

Office of the Attorney General



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February 2, 2022

Lucian T. Pera
Adams and Reese LLP
Crescent Center
6075 Poplar Avenue, Ste. 700
Memphis, TN 38119

RE: Public Records Request of Professor Gautam Hans

Dear Lucian:

I am responding to your letter of January 24, 2022, in which you have raised several questions concerning the public records request made by Professor Gautam Hans on October 8, 2022, requesting copies of the following documents:

A copy of each electronic version of the most current Tennessee Code Annotated, reproduced in its entirety. Examples of such relevant versions include, but are not limited to, files in the following formats: Microsoft Word, XML, PDF, and any other editable document or database.

Your letter first letter indicates that your client is seeking the requested records "from the State of Tennessee, no matter in whose possession these records may be." However, the Public Records Act does not contemplate that a public records request may be made generally to the "State of Tennessee." Rather, the Act specifically provides that [t]he custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt from disclosure." Tenn. Code Ann. § 10-7-503(a)(2)(B). And a "records custodian" is defined as "any office, official, or employee of any governmental entity lawfully responsible for the direct custody and care of a public record." Tenn. Code Ann. § 10-7-503(a)(1)(C).

Professor Hans's October 8 public records request was made to Ms. Seals, the Revisor of Statutes, who also serves as the Executive Secretary for the Tennessee Code Commission. My response of

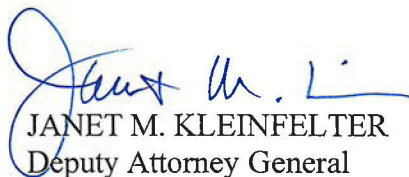
October 19, 2022 was on behalf of Ms. Seals both in her capacity as the Revisor of Statutes and as Executive Secretary for the Tennessee Code Commission. To the extent you are now making a request for copies of these documents to the Office of Legislative Legal Services, including its Director, please be advised that neither the Office, nor its Director, has any documents responsive to this request.

Second, your client requested a “copy of each electronic version of the most current Tennessee Code Annotated, reproduced in its entirety.” As I stated in my October 19 letter to Professor Hans, Ms. Seals, both in her capacity as the Revisor of Statutes and as Executive Secretary for the Tennessee Code Commission, does not have any records responsive to this request. And specifically in response to your letter, Ms. Seals does not have “one electronic file that comprises the current Tennessee Code Annotated or 100 electronic files that together comprise the Tennessee Code Annotated.”

And while Section 2.9 of the 2019 Contract with Matthew Bender provides that, “[a]fter each regular or extraordinary session, Publisher shall prepare and provide to the Commission, as no cost to the State of Tennessee, a mutually agreeable electronic format containing an accurate representation of the material contained in the bound volumes of the T.C.A. and its cumulative supplements, as amended in such regular or extraordinary session,” that same provision of the Contract also specifically provides that “[t]he electronic format shall be delivered pursuant to written request of the Executive Secretary. Additionally, the Contract further provides that “[s]uch electronic format shall become the property of the Commission, and the Commission shall determine the use of such electronic format, including transfer of such electronic format to a successor publisher, but such electronic format will not be sold or distributed to the public by the Commission.” Ms. Seals, as the Executive Secretary for the Tennessee Code Commission, has never requested that an “electronic format” of the Tennessee Code Annotated be delivered pursuant to Section 2.9 of the Contract. Furthermore, had Ms. Seals ever requested an “electronic format,” distributed of such electronic format is prohibited under the terms of the Contract.

Finally, Tenn. Code Ann. § 3-12-105(a)(2) provides that “[w]ork papers and correspondence, including correspondence by electronic mail, with any person receiving service from the office of legal services.” Ms. Seals is employed by the Office of Legal Services and in her roles as Revisor of Statutes and Executive Secretary provides services to the Tennessee Code Commission. Accordingly, her work papers with respect to such services are not public records pursuant to Tenn. Code Ann. § 3-12-105(a)(2).

Respectfully,


JANET M. KLEINFELTER
Deputy Attorney General