



Department of Energy  
Washington, D.C. 20545

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*Mancuso File*

DEC 7 1981

Honorable Doug Walgren  
Chairman, Subcommittee on Science,  
Research and Technology  
Committee on Science and Technology  
House of Representatives  
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to your letter concerning access to computer records by the University of Pittsburgh. The Atomic Energy Commission (AEC) and Energy Research and Development Administration (ERDA) did have a research contract with the University of Pittsburgh. This contract was not renewed by ERDA after July 31, 1977. Although the Department of Energy (DOE) agrees with Vice Chancellor Montgomery that the Principal Investigator has a right to "his own data," Dr. Mancuso already has copies of data generated by him and his staff as well as his analysis of the data. DOE has never acknowledged that Dr. Mancuso has a right to information which was developed by another contractor at Government expense. The data which Dr. Mancuso and the University of Pittsburgh are seeking were, in fact, developed by another contractor, Union Carbide Corporation, Nuclear Division (UCCND), not by the University of Pittsburgh. Access to these records by a former contractor is precluded by the Privacy Act of 1974 (5 USC Section 552a) unless research is being done for and supported by the Department of Energy. The assertion by the University that the delay in closing out the contract was an admission by DOE of the University of Pittsburgh's right to the records in question is completely unfounded. A number of factors have contributed to the delay in closing out the contract with the University of Pittsburgh. These factors did not include any consideration of providing additional records to the University.

The delay in close out of this contract results from administrative error and oversight on the part of Chicago Operations Office personnel who were responsible for contracting. Certain inventory information had been requested of the University as a part of the contract close out procedures. After many requests, this information was furnished to the Operations Office by the University in December 1980. Due to

REPOSITORY DOE-FORRESTAL  
COLLECTION MARKEY FILES  
BOX No. 4 of 6  
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changes in personnel in the Chicago Operations Office because of retirements, etc. the information provided by the University was not recognized as the requested information, and it was merely placed in the contract file. After receiving your letter of October 26, 1981, a review of the contract file uncovered the inventory data which had been requested from the University. Steps are now being taken to close out this contract.

It is true that the Oak Ridge Associated Universities (ORAU), which is now responsible for the current studies of DOE and DOE contractor employees, has made copies of portions of records generated after the University of Pittsburgh's involvement in the study (data not subject to the Privacy Act) and transmitted them to the University of North Carolina. The University of North Carolina is a subcontractor to the DOE prime contractor, ORAU, and is involved with ORAU in these epidemiological studies.

I believe that it would be worthwhile to describe for you the nature of the two categories of data that are being requested, neither of which was developed by the University of Pittsburgh.

1. Continuous work history and complete chronological history of all radiation exposures for employees of all Oak Ridge facilities.  
These data bases were developed and prepared by UCCND, as work under the AEC-UCCND prime operating contract. No funding for this activity was provided through the University of Pittsburgh. The AEC provided in excess of \$2 million to UCCND for developing these data bases.
2. Mortality Files and Death Certificates  
The mortality files are lists of individuals and their social security numbers, developed by UCCND from business confidential files of UCCND. These lists were submitted by UCCND on behalf of AEC to the Social Security Administration (SSA) for searching by SSA. The resulting list of workers prepared by SSA was returned to UCCND. With this list, UCCND then obtained death certificates from the various states. Upon receipt in Oak Ridge, the death certificates were sent to the University of Pittsburgh. Once the University of Pittsburgh obtained the data they felt was needed, the death certificates were returned to Oak Ridge.

The Social Security Administration, under an interagency agreement with AEC, provided the requested services and were reimbursed by AEC directly for their costs. To obtain the death certificates, AEC wrote each state and requested that they provide to AEC, or its contractor representative, copies of requested death certificates. AEC, through UCCND, paid for the states' costs in providing death certificates and assured the states that the death certificates would be properly safeguarded.

The AEC contracted with the University of Pittsburgh in 1964 to provide only an analysis of worker experience in AEC plants to determine if there was a detrimental health impact associated with such employment. The University of Pittsburgh was not funded to collect or format data bases for analysis or to retrieve death certificates. These activities were performed at Government expense by UCCND.

The employment and exposure records, which provided the basis for the study of the Oak Ridge worker population, were generated and maintained by UCCND. Once the University of Pittsburgh determined how the employment data should be restructured for analysis, AEC directed UCCND to undertake the preparation of the work history and exposure records data bases as tasks under the UCCND contract.

In the performance of the University of Pittsburgh contract with AEC all data developed by UCCND was made available to the University of Pittsburgh for copying and subsequent analysis.

Following the 1977 expiration of the contract with the University of Pittsburgh, the data bases (all computerized) were extensively updated, reformatted and validated for analysis by the current contractor, Oak Ridge Associated Universities. All of this activity, which has taken five years and has cost millions of dollars, was performed exclusively at Government expense by UCCND and ORAU, with no participation by the University of Pittsburgh. The computerized records with which the University is familiar no longer exist, having been revised and reformatted during the intervening years at Government expense. This revised data is the data which has been transmitted to the University of North Carolina for analysis under their contract with ORAU, and is not the data which the University of Pittsburgh has been requesting.

Contrary to the University's claim of entitlement to these records, access to the records is precluded by the Privacy Act (5 USC Section 552a). These records are within DOE systems of records subject to the Privacy Act, specifically System DOE-35, "Personnel Radiation Exposure Records," and System DOE-36, "Statistical Analysis using Personnel Security Questionnaire (Health and Mortality Study)." Notices describing these systems of record were published in the Federal Register on August 30, 1979, at 44 F.R. 51101-51103. These systems are successors of similar systems maintained by ERDA.

For the portion of the AEC-University of Pittsburgh contract performed after passage of the Privacy Act, records were made available to University personnel under the following established routine use:

"A record from this system of records may be disclosed, as a routine use, to (agency) contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties..."  
(emphasis added)

Since the University of Pittsburgh contract is no longer being funded by DOE for this research, this routine use is no longer applicable to the University. To provide the University unauthorized access to the records would be a violation of the Privacy Act and would subject agency officials to criminal penalties.

Here, as sometimes happens at the end of a joint research effort, the parties disagree as to what belongs to whom. The Government gathered and computerized a large volume of documents, which it furnished the University for analysis. Because of that earlier access, the University now claims a right of possession. We cannot agree that the former relationship created any right in the University that has not been satisfied. The subject records within the agency's possession, by right, by contract, and by law, must remain with the Government without access by the University.

We appreciate the opportunity to explain our position to you. If we can provide further information, we would be pleased to do so.

Sincerely,

Original signed by  
Charles W. Edington

Charles W. Edington  
Acting Associate Director, Office of  
Health and Environmental Research  
Office of Energy Research

cc: Honorable Margaret M. Heckler

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