

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

In the Matter of Adam Coate

Filing Date: April 24, 2025

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Case No.: FIA-25-0034

Issued: May 30, 2025

Decision and Order

Adam Coate (Appellant) appeals a final determination letter (Determination Letter) issued to him from the Department of Energy (DOE), Office of Public Information (OPI), concerning Request No. HQ-2025-02349-F, filed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. The Determination Letter informed the Appellant that four DOE offices were queried to determine if they had records responsive to the Appellant's FOIA request, and each office determined that the subject of the request did not fall within their jurisdiction. Determination Letter from the DOE OPI to Adam Coate at 2 (April 24, 2025). In this appeal, the Appellant challenges the adequacy of DOE's search. Appeal Letter Email from Adam Coate to OHA at 1–3 (April 24, 2025). In this Decision, we deny the appeal.

I. Background

On March 3, 2025, the Appellant submitted a FOIA request to the DOE seeking records, dated “from 1940 to the present,” related to “DOE research and development programs related to cognitive and electromagnetic technologies,” including “electromagnetic and directed energy applications for cognitive influence,” “remote neural monitoring,” “artificial telepathy and brainwave communication research,” and “DOE research on voice-to-skull technologies.” FOIA Request from Adam Coate at 1–2 (March 3, 2025). The Appellant also requested records related to “DOE's role in psychological and cognitive warfare,” including “experiments on electromagnetic behavioral modification technologies,” and “brainwave entrainment research for behavioral influence.” *Id.* at 2. Finally, the Appellant requested copies of various documents, including copies of the DOE's contracts with five national laboratories, four DOE contractors, and records related to “DOE experiments on human subjects related to electromagnetic brainwave interference and cognitive warfare.” *Id.*

On April 14, 2025, a DOE FOIA Analyst notified the Appellant that his FOIA request was not reasonably described, was “overly voluminous,” and was therefore, not a perfected request. Email from FOIA Analyst to Adam Coate at 2 (April 14, 2025). In response to this notice, the Appellant modified his FOIA request to seek the following records:

I request access to finalized reports, executive summaries, and technical assessments created, commissioned, or retained by the U.S. Department of Energy Headquarters, from January 1, 2000, to the present, that reference:

- Remote Neural Monitoring (RNM)
- Voice-to-Skull/W2K/Voice of God Weapons/Synthetic Telepathy/Artificial Telepathy/Frey Effect/Psychotronic weapon technologies
- Directed energy effects on human neurological function
- Electromagnetic influence on cognition and behavior

Email from Adam Coate to FOIA Analyst at 1 (April 14, 2025). The Appellant also limited his request to documents that “[w]ere originated or held by DOE Headquarters (not individual national labs unless HQ is the custodian),” he indicated that he was not seeking “[e]very contract or draft correspondence,” and he indicated that he only sought records on the above-referenced four subject areas. *Id.*

On April 15, 2025, a FOIA Analyst forwarded the Appellant’s modified FOIA request to four DOE offices, with a request that they search for responsive records: the Advanced Research Projects Agency – Energy (ARPA-E), the Office of Intelligence and Counterintelligence (IN), the National Nuclear Security Agency (NNSA), and the Office of Science (SC). Determination Letter at 2 (April 24, 2025). After reviewing the Appellant’s FOIA request, an attorney at the ARPA-E consulted with other ARPA-E personnel, including its Chief Counsel, to determine whether there were any historical ARPA-E programs that focused on the four subjects identified in the Appellant’s modified FOIA request. Memorandum of Telephone Conversation between ARPA-E and OHA at 1 (May 9, 2025). After having consulted with other ARPA-E personnel, ARPA-E determined that they had never conducted or funded research in the subject areas described in the request, and therefore, the request was not within their jurisdiction. Email from ARPA-E to FOIA Analyst at 1 (April 15, 2025); Telephone Memorandum between ARPA-E and OHA at 1 (May 9, 2025).

As for DOE IN, OHA learned from DOE IN records management personnel, that upon receiving the Appellant’s modified FOIA request, DOE IN reviewed the language used in the request and determined that the request sought records related to research and development, rather than intelligence analysis, which is the office’s function. Email from DOE IN to FOIA Analyst at 1 (April 15, 2025); Email from DOE IN to OHA at 1 (May 9, 2025). Based on their interpretation of the Appellant’s modified FOIA request, DOE IN concluded that the FOIA request was not related to the intelligence activities of the office, and it was, therefore, not within their jurisdiction. Email from DOE IN to OHA at 1 (April 15, 2025).

As for the NNSA, because the Appellant’s modified FOIA request no longer sought copies of the DOE’s contracts with NNSA laboratories, and only sought records originated or held by DOE headquarters, a FOIA Officer within the NNSA concluded the request was not within the NNSA’s jurisdiction. Email from NNSA to FOIA Analyst at 1 (April 15, 2025); Memorandum of Telephone Conversation between NNSA FOIA Analyst & OHA (May 19, 2025). OHA also learned that at the time this appeal was filed, the Appellant had several FOIA requests pending with the NNSA, and the FOIA Analyst knew, based on her familiarity with NNSA program offices, that the NNSA would not have records responsive to the Appellant’s modified FOIA request. Email from NNSA to OHA (May 28, 2025).

As for the DOE SC, upon receiving the Appellant’s FOIA request, the DOE SC conducted a search for responsive records. Email from DOE SC Program Manager to FOIA Analyst at 1 (April 17, 2025). The DOE SC performed a search of files within its Human Subjects Protection (HSP) Program, which it determined to be the location most reasonably likely to contain responsive

documents. Email from DOE SC Program Manager to FOIA Analyst at 1 (April 17, 2025); Email from DOE SC Program Manager to OHA at 1 (May 2, 2025). The DOE SC's search of its HSP Program records included a search of classified and unclassified records and "all saved files" held in its electronic Institutional Review Board (IRB) systems.¹ Email from DOE SC Program Manager to FOIA Analyst at 1; Email from DOE SC Program Manager to OHA at 1. Information stored in the IRB systems included "consent form[s], language used in advertising the project to prospective subjects, reviewer checklists, and determination letters." Email from DOE SC Program Manager to OHA at 1.

DOE SC personnel also conducted a manual "folder-by-folder/file-by-file search" of the IRB record systems to determine if there was any research in the subject areas listed by the Appellant. Email from DOE SC Program Manager to OHA at 1. DOE SC personnel also searched the email account of a Program Manager within the HSP Program, using the "advanced find option for frequently used text fields." Email from DOE SC Program Manager to OHA at 1; Email from HSP Program Manager to OHA at 1 (May 7, 2025). DOE SC searched the aforementioned locations using the subject areas identified in the Appellant's modified FOIA request, as search terms.² Email from DOE SC Program Manager to OHA at 1. After completing its search, the SC did not find any documents responsive to the Appellant's FOIA request. *Id.* Because the DOE SC's search did not uncover any responsive records, there was no need to narrow its information to a specific period of time. Email from DOE HSP PM to OHA at 1 (May 7, 2025).

On April 24, 2025, the DOE OPI issued a Determination Letter to the Appellant. Determination Letter at 1–3. In the Determination Letter, the DOE OPI notified the Appellant that, after querying four DOE offices, each office determined that the FOIA request did not fall within their jurisdiction. *Id.* at 2. Later, on April 24, 2025, the Appellant filed the instant appeal with OHA, challenging the adequacy of the DOE's search. Appeal at 1. In the appeal, the Appellant described the DOE's determination as an "unlawful jurisdictional deflection" of its responsibilities under the FOIA. *Id.* The Appellant also claimed that the DOE should have conducted a "lawful search" and issued a "lawful response" to his FOIA request. *Id.* at 2.

II. Analysis

The FOIA requires that, upon receiving a request, a government agency "conduct a search reasonably calculated to uncover all relevant documents." *Truitt v. Dep't of State*, 897 F.2d 540,

¹ The HSP Program is a DOE program responsible for managing two Central DOE IRBs. An IRB is "an ethics committee or board established by an institution that performs initial and continuing reviews of research involving human subjects." Email from DOE SC Program Manager to OHA at 1 (May 2, 2025). The DOE has two central IRBs that would have reviewed human subject research for which the DOE HSP Program had direct oversight. *Id.*

² Specifically, the DOE SC conducted its electronic searches using the following terms: Remote Neural Monitoring; Remote; Neural; Monitoring; RNM; Voice-to-Skull; Voice; Skull; V2K; Voice of God Weapons; God; Weapons; Synthetic Telepathy; Artificial Telepathy; Synthetic; Artificial; Synthetic; Artificial; Telepathy; Frey Effect; Frey; Psychotronic weapon technologies; Psychotronic; Directed energy effects on human neurological function; Neurological; Directed; energy; Electromagnetic influence on cognition and behavior; Electromagnetic; Cognition; Behavior. Email from DOE SC Program Manager to OHA at 1–2 (May 2, 2025).

542 (D.C. Cir. 1990). An agency is not required to conduct an exhaustive search of each of its record systems for its search to be deemed adequate, it need only conduct a reasonable search of systems that are likely to uncover responsive records. *Ryan v. FBI*, 113 F. Supp. 3d 356, 362 (D.D.C. 2015) (citing *Oglesby v. U.S. Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)). However, an agency is not required to perform a search, if it determines that a FOIA request seeks records they do not possess or maintain, and a search would be futile. *Reyes v. United States EPA*, 991 F. Supp. 2d 20, 27 (D.D.C. 2014) (citing *Amnesty Int'l USA v. CIA*, No. 07 Civ. 5435, 2008 U.S. Dist. LEXIS 47882, at *34 (S.D.N.Y. June 19, 2008)). An agency's declaration that a search would be futile may be relied upon where the declarant's role shows a familiarity with what records an agency "does and does not maintain." *Am.-Arab Anti-Discrim. Comm. v. U.S. Dep't of Homeland Sec.*, 516 F. Supp. 2d 83, 88 (D.D.C. 2007).

In this case, we find that the ARPA-E and the DOE IN reasonably concluded that it was unlikely that they possessed records responsive to the Appellant's FOIA request and, therefore, a search would be futile. Both DOE offices reviewed the Appellant's request and determined that they were not likely to possess responsive records because the Appellant's modified request sought records that either did not relate to the activities of the office (DOE IN), or was related to research the DOE office did not fund or conduct (ARPA-E). We also find that the DOE personnel who reviewed the Appellant's modified FOIA request were familiar with activities of their respective offices and the types of records the offices maintain. For the foregoing reasons, we find that the ARPA-E and the DOE IN provided a sufficient basis upon which to conclude that a search would be futile, and they were therefore, not required to conduct a search. *See Reyes*, 991 F. Supp. 2d at 27.

As for the DOE SC, although the Determination Letter indicated that DOE SC determined the Appellant's FOIA request did not fall within its jurisdiction, that information was not accurate. Determination Letter at 2. The DOE SC conducted a search for responsive records. Furthermore, the DOE SC performed manual and electronic searches of its IRB systems and email accounts. Finally, the DOE SC used search terms derived from the Appellant's modified FOIA request to search its record systems. When compared to the Appellant's FOIA request, we find that the search terms used by the DOE SC were narrowly configured to produce records responsive to the Appellant's FOIA request.

Although the DOE SC's search did not yield any responsive records, a lack of responsive records does not necessarily mean that a search was unreasonable. The adequacy of a search is "determined not by the fruits of the search, but by the appropriateness of [its] methods." *Iturralde v. Comptroller of the Currency*, 315 F.3d 311, 315 (D.C. Cir. 2003). Based on the foregoing, we find that the search performed by the DOE SC was reasonably calculated to uncover all documents responsive to the FOIA request and was therefore adequate.

As for the NNSA, the Appellant narrowed his FOIA request, in part, by no longer seeking copies of DOE's contracts with NNSA laboratories, and by requesting records that were "originated or held by DOE Headquarters . . ." Email from Adam Coate at 1. Because the Appellant's modified FOIA request no longer sought DOE's contracts with NNSA laboratories, and because NNSA personnel with relevant knowledge determined that NNSA would not likely otherwise have responsive records, the modified FOIA request was not within the NNSA's jurisdiction, and therefore, the NNSA was not required to perform a search.

III. Order

It is hereby ordered that the appeal filed by Adam Coate on April 24, 2025, Case No. FIA-25-0034, 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 the 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
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