

DETERMINATION AND FINDINGS

AUTHORITY TO AWARD A CONTRACT FOR THE ELECTRONIC HEALTH RECORD SYSTEM BEING DEPLOYED BY THE DEPARTMENT OF DEFENSE AND RELATED SERVICES BASED ON THE PUBLIC INTEREST EXCEPTION TO FULL AND OPEN COMPETITION

I, as Secretary of the Department of Veterans Affairs, hereby make the following findings and determination, pursuant to the public interest exception to the requirement for full and open competition, 41 U.S.C. § 3304(a)(7), as implemented by Federal Acquisition Regulation (FAR) 6.302-7 and 1.7, and Veterans Affairs Acquisition Regulation (VAAR) 806.302-7. Accordingly, the Veterans Affairs (VA) Technology Acquisition Center (TAC) may issue a solicitation directly to Cerner Corporation (Cerner) for the acquisition of the electronic health record (EHR) system being deployed by the Department of Defense (DoD) and related services for deployment and transition across the VA enterprise in a manner that meets VA needs, and which will enable seamless healthcare to Veterans and qualified beneficiaries.

FINDINGS

1. The health and safety of our Veterans is of the highest priority to the nation. The Veterans Health Administration (VHA) operates one of the country's largest and most complex medical organizations, with 1,600 care sites across 50 states, currently staffed by approximately 300,000 employees who care for millions of Veterans each year. A Veteran's complete and accurate health record in a single common system is critical to providing seamless, high-quality, integrated care and benefits, and improving patient safety.
2. VA's current electronic health information system—Veterans Health Information Systems and Technology Architecture (VistA)—is a suite of many applications and distributed systems that serves an essential role in enabling the Department to fulfill its healthcare delivery mission. VistA, however, is in need of major modernization to keep pace with the improvements in health information technology and cybersecurity. VA has made some progress with the VistA Evolution Program, but substantial investment is still required for efforts such as improving operational capability, supporting interoperability, improving networking and infrastructure sustainment, and adopting clinical terminology standardization. Moreover, software development is not a core competency of VA.
3. To date, VA and DoD have not adopted the same EHR system. Instead, VA and DoD have worked together for many years to advance EHR interoperability between their many separate applications in an attempt to create a consistent and accurate view of individual medical record information. In November 2015 and in April 2016, DoD and VA, respectively, certified to Congress that the medical record interoperability requirements (*i.e.*, the achieved exchange of critical domains of medical data) between the VA and DoD EHR systems set forth in section 713 of the National Defense Authorization Act for Fiscal Year (FY) 2014 (Pub. L. 113-66) had been met through the use of a health information portal, called the Joint Legacy Viewer (JLV). JLV meets the statutory requirements by providing a data sharing process that has enhanced the ability of VA and DoD to see data from their multitude of disparate applications. However, JLV

does not allow clinicians to change or add information. Although JLV is able to present patient's critical medical health data, it is fundamentally constrained by ever-changing information sharing standards, separate chains of command, complex governance, separate implementation schedules that must be coordinated to accommodate those changes from separate program offices that have separate funding appropriations, and a host of related complexities requiring constant lifecycle maintenance.

4. Without specific and uniform adopted national interoperability standards, VA and DoD will continue to face significant challenges if the Departments remain on two different systems. This is particularly so because VA and DoD are servicing essentially the same patient population. Approximately 5.7 million patients have received healthcare at both a VA and DoD facility within the last seven years. VA's adoption of the same EHR system as DoD will ultimately result in all patient data in one common system and enable seamless care between the Departments without the manual and electronic exchange and reconciliation of data between two separate systems.

5. In 2014, DoD issued a solicitation for the acquisition of a commercial-off-the-shelf EHR system using full and open competition. This source selection, which included participation from two non-voting VA advisors, evaluated several major EHR products, including a commercial variant of the VistA-based solution. The entire acquisition process, starting from requirements generation until contract award, took approximately 26 months. In 2015, DoD awarded a \$4.3 billion contract to Leidos, Inc. to deliver a modern system with full deployment across the DoD Military Health System (MHS). The DoD EHR system, now known as MHS GENESIS, at its core consists of Cerner Millennium, a commercial EHR developed by Cerner, integrated with a number of ancillary products to provide dental capabilities, reporting, population management, and backend application support. The DoD contract with Leidos also includes several services, such as hosting, integration, organizational change management, cybersecurity, and training.

6. In February 2017, DoD fielded MHS GENESIS to its first Military Treatment Facility and achieved an Authority to Operate with Conditions (ATO-C) from DoD's Chief Information Officer. DoD testified to Congress that it made substantial investments in configuration, interface development, training, product improvements, adoption of standard workflows and national standards, and licenses as part of the MHS GENESIS program. The Cerner commercial data center, which hosts MHS GENESIS, in a separate enclave, incorporated significant cybersecurity enhancements to protect DoD data, to include both physical and virtual separation from commercial clients. Even being hosted in a separate enclave, DoD population health information (anonymized) can be analyzed with the rest of the Cerner client patient population allowing for trending and other population health analytics.

7. A single common system across VA and DoD will facilitate the transition of active duty military members to VA and improve their timely access to the highest quality of care in a way never before experienced. Records residing in a single common system will eliminate the reliance on complex clinical interfaces or manual data entry between DoD and VA. A single common system and the adoption of common clinical workflows and order sets (*i.e.*, pre-defined templates that provide support in making clinical decisions for a specific condition or medical

procedure) will significantly reduce, and potentially eliminate, the variations between VA and DoD facilities, thereby facilitating a more consistent patient experience. Common workflows, common cybersecurity architecture, and terminology based on national standards, along with a patient portal that transitions with the patient from active duty to Veteran status, will result in improved medical outcomes, improved patient safety, and a consistent patient-physician relationship. VA will be able to leverage and benefit from DoD's data hosting investments, standard workflows, and enhanced cybersecurity posture. Sharing the same EHR system with common configuration standards will enable computerized decision support. This support will allow for reliable electronic interpretation of data to produce valid care recommendations while considering the complete health history contained in a single patient record. Acquiring the same DoD EHR system will also enable VA to capitalize on DoD investments, including integration of the dental capability, pharmacy enhancements and configuration efforts. In addition, adopting the DoD EHR system will allow VA to benefit from lessons learned by DoD during their Initial Operating Capability phase, participate with the workflow standardization process and jointly adopt and develop national standards in coordination with Office of National Coordinator, Department of Health and Human Services.

8. From the Veteran perspective, having a single common system will ultimately result in a single, accurate, lifetime health record, thereby enabling seamless documentation and resultant efficiencies for the disability claim process. A single common system will eliminate the need for the duplication of tests, providing access to previous test results that are readily available and trustworthy. It also will result in faster disability determinations because the complete record will already be in a single common system. Additionally, it will provide accurate visibility of medical history in emergency situations when a patient may be incapacitated. In the aggregate, the data of the same patient population in a single common system captured using the same processes will allow for rigorous enforcement of data quality. A single common system also will support more advanced data analytics, providing visibility into health trends experienced by service members, especially with respect to military-specific issues like geographic exposure or combat operation. Furthermore, Veterans will benefit from an improved seamless care experience whether seeking care from VA or DoD, and the opportunity for shared care is anticipated to increase in the future.

9. Continuing to modernize VistA or selecting a different commercial EHR other than the DoD EHR system, with a single shared record, will result in VA having to develop and maintain an increasingly complex technical architecture without providing seamless care. Committing to adoption of the DoD EHR system now will accelerate delivery of a modern EHR to support improved healthcare to Veterans and qualified beneficiaries years ahead of any other alternative. Acquiring the same EHR system, and using the same shared health record as DoD will improve the quality of life of this country's Veterans and their families by increasing the effectiveness of VA providers. Veterans' healthcare and their respective treatment decisions are placed at risk without a single common system, which is not acceptable.

10. VA can take advantage of standard commercial practice by contracting directly with Cerner as the prime contractor. During VA's due diligence in preparing for EHR modernization, there was a consistent message from healthcare providers that a close working relationship with their EHR provider was a critical success factor. Cerner's core business, as with many large

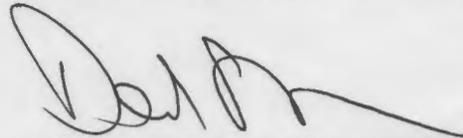
commercial EHR vendors, is integrating its product suite into a customer's environment. As the prime contractor and EHR software developer, Cerner is best positioned to not only lead software implementation, but also to conduct a robust review of VA clinical processes for quality improvement and business transformation. Moreover, since the core software has been developed and can be modified by Cerner, and DoD's data is hosted by Cerner, by contracting directly with Cerner, VA will avoid additional cost and inefficiencies by not having a third party as the prime contractor. This direct relationship with Cerner will also enable VA to accelerate the development and implementation of seamless health care for the nation's Veterans and likely hasten the adoption of national standards for EHR systems.

DETERMINATION

Based on the findings set forth above, I determine, pursuant to 41 U.S.C. § 3304(a)(7), as implemented in FAR 6.302-7 and 1.7, and VAAR 806.302-7, that it is in the public interest for VA TAC to issue a solicitation directly to Cerner for the acquisition of the EHR system being deployed by DoD and related services for deployment and transition across the VA enterprise in a manner that meets VA needs, and which will enable seamless healthcare to Veterans and qualified beneficiaries.

Under the contract, at a minimum, Cerner will provide the full scope of services, including integration, configuration, testing, deployment, hosting, organizational change management, training, and sustainment, and licenses necessary to deploy the DoD's EHR system in a manner that meets VA needs. The contract will also address all EHR functions supporting clinical care including revenue cycle, in-patient, ambulatory, as well as home care, ancillaries, and specialties to include dental. The contract will also address non-clinical core functional requirements, which may include inventory management/supply chain capabilities.

In accordance with 41 U.S.C. § 3304(a)(7)(B), FAR 6.302-7(c)(2), and VAAR 806.302-7(c), notification of this determination shall be provided to Congress not less than 30 days prior to award of the contract.



David J. Shulkin, M.D.
Secretary
Department of Veterans Affairs

6/1/17

Date