

United States Senate

WASHINGTON, DC 20510-0609

April 4, 2023

Lawrence A. Tabak, D.D.S., Ph.D.
Senior Official Performing the Duties of the Director
National Institutes of Health
900 Rockville Pike
Bethesda, MD 20892

Dr. Tabak:

We write to follow up on requests for information regarding the origins of COVID-19 that remain outstanding. The National Institutes of Health (NIH) has an obligation to be responsive to congressional requests for information.

Since May 2021, members of the U.S. Senate have sent letters to NIH requesting documents and information related to agency's activities and operations. To date, NIH has failed to provide the requested information.

For this reason, we reaffirm the following requests for information:

1. The 2014 moratorium defines gain of function research as "research projects that may be reasonably anticipated to confer attributes to influenza, MERS, or SARS viruses such that the virus would have enhanced pathogenicity and/or transmissibility in mammals via the respiratory route." Is Dr. Baric's research that reportedly created a chimeric virus related to SARS that could infect human airway cells¹⁶, or research that is "systematically constructing novel chimeric coronaviruses and [is] assessing their ability to infect human cells" considered gain of function research under the 2014 moratorium definition? If not, please explain why not;
2. Please explain what prompted the establishment of a moratorium on gain of function research in 2014.
3. Who was involved in drafting the moratorium document?
4. Who gave final approval of the moratorium document?
5. Please explain why the moratorium stated that, "[a]n exception from the research pause may be obtained if the head of the USG funding agency determines that the research is urgently necessary to protect the public health or national security."
6. Who requested that the moratorium include this exception?
7. How many studies received an exception during the moratorium period (2014-2017)?
8. Please list all requests for exceptions and indicate what exceptions NIH granted.

9. Please explain whether research connected to EcoHealth Alliance or Dr. Shi required an exception? If so, was an exception: a) requested; b) granted or denied? If so, who was involved in those evaluations and decisions?
10. Was any EcoHealth Alliance grant ever forwarded for review pursuant to the P3CO Framework? If not, why not?
11. Please explain whether NIH reviewed Dr. Baric's 2015 study, as reported in the November 12, 2015 Nature article.
12. If NIH reviewed this study, please explain how NIH evaluated the study's risk level and how NIH reportedly determined the study was not "so risky as to fall under the moratorium."
13. Did NIH request that Dr. Baric voluntarily comply with the 2014 moratorium? Please explain.
14. Were any of Dr. Baric's grant proposals ever forwarded for review pursuant to the P3CO Framework? If not, why not?
15. After the moratorium went into effect, how many studies, which were already funded at the time, adopted a "voluntary pause on research"? Please provide a list of those studies.
16. Provide the total number of grant proposals or projects that have been forwarded for review pursuant to the P3CO Framework since its establishment? How many of those grants have been approved?
17. Provide an explanation of what processes or procedures NIH used to ensure that a grant recipient was complying with the moratorium, including voluntary compliance.
18. All records involving Anthony Fauci, Hugh Auchincloss, David M. Morens, F. Gray
19. Complete and unredacted copies of all documents and communications responsive to the Washington Post's Freedom of Information Act (FOIA) request described in the June 1, 2021 article;
20. Complete and unredacted copies of all documents and communications responsive to BuzzFeed News' FOIA request as described in the June 1, 2021 article;
21. Complete and unredacted copies of all documents and communications responsive to Judicial Watch's FOIA request as described in the June 4, 2021 post;
22. Complete and unredacted copies of all documents and communications responsive to the following FOIA request IDs – 53801, 54064, 54085, 54086, 54087, 55004, 55006, 55007, and 55185;
23. Please explain whether NIH is aware of any approved non-gain of function grants that resulted in an experiment that yielded a virus with a gain of function.
24. Did NIH ever independently evaluate whether the experiments conducted under the EcoHealth Alliance grant yielded a virus with a gain of function? If so, please explain. If not, why not.
25. Please explain when NIH first became aware of the State Department investigation into the origins of COVID-19.
26. Did NIH participate in the State Department's investigation into the origins of COVID-19? If so, please explain.
27. Please provide all documents and communications referring or relating to the State Department investigation into the origins of COVID-19.
28. Please provide all documents and communications between NIH and any entity including research institutions regarding the 2014 gain of function moratorium.

29. A complete unredacted copy of Ping Chen's report on her visit to the WIV on October 24, 2017; and
30. All unredacted communications referring or relating to Ping Chen's report on her visit to the WIV in October 2017, including but not limited to the enclosed email chain.
31. Regarding royalty payments made by third parties to employees of the National Institutes of Health between January 1, 2009, and December 31, 2021, please provide an itemized list detailing:
 - a. The amount and date of each individual royalty payment made by third-party payers to employees and administrators of the National Institutes of Health.
 - i. Please include the names, official employment titles, and pay grades of the recipients, as well as the names of the third-party payers.
 - b. The aggregate amount each NIH employee or administrator received in royalty payments.
32. Regarding royalty payments made by pharmaceutical companies to employees of the National Institutes of Health between January 1, 2018, to March 1, 2022, please provide a line-item list of the following:
 - a. The dollar amount and date of each individual royalty payment made by pharmaceutical companies to employees and administrators of the National Institutes of Health.
 - i. Please include the names, official employment titles, and pay grades of the recipients, as well as the names of the pharmaceutical companies that made the payments.
 - b. The total number of employees and administrators at NIH that received royalty payments from pharmaceutical companies between January 1, 2018, and March 1, 2022.
33. Between January 1, 2020, and March 1, 2022, what is the aggregate amount of dollars the National Institutes of Health or its employees have received related to COVID-19 testing, research, treatment and vaccination efforts?
34. As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), Federal employees may not participate personally and substantially in any particular matter in which they know they have a financial interest unless they first obtain a written waiver⁸ or qualify for a regulatory exemption.
 - a. Have all NIH employees receiving royalty payments by pharmaceutical companies completed this written waiver or qualified for regulatory exemption? If not, please explain why.
35. How much did the National Institutes of Health directly receive in royalties between January 1, 2009, and December 31, 2021?
 - a. Please explain, in detail, how the National Institutes of Health uses these royalty payments made to the agency.
36. A detailed index of all information withheld pursuant to a FOIA request, either in part or in whole, because such information "could be used out of context and serve to amplify the already prevalent misinformation regarding the origins of the coronavirus pandemic."
37. A detailed description of the process by which the agency determines what information "could be used out of context and serve to amplify the already prevalent misinformation regarding the origins of the coronavirus pandemic", including all individuals involved in making such determination.

38. A list of all changes since January 2020 to NIH's FOIA review and/or approval process for agency and/or agency component records, including, but not limited to, temporary and informal policies.
39. A list of all instances since January 2020 where the NIH Director, Acting Director, and/or head of an agency component was involved in reviewing/clearing a FOIA response before release to the requestor.
40. A list of all instances since January 2020 where the NIH Director, Acting Director, and/or head of an agency component participated in any matter related to a FOIA request for records in which they were directly or indirectly personally involved.
41. A description of what role, if any, the NIH Director, Acting Director, and head of an agency component has in the FOIA process, including, but not limited to, any authority for such individuals to withhold information from production under a valid FOIA request.
42. Unredacted copies of all pages produced in the December 28, 2021 production of documents in FOI Case No. 54696 including, but not limited to, the 298 pages withheld.
43. Unredacted copies of all pages produced in the January 28, 2022 production of documents in FOI Case No. 54696 including, but not limited to, the 332 pages withheld as exempt from release.
44. Unredacted copies of all pages produced in the February 28, 2022 production of documents in FOI Case No. 54696 including, but not limited to, the 308 pages withheld as exempt from release.
45. Unredacted copies of all pages processed in March 2022 with respect to FOI Case No. 54696 including, but not limited to, the 577 pages produced on March 28, 2022 and the 21 pages sent to the Food and Drug Administration for consultation.
46. Unredacted copies of all pages processed in April 2022 with respect to FOI Case No. 54696 including, but not limited to, the 291 pages produced on April 28, 2022 and the 9 pages sent for consultation.
47. Unredacted copies of all pages processed in May 2022 with respect to FOI Case No. 54696 including, but not limited to, the 230 pages produced on May 27, 2022 and the 104 pages sent to the Department of State for consultation.
48. Unredacted copies of all pages produced in the June 28, 2022 production of documents in FOI Case No. 54696.
49. Unredacted copies of all pages produced in the July 23, 2022 production of documents in FOI Case No. 54696.
50. Unredacted copies of all responsive records produced in FOIA Case No. 55858 on February 26, 2021.
51. Unredacted copies of all pages produced in the September 22, 2021 production of documents in FOI Case No. 56231.
52. Unredacted copies of all pages produced in the March 25, 2022 production of documents in FOI Case No. 57498.
53. Unredacted copies of all responsive records identified as of September 1, 2022 with respect to FOIA Case No. 55201 including, but not limited to, the pages referred to the Defense Advanced Research Projects Agency.
54. Unredacted copies of all responsive records identified as of September 1, 2022 with respect to FOIA Case No. 55344 including, but not limited to, the pages pending at the Office of the Director.

55. Unredacted copies of all responsive records identified as of September 1, 2022 with respect to FOIA Case No. 55351 including, but not limited to, the pages pending at the Office of the Director.
56. Unredacted copies of all responsive records identified as of September 1, 2022 with respect to FOIA Case No. 55569 including, but not limited to, the pages pending at the Office of the Director.
57. Unredacted copies of all responsive records identified as of September 1, 2022 with respect to FOIA Case No. 55570 including, but not limited to, the pages pending at the NIH institute.
58. Unredacted copies of all responsive records identified as of September 1, 2022 with respect to FOIA Case No. 56077 including, but not limited to, the pages pending at the NIH institute.
59. Unredacted copies of all responsive records identified as of September 1, 2022 with respect to FOIA Case No. 56212 including, but not limited to, the pages pending at the Office of the Director.
60. Unredacted copies of all responsive records identified as of September 1, 2022 with respect to FOIA Case No. 56247 including, but not limited to, the pages pending at OGC.
61. Unredacted copies of all responsive records identified as of September 1, 2022 with respect to FOIA Case No. 56301 including, but not limited to, the pages pending at the Office of the Director.
62. Unredacted copies of the full grant proposal and award notice associated with 1R01AI163118.
63. The names of all individuals that participated in the peer review process of EcoHealth Alliance's grant proposal associated with 1R01AI163118.
64. The names of all individuals that recommended for funding EcoHealth Alliance's grant proposal associated with 1R01AI163118.
65. Unredacted copies of all records concerning or relating in any manner to EcoHealth Alliance grants 5U01AI153420, 1R01AI163118, 5U01AI151797, and 2R01AI110964, including but not limited to any application, information, or material provided to HHS/NIH/NIAID by EcoHealth Alliance or its subcontractors.
66. Unredacted copies of all communication, including but not limited to emails, from or with EcoHealth Alliance or any representative of EcoHealth Alliance related in any way to grants 5U01AI153420, 1R01AI163118, 5U01AI151797, and 2R01AI110964.
67. Unredacted copies of all minutes, notes, emails, and correspondence reflecting any internal deliberation regarding the eligibility of EcoHealth Alliance for additional grant funding, including but not limited to, within the NIH Office of Director and NIAID Office of Director.
68. The names and titles of all employees or contractors of HHS OIG that were informed prior to the issuance of the notice of awards on September 21, 2022 for grants U01AI151797, U01AI153420, and 1R01AI163118.
69. The names and titles of all federal government employees that reviewed, approved, or were informed prior to the issuance of the notice of awards on September 21, 2022 for grants U01AI151797, U01AI153420, and 1R01AI163118, including but not limited to, employees of HHS, NIH, NIAID, and the Executive Office of the President.

70. A list of all federal agencies that were notified, consulted, or informed prior to issuing the notice of awards on September 21, 2022 for grants U01AI151797, U01AI153420, and 1R01AI163118.
71. For each of the seven requirements listed in NIH's July 8, 2020 letter, a detailed description of what information or materials EcoHealth Alliance provided NIH to satisfy the requirement.
72. Unredacted copies of all pages processed in August 2022 with respect to NIH FOIA Case No. 54696 including, but not limited to, the pages produced on August 29, 2022.
73. Unredacted copies of all pages processed in September 2022 with respect to NIH FOIA Case No. 54696 including, but not limited to, the pages produced on September 28, 2022.
74. Unredacted copies of all pages processed in October 2022 with respect to NIH FOIA Case No. 54696 including, but not limited to, the pages produced on October 28, 2022.
75. Unredacted copies of all responsive records identified as of October 31, 2022 with respect to FOIA Case No. 56247 including, but not limited to, the pages ready for final review and release.
76. Unredacted copies of any and all records excluded from production under 5 U.S.C. 552(c) with respect to NIH FOIA Case No. 57153.
77. Unredacted copies of all responsive records identified in the August 26, 2022 production with respect to NIH FOIA Case No. 57153 including, but not limited to, the pages withheld entirely.

We respectfully request you provide our offices with the status of each request no later than 5:00 PM on April 10, 2023.

Sincerely,

Rand Paul

Ed Kennedy

Johnny Boy

Luis Hernandez

Eric J. Smith

Paul

Gregory J. Summers
MA

Ryan

Rosemary

Ad Long

John Smith

Christy

Susan M. Collins

John E.

Thomas

Markus

Mike Cross

Mike

Paul

Mike

Kevin

John

Robert

Kate

John