



the sunshine project

<http://www.sunshine-project.org>

NBAF Transparency Report #1

Whereas secrecy generates suspicion, transparency promotes safety and international and domestic confidence in the objectives of research involving bioweapons agents. To assess US biodefense transparency, a selection of records have been requested from institutions that wish to construct the Department of Homeland Security's National Bio- and Agro-defense Facility (NBAF). This report is the first in a series detailing the results of the requests. Future reports will focus on other bidders. This report will be updated with comparisons to other NBAF bidders as future reports are released.

The University of Wisconsin at Madison

Summary Transparency Evaluation

Overall Response:	A satisfactory response was received for only one of five information requests (20%).
Shoe Bomber Test:	Failed. Arbitrary redactions are apparent. Allegedly sensitive information is not consistently protected.
Response Time & Fees:	Reasonable, if unspectacular.

Request Detail

Request #1: *UW-Madison's entire Expression of Interest (EOI) in the National Bio- and Agro-defense Facility (NBAF).*

Response: UW-Madison refused to release any portion of the EOI.

Request #2: *UW-Madison's NBAF EOI (again, citing release by other NBAF bidders).*

Response: UW-Madison again refused to release any portion of the EOI; but said that it might release the record at some undisclosed time in the future.

Request #3: *The entire research protocol(s) for the select agent project "Pandemic Potential of H5N1 Influenza Viruses".*

Response: A moderate amount (34 pages) of heavily redacted information was provided. Entire pages are blacked out. Some of the information that is not blacked out is generic safety information of little specificity to the protocols requested.

There are serious problems with the response. The identities of several organisms that are gene sources for transgenic experiments are redacted. The species names of some animals experimentally

infected with recombinant H5N1 viruses are also blacked out. Arbitrary and inconsistent information removal is apparent. For example, on one page the fact that pigs, dogs, and cats are being infected with genetically engineered H5N1 virus is removed. The same information is not redacted elsewhere. The same inconsistency is true for the fact that researchers are crossing highly pathogenic H5N1 viruses isolated in Vietnam with contemporary H3N2 human influenza.

The Sunshine Project requested the entire research protocol(s). NIH indicates that these experiments involve non-human primates; but no mention of monkeys is found in information provided by UW-Madison. Nothing is provided related to the IACUC (animal committee) that must review animal protocols. NIH grant summary data, written by UW-Madison, states that this research involves an H5N1 influenza strain resistant to oseltamivir (Tamiflu). No mention of this is found in the records provided. Some of the redacted information appears to be generic information in the public domain about creating influenza viruses from plasmids.

Major data gaps are apparent. It is possible to garner a generalized picture of this research from the information provided; but detailed transparency that would generate confidence is not present, particularly in view of the extremely dangerous and dual-use nature of many of the experiments.

Request #4: *The entire research protocol(s) for the select agent project "Virulence regulation in Brucella by LuxR quorum sensor."*¹

Response: A modest amount (23 pages) of information was provided. It almost entirely consists of standard forms and generic BMBL text about lab safety. The reply does not meet a reasonable definition of a research protocol. In addition, the text is redacted.

UW-Madison claims that this project is inactive. The most recent date on the information it provided is 8 September 2003, however, NIH data contradicts UW-Madison. According to NIH, the research project was funded in 2004, 2005, and 2006. Nothing provided by UW-Madison is specifically applicable to the last three years of NIH funding.

The response is entirely inadequate. A clear picture of the research cannot be gained from the records provided. Major data gaps are apparent. No information is provided on recent NIH funding.

Request #5: *The entire funding proposal for the select agent project "Brucella Vaccine for Bioterrorism".*

Response: The proposal (33 pages) was provided. The information is generally satisfactory and describes the background, aims, and specific plans for the project. Some redactions are made. Most of these do not unduly impinge on transparency, although there is room for improvement.

Some redactions are inconsistent. Names that appear on one page are inexplicably redacted elsewhere. The identity of an Israeli collaborator is removed. This is inappropriate in view of the fact that Israel has not ratified the Biological Weapons Convention and any collaboration with Israeli researchers involving bioweapons agents should be subject to the highest level of scrutiny. Although the entire proposal was requested, there are appendices that were not provided.

¹ In requests 3 and 5, we excluded biographical information on the researchers. (Sometimes lengthy biographical sketches are submitted with NIH grant applications.)

UW-Madison's approach to remove "*unpublished proprietary research designs and data*" was, in this specific case, not problematic. It is apparent, however, that the principle could be abused and become imbalanced against the public's interest in transparency and research accountability. Nevertheless, for this item, UW-Madison's reply was generally satisfactory.

The Shoe Bomber Test

The Shoe Bomber Test is a common sense probe of consistency. Does the institution evenly enforce information access policies or is it erratic in its transparency? Named for Richard Reid (the "Shoe Bomber"), a failed terrorist who, despite being widely perceived as of questionable intelligence, thwarted security measures and nearly killed hundreds of airline passengers.

A worthwhile security measure will generally stop a moron's effort to defeat it. If an unacceptable risk is posed by release of information, then that information should be consistently held secret. Part time secrets reflect an ineffective and false notion of security.

In the Shoe Bomber Test, quick internet searches are conducted to identify details that are redacted from documents. If the allegedly sensitive information can be found on the institution's website or another public source, such as a scientific article, then the institution fails the test because any moron could defeat the institution's security. In some circumstances, the institution may actually be failing to protect genuinely sensitive data. In most circumstances, however, redactions are not of information that is in fact security-sensitive. More commonly, embarrassing detail is removed, or black ink indicates ignorance of security issues or arbitrary resistance to transparency.

Result: UW-Madison fails the Shoe Bomber Test.

Information that UW-Madison removed from documents citing security and other concerns may be readily obtained from UW-Madison and other websites. If such data is in fact sensitive, then UW-Madison has failed to protect it. At the same time, the University's inconsistencies could raise suspicions about its information policies and the quality of its public disclosure.

- 1) Redactions to the documents were not internally consistent. Specific information that was redacted in one place was not in other places.
- 2) Names of personnel that, allegedly, required redaction can be readily identified through a Google search (and are internally inconsistent as per #1).
- 3) Names of buildings that allegedly required redaction for security reasons can be readily identified through a Google search.
- 4) Details of research redacted for security reasons are public elsewhere. For example, use of monkeys in H5N1 research and detail on influenza strains.
- 5) UW-Madison appears to have redacted public information on influenza "reverse genetics" techniques, signaling an arbitrary and apparently uninformed hand making transparency decisions.

Response Time and Fees

UW-Madison responded within a reasonable period of time for these requests (29 days), although it charged exaggerated fees for copying and postage (\$27 for 90 pages).