Scott

From: (b) (6) [mailto:(b) (6)@imail.org]
Sent: Monday, March 12, 2018 9:25 PM
To: Blackburn, Scott R.
Cc: Windom, John H.; Truex, Matthew; Foster, Michele (SES); (b) (6)
Subject: [EXTERNAL] RE: VA EHR

Scott,

I am at the AMIA Joint Summit in San Francisco so it will be Wednesday morning before I can return the signed NDA. I am currently available for a call on Wednesday 11:00 am to noon, 2:00-2:30 pm, or 3:30-4:00 pm. If none of those times work I am free on Thursday morning. Let me know. Thanks, (b) (6)

From: Blackburn, Scott R. [mailto:(b) (6)@va.gov]
Sent: Monday, March 12, 2018 7:08 PM
To: (b) (6)@imail.org>
Cc: Windom, John H. <(b) (6)@va.gov>; Truex, Matthew <(b) (6)@va.gov>; Foster, Michele (SES) <(b) (6)@va.gov>; (b) (6)@va.gov>
Subject: RE: VA EHR

(b) (6)

Thank you for agreeing to be an extra set of outside eyes as we at VA finalize our EHR contract. We appreciate your vast experience and expertise; and want to make sure we get to the best place possible for Veterans, the country and taxpayers. As we are incredibly grateful to you for volunteering your time, we want to make this as easy as possible for you. Here are 3 next steps.

- 1) We will need you to sign the attached NDA. Please return to Matt Truex (cc'd).
- 2) Matt will then send you the latest package under separate cover.

- 3) Given government contracts are different than what you are used to reading, we would propose a quick phone call so that we can orient you to the contract and help focus you on the parts where your expertise will be most valuable. Matt Truex will lead this from our side and has told me is available between tomorrow from 9:30-11am ET or I am sure he can also find other times if these don't work for you. I will ask (b) (6) cc'd) here to help set up a time.

Thanks again!
Scott

From: (b) (6) [mailto:(b) (6) @imail.org]
Sent: Monday, March 12, 2018 4:34 PM
To: Blackburn, Scott R.
Subject: [EXTERNAL] Re: VA EHR

Yes, I would be glad to help. What is the next step? (b) (6)

Sent from (b) (6) Phone

On Mar 12, 2018, at 6:54 AM, Blackburn, Scott R. <(b) (6) @va.gov> wrote:

(b) (6)

I hope this finds you well. On behalf of Secretary Shulkin I wanted to see if we could enlist your help. We are very close to finalizing our EHR deal with Cerner; however we want to make sure we get a few extra set of eyes on it to make sure we are doing right by Veterans, the country and taxpayers. Would you have the time/ability to conduct a quick high level review and provide input in the next week or so? You were referred to us by Dr. Bruce Moskowitz.

Thanks so much,
Scott

Scott Blackburn
Acting CIO & Executive-in-Charge, Office of Information & Technology
Department of Veterans Affairs

From: Blackburn, Scott R.
Sent: 12 Mar 2018 13:23:10 -0700
To: Windom, John H.
Subject: FW: [EXTERNAL] Fwd: Contact review

What do you think of having Ike/Bruce/Marc sign NDA's as well? Seems they are willing to "work around the clock to finish this".

From: David Shulkin [mailto:(b) (6)@gmail.com]
Sent: Monday, March 12, 2018 4:18 PM
To: Blackburn, Scott R.
Subject: [EXTERNAL] Fwd: Contact review

Can we get them the nda as well?

Sent from my iPhone

Begin forwarded message:

From: IP (b) (6)@frenchangel59.com>
Date: March 12, 2018 at 2:50:52 PM EDT
To: David Shulkin <(b) (6)@gmail.com>
Cc: (b) (6)@gmail.com" (b) (6)@gmail.com>, (b) (6)@gmail.com" (b) (6)@gmail.com>, Bruce Moskowitz <(b) (6)@mac.com>
Subject: RE: Contact review

David,

How quick can you send the NDA to the people?

And why not send it to Bruce, Marc and myself so we can work around the clock to finish this?

Thank you.

-----Original Message-----

From: Bruce Moskowitz [mailto:(b) (6)@mac.com]
Sent: Monday, March 12, 2018 2:03 PM
To: David Shulkin <(b) (6)@gmail.com>
Cc: IP <(b) (6)@frenchangel59.com>; (b) (6)@gmail.com; (b) (6)@gmail.com
Subject: Re: Contact review

The following may be discussed on the review however if not, we need to be sure there is a platform for the planned device registry. Separately there needs to be the ability to insert a mental health

tracker, nutritional tracker and wellness tracker. We do not want to find out there is add on charges for these essential elements of the EMR.

It also needs to be worked out how mental health records, treatments and appointments do not fall through the cracks during this lengthy implementation. The head of Columbia Psychiatry will Dr. Lieberman can assist with this aspect.

Thank you.

Sent from my iPad
Bruce Moskowitz M.D.

On Mar 12, 2018, at 1:53 PM, David Shulkin
<(b) (6)@gmail.com> wrote:

Bruce- we got 4 of 6 on board so far plus
one additional

(b) (6)

(b) (6)

(b) (6)

(b) (6)

Also got (b) (6) from Pittsburgh

We are still waiting to hear from (b) (6)
(b) (6) and (b) (6) and will add them
(c) if they agree

All will sign an NDA and will receive a
package today and we will
either bring in or video connect within the
next 48 hours- we cannot
have a group meeting because of federal
rules so we must connect or
meet separately

Thanks so much

From: Zenooz, Ashwini
Sent: 12 Mar 2018 12:54:51 +0000
To: A Zenooz
Subject: FW: [EXTERNAL] Fwd: Call with Secretary Shulkin - Mosko et al

From: Windom, John H.
Sent: Monday, March 12, 2018 8:50 AM
To: Zenooz, Ashwini
Subject: FW: [EXTERNAL] Fwd: Call with Secretary Shulkin

John H. Windom, Senior Executive Service (SES)
Program Executive for Electronic Health Record Modernization (PEO EHRM)
Special Advisor to the Under Secretary for Health
811 Vermont Avenue NW (b) (6) floor Suite 5080)
Washington, DC 20420
(b) (6) @va.gov
Office: (b) (6)
Mobile: (b) (6)
Executive Assistant: (b) (6) Appointments and Scheduling
(b) (6) @va.gov Office: (b) (6)

From: Windom, John H.
Sent: Sunday, March 11, 2018 11:20 PM
To: Blackburn, Scott R.
Subject: RE: [EXTERNAL] Fwd: Call with Secretary Shulkin

Thank you for sharing.
Jw

Sent with Good (www.good.com)

From: Blackburn, Scott R.
Sent: Sunday, March 11, 2018 7:10:57 PM
To: Windom, John H.
Subject: FW: [EXTERNAL] Fwd: Call with Secretary Shulkin

FYI. I will learn more tomorrow morning.

From: David Shulkin [[mailto:\(b\) \(6\) @gmail.com](mailto:(b) (6) @gmail.com)]
Sent: Sunday, March 11, 2018 5:55 PM

To: Blackburn, Scott R.

Subject: [EXTERNAL] Fwd: Call with Secretary Shulkin

Can you join me at morning report in the am- 8 or 815 am to discuss next steps on this

Note the emails below

Sent from my iPhone

Begin forwarded message:

From: Bruce Moskowitz <(b) (6)@mac.com>
Date: March 11, 2018 at 12:57:53 PM EDT
To: (b) (6)@jhu.edu> (b) (6)@imail.org,
(b) (6)@sutterhealth.org, (b) (6)@facs.org" <(b) (6)@facs.org>,
(b) (6)@mayo.edu, "(b) (6)@mgh.harvard.edu>
Cc: David Shulkin <(b) (6)@gmail.com>, IP <(b) (6)@frenchangel59.com>,
(b) (6)@gmail.com, (b) (6)@gmail.com, (b) (6)@reagan.com
Subject: Call with Secretary Shulkin

The Secretary will send out an email to set up a conference call to discuss the review of the EMR contract for the VA. This has tremendous importance not just for the VA, but setting a standard for interoperability for the nation and also EMR innovation. I want to take the opportunity to thank everyone for their service to the Veterans and advancing health care for the nation

Sent from my iPhone