



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2010

Mr. R. Brooks Moore
Assistant General Counsel
Texas A&M University System
200 Technology Way, Suite 2079
College Station, Texas 77845-3424

OR2010-17883

Dear Mr. Brooks:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 401384.

The Texas A&M University System (the "system") received a request for minutes from IBC meetings since January 1, 2007. You claim some of the requested information is excepted from disclosure under section 552.151 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.151 of the Government Code provides the following:

- (a) The following information that pertains to a biological agent or toxin identified or listed as a select agent under federal law, including under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. No. 107-188) and regulations adopted under that Act, is excepted from the requirements of Section 552.021:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(1) the specific location of a select agent within an approved facility;

(2) personal identifying information of an individual whose name appears in documentation relating to the chain of custody of select agents, including a materials transfer agreement; and

(3) the identity of an individual authorized to possess, use, or access a select agent.

(b) This section does not except from disclosure the identity of the select agents present at a facility.

(c) This section does not except from disclosure the identity of an individual faculty member or employee whose name appears or will appear on published research.

(d) This section does not except from disclosure otherwise public information relating to contracts of a governmental body.

(e) If a resident of another state is present in Texas and is authorized to possess, use, or access a select agent in conducting research or other work at a Texas facility, information relating to the identity of that individual is subject to disclosure under this chapter only to the extent the information would be subject to disclosure under the laws of the state of which the person is a resident.

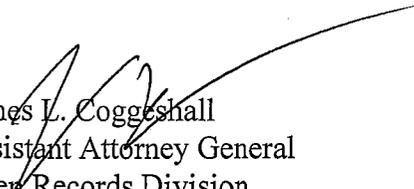
Gov't Code § 552.151 (as added by Act of June 3, 2009, 81st Leg., R.S., ch. 1377, § 5, 2009 Tex. Gen. Laws 4325, 4325-26).² You inform us the marked portions of the documents at issue “show specific locations of select agents within approved facilities.” We understand from your representations that the biological agents and toxins at the locations at issue are identified or listed as select agents under federal law. *See id.* § 552.151(a). After review of your arguments and the information at issue, we find you have established the information at issue reveals the specific location of a select agent within an approved facility; therefore, we agree the system must withhold the information you have marked under section 552.151(a)(1) of the Government Code. The system must release the remaining requested information to the requestor.

²We note that there are currently two sections of the Act numbered section 552.151. The first is an exception under the Act pertaining to the personal safety of public employees and officers. *See* Act of June 3, 2009, 81st Leg., R.S., ch. 283, § 4, 2009 Tex. Gen. Laws 742, 743. The second, which is raised here, pertains to biological agents and toxins identified or listed as select agents under federal law.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tp

Ref: ID# 401384

Enc. Submitted documents

c: Requestor
(w/o enclosures)