

**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Turner Adornetto)	
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Filing Date: March 10, 2025)	Case No.: FIA-25-0020
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Issued: April 7, 2025

Decision and Order

On March 10, 2025, Turner Adornetto (Appellant) appealed a Determination Letter issued to him from the Department of Energy’s (DOE) Office of Science, Berkely Site Office (BSO) regarding Request No. #CH-2025-01071-F, which responded to a request filed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by DOE in 10 C.F.R. Part 1004. BSO determined that no responsive records existed. Appellant challenged the adequacy of BSO’s search. In this Decision, we deny the appeal.

I. BACKGROUND

On November 20, 2024, Appellant submitted a FOIA request seeking:

A copy of any documents or materials, including but not limited to, presentations, application materials, and final reports associated with the following Table of Projects funded by the Appropriate Technology Small Grants Program (“ATSGP,” also called the Small-Scale Appropriate Energy Technology Grants Program), established under the Energy Research and Development Administration Appropriation Authorization of 1977, 42 U.S.C. § 5907a. Guidelines for the ATSGP, including requirements for dissemination, are published at 10 C.F.R. § 470.

Table of Projects. This Table of Projects includes projects described in the report titled “Projects from Federal Region IX: Department of Energy Appropriate Energy Technology Program. Part II,” prepared for the Department of Energy by C.W. Case, H.R. Clark, J. Kay, F. B. Lucarelli, and S. Rizer of the Lawrence Berkeley National Laboratory (which was the Lawrence Berkeley Laboratory at the time the report was published in January 1980). The report is available at <https://www.osti.gov/biblio/5670360>.

Project Title	Project Reference No.	Applicant Name and Address	DOE Region	Award Received	Project Term
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Solar Beeswax Melter	HI-22	Sebastian Denzler Box B Kaelakekua, Hawaii 96750	9	\$328	June 1978 to July 1978
Java Plum Electric	HI-1	Verne Trostle P.O. Box 1302 Kaunakakai, Hawaii 96748	9	\$1,235	June 1978 to June 1979
Active Solar Space Heating System for the Integral Urban House	CA-790	Jeffrey C. Poetsch Integral Urban House 1516 5th Street Berkeley, California 94710	9	\$8,000	June 1978 to Unknown
Solar Energy for Composting Toilets	CA-496	Max L. Kroschel The Farallones Institute/Rural Center 15290 Coleman Valley Road Occidental, California 95465	9	\$10,000	June 1978 to Unknown
Methane Generator for Wastewater Grown Aquatic Plants	CA-323	Solar AquaSystems, Inc. P.O. Box 88 Encinitas, California 92024	9	\$7,534	June 1978 to Unknown
Solar Prototype House for a Residential Community	AZ-26	Mark Scanlon Solar System Enterprises Route #4, P.O. Box 90 Flagstaff, Arizona 86007	9	\$40,770	June 1978 to Aug. 1979

FOIA Request from Turner Adornetto to Ingrid Kolb at 1 (Nov. 20, 2024) (emphasis in original).¹ The DOE Headquarters Office that received the request forwarded it to BSO and instructed it to conduct a search for responsive documents. Email from Michelle Galbert to Ronald Shimkowski (Nov. 26, 2024). BSO searched its digital files and did not find any responsive documents. Email from Michelle Galbert to Kristin L. Martin (Mar. 25, 2025). Lawrence Berkley National Laboratory (LBNL) searched its Archives and Records Office, looking under project titles, project numbers, and applicant names provided in the Table of Projects. *Id.* It found no records apart from records already available to the public, which were stored at the Federal Records Center.² *Id.* On December 16, 2024, BSO sent Appellant a Determination Letter in which it stated that the request had been transferred to the Office of Science’s Consolidated Service Center because it had jurisdiction over records at LBNL. Determination Letter from Paul Golan to Turner Adornetto at 1 (Dec. 16, 2024).³ The letter explained that DOE had determined that BSO and LBNL were the most likely location for responsive records and that searches of both locations had found no records responsive Appellant’s FOIA request. *Id.* at 2.

¹ The projects referenced in the request’s Table of Projects shall be collectively referred to as “the Projects” in this decision.

² Though the FOIA does not require agencies to produce records already available to the public, a list of the responsive publicly available records LBNL located and links to electric versions of the records are included as Appendix 1 to this decision. *See* Email from Michelle Galbert to Kristin L. Martin (Mar. 26, 2025).

³ The letter is dated December 10, 2024, but was transmitted via email on December 16, 2024. Email from Michelle Galbert to Turner Adornetto (Dec. 16, 2024). We use the latter date for the letter because timeliness of an appeal is determined from the date that the requester receives the determination. 10 C.F.R. § 1004.8.

Appellant timely filed the present appeal, arguing that DOE should have searched other DOE offices because he believes the requested records exist at DOE as archival records. Appeal Email from Turner Adornetto to OHA Filings at 1 (received March 10, 2025). In support of his arguments he referenced 10 C.F.R. § 470.20, which requires DOE to “disseminate to the public, in an appropriate manner, information of the nature, usage and availability of the energy-related systems and supporting technologies developed or demonstrated under the [ATGSP].” In further support of his arguments, he stated that a report authored by LBNL, a link for which was included in his request, includes bibliographic information for the requested records and a discussion of their content. Appeal at 1; *see also* C. W. Case, H. R. Clark, J. Kay, F. B. Lucarelli, and S. Rizer, *Projects from Federal Region IX Department of Energy Appropriate Energy Technology Program Part II*, Energy and Environment Division, Lawrence Berkely National Laboratory (Jan. 1980), *available at* <https://www.osti.gov/servlets/purl/5670360> (the LBNL report). The report, referring to the projects in the Table of Projects stated, “[a] number of agencies including the Lawrence Berkeley Laboratory (LBL), the California Office of Appropriate Technology (OAT), the Hawaii Department of Planning and Economic Development, and the Trust Territory Office of Planning and Statistics are collecting economic and technical data from these projects.” LBNL report at 1.⁴ Appellant further argued that the requested records may not all be at the same location. He requested “‘a search reasonably calculated to uncover all relevant documents’ within other offices within the Office of Science, particularly field offices in the Western United States and the Office of Scientific and Technical Information,” citing in support *Weisberg v. U.S. Dep’t of Just.*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Appeal at 1–2.

Lastly, in his appeal, Appellant argued that the Determination Letter he received from BSO, as well as the response he received from the DOE Headquarters Office that transferred the FOIA request to BSO, only included reference to the parts of his request discussing the ATGSP and the LBNL report, but did not reference the Table of Projects. Appeal at 2. As such, Appellant stated, it was unclear whether DOE used the specific information in his request for its search. *Id.*

II. ANALYSIS

Under the FOIA, agencies are required to “conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.” *Reporters Comm. for Freedom of the Press v. FBI*, 877 F.3d 399, 402 (D.C. Cir. 2017). An agency is obligated to search all locations likely to hold responsive records unless doing so would cause an undue burden for the agency. *Heffernan v. Azar*, 317 F. Supp. 3d 94, 113 (D.D.C. 2018); *see also Valencia-Lucena v. United States Coast Guard, FOIA/PA Records Mgmt.*, 180 F.3d 321, 327 (D.C. Cir. 1999) (“It is well-settled that if an agency has reason to know that certain places may contain responsive documents, it is obligated under FOIA to search barring an undue burden.”). The FOIA does not require agencies to create records for the purpose of fulfilling a request for information. *Yeager v. Drug Enforcement Admin.*, 678 F.2d 315, 321 (D.C. Cir. 1982) (citing *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 161–62 (1975)). It also does not require agencies to disclose information that it has already published or made available. *United States DOJ v. Tax Analysts*, 492 U.S. 136, 152 (1989). A lack of responsive records does not indicate that a search was unreasonable. Indeed, a search’s adequacy “is determined not by the fruits of the search, but by the

⁴ The report’s initial pages are numbered with roman numerals such that page 1 occurs on page 7 of the document.

appropriateness of [its] methods.” *Hodge v. FBI*, 703 F.3d 575, 579 (D.C. Cir. 2013) (citing *Iturralde v. Comptroller of the Currency*, 315 F.3d 311, 315 (D.C. Cir. 2003)) (internal quotation marks omitted). We have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., American Oversight*, OHA Case No. FIA-19-0010 (2019).⁵

In *Weisberg*, the requester sought records from the FBI relating to the investigation into the assassination of President John F. Kennedy. *Weisberg*, 705 F.2d at 1346–47 (D.C. Cir. 1983). The agency conducted three searches of its files at the headquarters office in Washington, D.C., and did not find many of the requested records. *Id.* at 1348, 1357. On appeal, *Weisberg* argued that the agency should have searched the Dallas field office for the requested records. *Id.* at 1357. The agency acknowledged that the Dallas field office may have received final reports but argued that because copies had been maintained at headquarters—the office of origin for the Kennedy case—any existing reports would have been retrievable through the headquarters search. *Id.* The court held that simply showing that some reports may have been sent to Dallas was not sufficient to raise material doubts about the sufficiency of the agency’s search. It noted that the agent in charge of the search “has already searched where the original lab reports are kept, and *Weisberg* has not shown that the types of materials he now mainly stresses—plates and examiner’s notes—were stored in these other locations.” *Id.* at 1958. The court held that the agency had carried its burden of showing that it had taken all reasonable steps to find the requested records. *Id.*

Similarly, in this case Appellant has no evidence to support his assertion that the requested records may be located in the other Office of Science’s western field offices or that they originated or were sent there. Appellant cites the LBNL report, but this evidence merely indicates that records about the ATSGP were likely housed at LBNL over 45 years ago. The only DOE entity that the LBNL report lists as collecting data on the Projects is Lawrence Berkely Laboratory (the former name of LBNL).⁶ There is no indication that this information was transmitted to another DOE facility and, therefore, no reason to believe that the requested records would be housed there. Appellant also cites to DOE’s regulatory obligation to disseminate information about the ATSGP, but there is no evidence that information was disseminated from a location other than LBNL. Moreover, the FOIA does not require DOE to locate and produce information already disseminated to the public. *Tax Analysts*, 492 U.S. at 152.

As to Appellant’s argument that the Table of Projects was not referenced and, therefore, he could not be sure it was used in DOE’s search, DOE transmitted the entire request, which included the Table of Projects, to BSO when assigning the search there. Email from Michelle Galbert to Ronald Shimkowski (Nov. 26, 2024). In the Determination Letter, BSO referenced the Table of Projects without reproducing it when it quoted the language of the initial request. Determination Letter at 1. The FOIA does not require that the Determination Letter reproduce the request in full. *See* 5 U.S.C. § 552(a)(6)(A)(i). The fact that it was not in this case is not an indication that the Table of

⁵ OHA opinions are available at www.energy.gov/OHA.

⁶ The LBNL report states that DOE’s San Francisco Operations Office, which no longer exists, administered the grants. LBNL report at 1; *DOE Site List*, DOE Central Internet Database (accessed March 21, 2025), *available at* <https://cid.doe.gov/Pages/SiteList.aspx>.

Projects was not used in DOE's search. Moreover, LBNL specifically searched for records related to the individual projects listed in the Table of Projects.

For the foregoing reasons, I find that DOE's search included all locations reasonably likely to hold the requested records.

III. ORDER

It is hereby ordered that the Appeal filed on March 10, 2025, by Turner Adornetto, No. FIA-25-0020, is denied.

This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect one's right to pursue litigation. OGIS may be contacted in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS, College Park, MD 20740
Web: <https://www.archives.gov/ogis> Email: ogis@nara.gov
Telephone: 202-741-5770 Fax: 202-741-5769 Toll-free: 1-877-684-6448

Poli A. Marmolejos
Director
Office of Hearings and Appeals

Appendix 1

LBL-9391, Hannah R. Clark, Appropriate Energy Technology Library Bibliography, August 1979, *available at* <https://escholarship.org/uc/item/6c01h61h>.

LBL-9642, UC-95d, C.W. Case, F.B. Lucarelli, J. Morris, and H.R. Clark, Projects from Federal Region IX DOE Appropriate Energy Technology Pilot Program — Part I, August 1979, *available at* <https://escholarship.org/uc/item/2853h9cc>.

LBL-9715, UC-95d, F.B. Lucarelli, J. Morris, J.M. Kay, S. Rizer, C.W. Case and H.R. Clark, The Energy Savings Potential of the Region IX, *available at* <https://escholarship.org/uc/item/8wk4b30n>.

LBL-10098, UC-95, C.W. Case, H.R. Clark; J. Kay, F.B. Lucarelli, and S. Riser, Projects from Federal Region IX Department of Energy Appropriate Energy Technology Program Part II, January 1980, *available at* <https://escholarship.org/uc/item/5rh3n5q2>.

LBL-10898, Charles W. Case, Regional and Community Impacts of the Department of Energy Appropriate Energy Technology Pilot Program in the Western Pacific, June 1980, *available at* <https://escholarship.org/uc/item/1td7081h>.

LBL-12253, Bart Lucarelli, Jeff Kessel, Josh Kay, Janet Linse, Susan Thompson, and Mark Homer, An Analysis of the Energy Impacts of the DOE Appropriate Energy Technology Small Grants Program: Methods and Results, *available at* <https://escholarship.org/uc/item/3k7919zf>.

LBL-14057, Charles W. Case and Marcelino K. Actouka, Three Case Studies of Appropriate Energy Technology in the U.S. Pacific Territories, January 1982, *available at* <https://escholarship.org/uc/item/80n4p78q>.