

VIA UTAH OPENRECORDS PORTAL

May 14, 2020

Utah Department of Health
Bureau of Epidemiology
288 North 1460 West
PO Box 142104
Salt Lake City, Utah 84114-2104

Dear Open Records Officer:

This letter constitutes a government records request under the Utah Government Records Access and Management Act (“GRAMA”), Utah Code § 63G2-2-201 et seq., and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to Utah Department of Health’s Bureau of Epidemiology.

EPIC seeks records relating to the launch of Healthy Together, a COVID-19 contact tracing mobile application.¹

Documents Requested

1. The contract between Utah and Twenty Labs, LLC for the launch of Healthy Together;²
2. All technical specifications, statements of work, and any memoranda describing the Healthy Together app used in conjunction with Utah government databases and/or public health systems; and
3. All audits or independent privacy reviews of the Healthy Together app.

Background

In response to the COVID-19 pandemic, Utah has contracted with Twenty Labs, LLC to launch a contact tracing app called Healthy Together.³ The Healthy Together app will track individual movements through the use of Bluetooth and location tracing services when app users are in close proximity to each other.⁴ Data collected by Healthy Together will be shared with public health workers where their contact tracers will follow up with users that have crossed paths with an

¹ See Healthy Together, <https://healthytogetherutah.com/>.

² Sean P. Means & Erin Alberty, *Utah Launches an App to Track People—and Help Trace Their Contacts If They Get COVID-19*, Salt Lake Tribune (Apr. 23, 2020), <https://www.sltrib.com/news/2020/04/22/utah-launches-an-app/>.

³ *Id.*

⁴ *Id.*

infected individual.⁵ The app also allows users to assess and track their symptoms, find their nearest testing center, and view their test results.⁶ Once a user tests positive, the state will have access to a user's location and Bluetooth data.⁷

Currently, the state has a \$1.75 million contract with Twenty and another \$1 million to further develop the app.⁸ To develop Healthy Together, Twenty:

[r]epurposed its iOS and Android mobile application technology with existing user registration, location data sharing, basic map visualization, user-to-user sharing, and alerts to deliver a solution in two parts through a mobile application and an official portal to be used by public health.⁹

Both the government of Utah and Twenty will have access to users' personally identifiable information including name, phone number, symptom data, and location data.¹⁰ A user's location data is automatically deleted after 30 days and symptom data are automatically de-identified after 30 days.¹¹

Request for "News Media" Status, Waiver of Fees, and Expedited Response

EPIC is a "representative of the news media" for fee classification purposes. *EPIC v. DOD*, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on EPIC's status as a "news media" requester, EPIC requests a waiver of all fees associated with the processing of its request because releasing the requested records will primarily benefit the public rather than the requester. Utah Code § 63G2-2-203(4)(A). Due to the nature of the requested information, EPIC also requests an expedited response because there is an urgent need to information the public about Utah's use of a contact tracing application. Utah Code § 63G2-2-204(4)(A).

EPIC is an independent non-profit research center in Washington, D.C., working to protect privacy, open government, and civil liberties. EPIC pursues a wide range of program activities including public education, litigation, and advocacy. EPIC is recognized as a "representative of the news media"¹² and has no commercial interest in the records requested.¹³

The release of this information would be beneficial to the public in understanding exactly how the Healthy Together contact tracing app works in conjunction with the Utah Department of Health. The urgency to inform the public about the use of Utah's utilization of the Healthy Together app to address the public health crisis is clear given the extensive press coverage and privacy

⁵ *Id.*

⁶ *Frequently Asked Questions*, Healthy Together Beta App, Utah.gov, <https://coronavirus.utah.gov/healthy-together-app/>.

⁷ *Id.*

⁸ Means & Alberty, *supra* note 2.

⁹ *Frequently Asked Questions*, Healthy Together Beta App, Utah.gov, <https://coronavirus.utah.gov/healthy-together-app/>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *EPIC v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003).

¹³ EPIC, *About EPIC*, <https://epic.org/epic/about.html>.

implications of collecting location data to limit the spread of the coronavirus. Little information has been released about whether the Utah Department of Health has conducted any privacy assessments or independent audits of the app and where the data collected from the app is stored. EPIC's request specifically seeks such information.

For these reasons, EPIC requests a waiver of any fees connected with this request and an expedited response. However, if EPIC's request cannot be sent without cost, then prior to fulfillment of the request, please notify EPIC with the reasons for the denial of the waiver and estimated costs involved.

Conclusion

Thank you for your consideration of this request. EPIC anticipates your response on its request within five days. Utah Code § 63G2-2-204(4)(A). For questions regarding this request please contact Enid Zhou at zhou@epic.org, 'cc FOIA@epic.org.

Respectfully submitted,

/s/ Enid Zhou

Enid Zhou

EPIC Open Government Counsel