

EXHIBIT 122

Message

Sent: 10/26/2020 6:04:20 PM
Subject: Notes

On 3/24 at 8am, I received a referral for someone who might be able to help us procure critical medical supplies. This person was John Thomas. I shared this info with Angela Shell, Procurement Officer to follow up. She later asked Michael Wong to contact Mr. Thomas that day.

Mr. Thomas identified himself as a strategic sourcer with direct access to manufacturers in China. He was someone that other resellers were coming to purchase and then sell to the state and other entities. He offered to sell 100M N-95 masks at a low cost (relative to the current market rate) and have the items shipped quickly to CA. As our focus was to get N95s as quickly as possible, and the price was reasonable, our state procurement staff were very interested in Mr. Thomas' offer.

Given the extraordinary circumstances, the Governor issued an emergency order which permits the waiving of typical procurement requirements. Among one of the allowances with the emergency order is the use of advance payments to procure goods. DGS does not approve advance payments outside of an emergency order. However, as we've been trying to purchase goods during this event, many vendors of the most precious and hard to procure commodities demanded wire transfers of funds up to 100% advance payment.

Unknown to me at the time was Mr. Thomas' request for 75% advance payment. However, Mr. Thomas provided information that made our staff feel he was a credible buyer. He had an American-based company. He resides in CA. The bank he proposed to wire funds, Cambridge Bank, was based in the US. This was considerably better than other terms we received from other vendors, which were 100% advance payment to foreign banks by unknown vendors / partners.

On 3/25, there were a trail of emails between DGS, SCO, and STO regarding a \$483M advance payment to be wired. While I saw some of the titles of these emails, I did not read them as I was in meetings all morning and afternoon (9:30am UCG call, follow up in person discussions, 11am meeting on hotel contracting strategy w/ Russ Buras, and then an assignment to complete a budget spreadsheet from noon-2pm for our 2pm meeting on hospital bed surge). Many of the emails from DGS, SCO and STO were shared during the 2pm meeting.

During the course of the 2pm meeting, I learned that the wire transfer for \$483m had been approved for processing. There was discussion about this as the cost for these n95s would represent half the amount of funds allocated internally for the entire COVID-19 response. Accordingly, I called to confirm if the wire transfer had already happened. I was told that all the approvals had occurred, and the wire transfer was in process and approved by the SCO and STO. To this end, I informed Keely Bosler, Karen Finn, Yolanda Richardson and others at the meeting (which had now concluded) that we need to bring Secretary Ghaly and Secretary Ghilarducci to confirm whether we should pursue this wire transfer. At 4:00pm, I emailed DGS, SCO and STO staff to hold off on the wire transfer as "we need to confirm within the Administration".

The two secretaries were unavailable, so Ms. Bosler contacted Ms. Matosantos to confirm if we should pursue the wire transfer. Given the criticality of purchasing N95s to save CA lives, Ms. Matosantos confirmed we should purchase and notified Ms. Bosler, who notified me.

Once this decision was made, at 4:29pm, I emailed DGS, SCO, and STO staff that the wire transfer was approved.

I then learned that the wire transfer would not be able to happen until 8am the following day. Accordingly, at 5:59pm, I asked the DGS, SCO, and STO staff to hold off on the wire transfer so I could get more information regarding the vendor in question. I then went to another meeting which ended at roughly 7pm, and then I got dinner at the cafeteria and ate at my desk. At that 7pm meeting, Angela Shell, Mitch Medigovich, and I were on a conference call with other vendors, one of whom indicated that 3M could manufacturer N95s in the US at a low cost. They said they would confirm when those masks could be manufactured and in what quantities. They would confirm this at a 7am meeting on 3/26 with Ms. Shell.

Since my procurement staff had already left for the evening, I did not have any additional information regarding Mr. Thomas. So, I personally called him at 7:37pm and had a 33 minute discussion with him. I wanted to verify that he was an American buyer, residing in CA, and that the company in question, Blue Flame Medical LLC, was one that he owned himself. He confirmed all of this and confirmed that the bank where the wire transfer would hit was based in the United States. He explained that he would provide a shipment schedule to me by the evening, provided references to his credibility, including his relationship with CNA. He told me he had a direct line to a high quality Chinese manufacturer and had given my staff additional information regarding his good standing. He also indicated that, as a good will measure, he would have a jet bring 2 million N95s to CA within a week. In addition, he guaranteed the quality of his shipments with a 48 hour cancellation if the product proved faulty.

I told my staff not to wire funds until I confirmed whether 3M could manufacturer and sell N95s to us on a timely basis. At 7:04am, I called and left a voicemail to Ms. Matosantos to confirm once again Mr. Thomas' credibility. I did not receive a return call. At 7:42, Ms. Shell called to tell me that the 3M manufacturer could not produce the masks in a timely basis.

Accordingly, given I had received approvals the prior evening, received additional information and guarantees from Mr. Thomas, did not have other viable options to purchase N95s with expedited shipment, and had an urgent need to purchase an additional 400M N95 masks at the direction of Secretaries Ghaly and Ghilarducci, and had an 8am deadline from the vendor to wire the funds, I authorized the wire transfer at 7:57am on behalf of the Administration.

I want to note that I believe all parties identified above did everything in their power and good judgment to protect the health and safety of Californians while trying to make the most judicious decisions to protect the financial integrity of the State of California.

On 3/26 at roughly 5pm, I talked to 2 members of the CHP for roughly 15 minutes. They asked me about the vetting process for emergency procurements. I told them that

On 3/27 at 11:15am, I received an urgent call from my assistant that the FBI wanted to talk to me. I immediately called back. Todd Carter and his supervisor, Bill Murdoch, from the Long Beach FBI (562-577-8065) and I talked for roughly 10 minutes. They asked me if I was aware of the wire transfer. I told them I was. They asked what it was for, and I told them it was for N95s. I also provided the larger context that we in the state have a very thorough procurement process with competitive RFPs and strict terms and conditions, but given the circumstances, we've had to take those aside, especially for our most critical medical supplies. We are doing things in hours that used to take weeks, so we are moving fast and our vetting is limited. That said, I explained our informal vetting process – how we get inundated with referrals, those referrals are reviewed by CalOES (Abby Browning's unit) in terms of their credibility, value of product, and scale offered). CDPH then vets the actual product specs. Then our procurement staff negotiate with the vendor and ask questions to determine their legitimacy.

Todd Carter asked if I was aware that the vendor just formed his company a week ago and the bank account was established two days ago. I told him I was not aware at the time, but I am now aware. I told them that what made us more comfortable was that the bank was a US bank, so in the event of fraud, people like him could investigate. Todd Carter asked if I was aware that the money would then go to China. I told him I didn't know what would happen with the money. He asked if I was ok with the money going to China. I told him its not a question of whether I am personally good or bad with this; it's a question of whether the state of California needs medical supplies in an expedited manner to mitigate the loss of life. He asked me if I was aware that the money was going to China. I told him the vast majority of N95s and other medical supplies are manufactured in China.

Todd Carter said that the FBI has all these resources available to prevent fraud. I said it would be great to have access to that and asked that he provide whatever guidance he can regarding the ways we as a state can protect ourselves from fraudulent vendors. He said he would look into it.

Todd Carter or Bill Murdoch then alluded to the fact that the Chinese company was already under investigation. I didn't have much to say in response other than to thank them for investigating and helping to ensure that taxpayer dollars are used appropriately.

I then told them that the vendor, John Thomas, is calling me repeatedly and asked for advice on how I should proceed. They told me that I should tell him that this is being reviewed and that we're very busy. He said I should not mention that there is an FBI investigation going on. I told them, in full disclosure, that I talked to the vendor yesterday since he called me repeatedly. I told him that, since the wire transfer did not go forward, that if he wanted to pursue this further, then I would elevate and there would be many questions about why the wire didn't go forward and this would be investigated. I did not bring up anything about a criminal investigation, so I told Todd Carter this. He thanked me for the context.

I asked what I should do now that the vendor still has a contract with us, and he keeps calling me about payment mechanisms. Todd Carter said that would be up to us.

I told Todd Carter that everyone here is working extremely hard in the best interest of the state to save lives. I asked that he not make public anything now. Todd Carter said this is an ongoing investigation so they could not divulge any information publicly at this time. If the case was prosecuted, this would be made public.