

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,

Plaintiff,

v.

BOOZ ALLEN HAMILTON HOLDING  
CORP., *et al.*,

Defendants.

Civil No.:

Filed: June 29, 2022

**PLAINTIFF’S MOTION FOR PERMISSION TO FILE SENSITIVE INFORMATION IN  
PLAINTIFF’S COMPLAINT UNDER SEAL**

Plaintiff United States of America respectfully requests that this Court enter an order permitting Plaintiff to file an unredacted copy of the Complaint under seal and to file a version of the Complaint with redactions of competitively sensitive information on the public docket.

In support of this motion, Plaintiff states as follows:

1. Plaintiff has today filed with the Court a Complaint alleging that the proposed acquisition by Booz Allen Hamilton, Inc. (“Booz Allen”) of EverWatch Corp. (“EverWatch”) violates Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 1 of the Sherman Act, 15 U.S.C. § 1.

2. The Hart-Scott-Rodino Antitrust Improvements Act of 1976 (“HSR Act”), 15 U.S.C. § 18(a), requires parties to a proposed merger or acquisition exceeding size-of-transaction and size-of-party thresholds to file a pre-merger notification to the Antitrust Division of the United States Department of Justice (“DOJ”) and the Federal Trade Commission (“FTC”). Such filings require the parties to separately and independently produce transaction-related

documents that analyze the transaction, discuss competition, and outline expansion plans, among other topics. The DOJ and FTC use these transaction-related documents in determining the competitive (or anticompetitive) effects that a proposed merger or acquisition may have in a relevant geographic or product market.

3. Defendants filed a pre-merger notification to the DOJ on February 28, 2022 pursuant to the HSR Act, with subsequent amended filings.

4. Plaintiff's Complaint contains, or refers to, internal business discussions, sales and revenue information, and other competitively sensitive information<sup>1</sup> produced by Booz Allen and EverWatch to the DOJ as a result of their pre-merger notification filing. Booz Allen and EverWatch provided the information to the DOJ in confidence and such information has been protected from public disclosure during the DOJ's investigation. *See, e.g.*, 15 U.S.C. § 18a(h); 28 C.F.R. § 16.7.

5. Public disclosure of this competitively sensitive information to both the parties to the transaction and any third parties could impact the integrity of the bidding for the OPTIMAL DECISION contract at issue in the Complaint, undermine the National Security Agency's ability to negotiate future contracts with prospective bidders, and facilitate anticompetitive exchanges of competitively sensitive information between competitors, including Booz Allen and EverWatch. *See Rothman v. Snyder*, No. 20-3290 PJM, 2020 U.S. Dist. LEXIS 237524, at \*9 (D. Md. Dec. 17, 2020) ("The Fourth Circuit has recognized that a business may have 'a strong interest in preserving the confidentiality of its proprietary and trade-secret information, which in turn may justify partial sealing of court record.'"); *see also id.* ("[C]ertain documents may merit protection

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<sup>1</sup> For example, the Complaint includes reference to internal discussions about bidding prospects, Compl. ¶ 14, revenue and headcount information, *id.* ¶ 20, and the terms of the acquisition, *id.* ¶ 24.

if they ‘contain confidential and proprietary information’ that could provide ‘an opportunity to obtain an advantage over competitors.’”).

6. *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4<sup>th</sup> Cir. 2000), sets out the legal standard applied by this Court when determining whether it is appropriate to order the sealing of documents. It states that, before entering an order to seal, a district court must “(1) provide public notice of the request to seal and allow interested parties a reasonable opportunity to object, (2) consider less drastic alternatives to sealing the documents, and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives.” *Id.*

7. The first *Ashcraft* consideration only requires this Court to “allow[] sufficient time for objections to be made” to this motion for proper notice to be given. *See Bureau of Nat’l Affairs v. Chase*, No. ELH-11-1641, 2012 U.S. Dist. LEXIS 104229, at \*5 (D. Md. July 25, 2012) (“The public notice and opportunity to challenge requirements are met when the court allows sufficient time for objections to be made.”). The District of Maryland local rules require a minimum of 14 days before any ruling can take place and stipulate that “[m]aterials that are the subject of the motion shall remain temporarily sealed pending a ruling by the Court.”

D. Md. L.R. 105.11. The proposed order, once filed at least 14 days after this motion, satisfies this public-notice requirement. *See Norris v. PNC Bank, N.A.*, No. ELH-20-3315, 2021 U.S. Dist. LEXIS 240438, at \*7 (D. Md. Dec. 16, 2021) (“When motions have been docketed and available to the public for multiple weeks . . . the [requirements for giving public notice and providing a reasonable opportunity to object to the motion] have been met.”).

8. The second *Ashcraft* consideration is satisfied because Plaintiff’s motion requests the least drastic alternative to sealing the Complaint, namely, targeted redactions of limited

competitively sensitive information. Booz Allen and EverWatch provided such information to the DOJ in confidence and with the understanding that such disclosures would be protected by applicable antitrust law. *See, e.g.*, 15 U.S.C. § 18a(h); 28 C.F.R. § 16.7. Such limited redactions are routinely accepted by this Court as acceptable under a motion to seal. *See, e.g., Rothman v. Snyder*, No. 20-3290 PJM, 2020 U.S. Dist. LEXIS 237524, at \*9-10 (D. Md. Dec. 17, 2020) (agreeing that “certain documents may merit protection by redaction if they ‘contain confidential and proprietary information’ that could ‘provide an opportunity to obtain an advantage over competitors’” and granting a motion to seal the unredacted version and include versions with “narrow redactions” in the public record).

9. The third *Ashcraft* consideration is satisfied after this Court “provide[s] specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives.” 218 F.3d at 302. The proposed Order accompanying this Motion satisfies the requirements in *Ashcraft* through the findings of fact contained therein.

WHEREFORE, Plaintiff respectfully requests that this Court issue an order permitting Plaintiff to file an unredacted copy of the Complaint under seal and to file a version of the Complaint with redactions of competitively sensitive information on the public docket.

Date: June 29, 2022

Respectfully submitted,

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/s/  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

United States of America (USDOJ)

**Plaintiff,**

**v.**

Booz Allen Hamilton Inc. et al

**Defendant.**

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Case No. 1:22-cv-01603-CCB

**NOTICE OF FILING OF DOCUMENT UNDER SEAL**

**Check one.**

☐ Exhibit \_\_\_\_\_ which is an attachment to \_\_\_\_\_

\_\_\_\_\_ will be electronically filed under seal within 24 hours of the filing of this Notice.

☒ **Unredacted Complaint**

\_\_\_\_\_ (title of document)

\_\_\_\_\_ will be electronically filed under seal within 24 hours of the filing of this Notice.

I certify that at the same time I am filing this Notice, I will serve copies of the document identified above by \_\_\_\_\_ email and Process Server, along with the Complaint and Summons \_\_\_\_\_.

6-29-2022

Date

ARIANA ARNOLD Digitally signed by ARIANA ARNOLD  
Date: 2022.06.29 18:17:05 -04'00'

Signature

AUSA Ariana Arnold, USDC MD Bar 23000

Printed Name and Bar Number

USAO 36 S. Charles St, Baltimore Md 21201

Address

ariana.arnold@usdoj.gov

Email Address

410-209-4813

Telephone Number

410-962-2310

Fax Number

**CERTIFICATE OF SERVICE**

I hereby certify that on June 29, 2022, counsel for the United States electronically filed the foregoing Plaintiff's Motion for Permission to File Sensitive Information in Plaintiff's Complaint Under Seal with the Clerk of Court using the CM/ECF system, and I served one copy, by email, to the following:

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/s/

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,

Plaintiff,

v.

BOOZ ALLEN HAMILTON HOLDING  
CORP., *et al.*,

Defendants.

Civil No.:

**ORDER**

Before the Court is the Plaintiff's Motion for Permission to File Under Seal an unredacted version of the Complaint which contains sensitive information. Plaintiff also seeks to file a redacted version for the public record. Having considered the Motion, and any response thereto, the Court concludes as follows:

The Complaint alleges that the proposed acquisition by Booz Allen Hamilton, Inc. ("Booz Allen") of EverWatch Corp. ("EverWatch") violates Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 1 of the Sherman Act, 15 U.S.C. § 1.

The Complaint contains information provided to the Antitrust Division of the United States Department of Justice ("DOJ") by Defendants Booz Allen Hamilton, Inc. ("Booz"), EC Defense Holdings LLC, and EverWatch Corporation ("EverWatch") in confidence as part of DOJ's review of the proposed acquisition and is protected from public disclosure during the DOJ's investigation pursuant to 15 U.S.C. § 18a(h) and 28 C.F.R. § 16.7.

Public disclosure of the confidential information contained in the unredacted version of



the Complaint to both the parties to the transaction and any third parties might place the National Security Agency at a disadvantage with respect to the current OPTIMAL DECISION bidding process, undermine its ability to negotiate future contracts with prospective bidders, and facilitate anticompetitive exchanges of competitively sensitive information between competitors, including Booz Allen and EverWatch.

Based on the above, the Court therefore finds that it is appropriate to permit Plaintiff to narrowly redact such non-public competitively sensitive information and enter an order sealing the unredacted version of the Complaint.

The Court has come to this conclusion after providing public notice allowing interested parties a reasonable opportunity to object, considering less drastic alternatives to sealing the unredacted Complaint, and providing specific reasons and findings supporting its decision to seal the documents and for rejecting the alternatives.

This Court issues this Order at least 14 days after the filing of Plaintiff's motion to seal, in compliance with the local rules, and accordingly has "allow[ed] sufficient time for objections to be made" for proper notice to have been given to Defendants. *See Bureau of Nat'l Affairs v. Chase*, No. ELH-11-1641, 2012 U.S. Dist. LEXIS 104229, at \*5 (D. Md. July 25, 2012) ("The public notice and opportunity to challenge requirements are met when the court allows sufficient time for objections to be made."); *see also Norris v. PNC Bank, N.A.*, No. ELH-20-3315, 2021 U.S. Dist. LEXIS 240438, at \*7 (D. Md. Dec. 16, 2021).

Additionally, this Court has considered Plaintiff's proposed redactions and concludes that they are appropriately limited to only Defendants' competitively sensitive information and that Plaintiff has proposed the least drastic alternative to sealing the Complaint. Lastly, this Court has made the aforementioned findings of fact supporting its decision to accept limited redactions

to Plaintiff's Complaint and to reject the alternatives.

For these reasons, and for good cause shown, the Plaintiff's Motion to Seal Plaintiff's unredacted Complaint is GRANTED. It is ORDERED that relevant redacted portions of the Complaint shall be SEALED until further order of this Court.

**SO ORDERED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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UNITED STATES DISTRICT JUDGE