



the sunshine project

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

NBAF Transparency Report #4

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 has 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 second in a series detailing the results. Future reports will focus on other bidders. This report will be updated with comparisons to other NBAF bidders as future reports are released.

Texas A&M University

Texas A&M University has bid for NBAF, proposing to build the facility in the "Research Valley" near Bryan/College Station, Texas.

Summary Transparency Evaluation

- Overall Response:** Some pertinent information was provided; but a satisfactory response was received for none of six requests (0%).
- Summary Evaluation:** Unacceptable. While Texas A&M University (TAMU) did produce records, its Health Science Center failed to reply to requests. Other important gaps in TAMU's response were easily documented. The University produced obviously incomplete information.
- Shoe Bomber Test:** Passed, with important qualifications.
-

Request Detail

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

Response: TAMU refused to release any part of the EOI.

Request #2: *TAMU's entire NBAF EOI (again), citing release by other bidders and, particularly, three other bidders in Texas.*

Response: TAMU again refused to release any part of the EOI.

Request #3: *All records on occupational exposures and/or laboratory-acquired infections with risk group 2 (RG2) or higher agents, from 1 January 2000 through the present.*

Response: In response to this request, TAMU released one page. The page reads, in its entirety:

Occupational Exposure

Number of Incidents	Nature of Exposure	Required Treatment
1	Brucella sp.	antibiotics

Obviously, the reported exposure to Brucella of one or more TAMU scientists would generate far more records than what TAMU provided. TAMU scientists work with all three of the Brucella species that are listed as select agents (bioweapons agents) under US law (*B. abortus*, *melitensis*, and *suis*). TAMU did not provide any accident investigations or reports, reports to local, state, and federal health and safety authorities, treatment-related records, safety committee discussions, modified operating procedures, or anything else concerning this accident

Further, it defies reason that a university with a large biological research program would have only one reported possible or actual occupational exposure or lab-acquired infection in a period of almost 7 years.

Even more confounding, there are significant civil and even criminal penalties for Texas public officials who fail to produce records, placing TAMU officials in legal jeopardy if they do not produce documents.

It could be concluded that TAMU has violated state law. Alternatively, TAMU has not complied with state and federal health and safety law mandating records of the exposure(s).

Request #4: *All protocols for research requiring BSL-3 or higher containment reviewed by TAMU biosafety committees, from 1 January 2003 through the present.*

Request #5: *All proposals submitted for federal funding for research involving risk group 3 pathogens, from January 2003 through the present (omitting HIV and Tb proposals).*

Response: In reply to these two requests, TAMU provided a number of grant proposals, biosafety committee protocols, and grant progress reports. Unfortunately these records were interpolated and the documentation types provided for each project were inconsistent.

For example, a complete NIH funding application and biosafety materials for research on *Brucella* antigens were included, an acceptable response for that particular project. Yet for others, proposal documentation was far sketchier. For example, for a multiyear project running through 2007 that involves inserting several antibiotic resistance genes into Q fever (*C. burnetti*) and typhus (*R. prowazekii*), TAMU only produced its annual update to NIH for 2003, and nothing for 2004, 2005, or 2006. Biosafety documentation for the same project was also only from 2003, suggesting either missing documents or no biosafety committee oversight of the project for approximately 3 years.

The Sunshine Project identified pathogen projects for which TAMU provided no documentation whatsoever. One such study was a large-scale BSL-3 project that infected thirteen bison – the largest native terrestrial mammals in North America – with virulent brucella, later sacrificing the animals to study the disease’s progression (USDA grant 2003-34397-13324). The project obviously required careful planning and execution, none of which TAMU documented.

Although for a very small number of projects TAMU provided adequate documentation, on balance, gaps and inconsistencies in TAMU’s response make it impossible to gain an adequate picture of BSL-3 research and proposed research on the basis of the information provided by the University.

Request #6: *Requests number 3, 4, and 5 in this paper were also submitted to the TAMU Health Science Center, which has a different public information officer than the University.*

Response: The TAMU Health Science Center did not reply to the request. In March 2007, it acknowledged this and says it is now processing the request – almost five months after it was made. Notably, the TAMU Health Science Center houses a Medical Microbiology Department that conducts select agent aerosol studies and undoubtedly possesses responsive records.

The Shoe Bomber Test ¹

Result: Passed, with important qualifications.

Some of the records we received from TAMU contained security-related redactions. Appropriately, these redactions were small and limited to very precise information concerning the specific location of select agents. The security-related redactions did not interfere with understanding the research described in the records. We did not find this same information to be readily available on the internet, although it should be noted that it is pointless to even try to hide a university's large animal BSL-3 facility. The major caveat to this evaluation is that the set of records provided by TAMU was very incomplete.

Generally, in Texas, the Attorney General interprets law on public access to information as not permitting redaction of biological *research* details on the grounds of security. Typically, security-related redactions are instead limited to specific details about location and physical security measures for agents- details whose public disclosure might arguably facilitate their theft. The Attorney General's approach prudently allows for redaction of some small and specific security details without interfering with disclosure of the substance of biological research and its oversight.

Response Time and Fees

TAMU Health Science Center did not reply to requests it received. Response time and fees are precisely regulated in Texas. As required by law, TAMU's refusal to release the NBAF proposal was swift, if disappointing. TAMU released other records within the timeframe established by law, and waived minor fees that it is permitted to assess, however, the response was not complete

¹ 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.