

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

In the Matter of Tyler Webster

Filing Date: June 9, 2025

Case No.: FIA-25-0038

Issued: June 17, 2025

Decision and Order

On June 9, 2025,¹ Tyler Webster (Appellant) appealed an interim response letter dated June 4, 2025, issued by the Department of Energy's (DOE) Office of General Counsel (GC). The letter responded to Request No. HQ-2025-03201-F, a request filed by the Appellant under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. In the letter, DOE denied Appellant's request for expedited processing of his FOIA request. Interim Response Letter from GC to Tyler Webster at 2 (June 4, 2025). The Appellant appeals that decision. Appeal Letter Email from Tyler Webster to OHA Filings at 1 (June 6, 2025). In this Decision, we deny the appeal.

I. Background

On May 29, 2025, the Appellant submitted the FOIA request to the DOE, asking for records related to any DOE-funded research at Western Kentucky University Center for Research and Development. FOIA Request at 1–2. The Appellant also requested expedited processing, saying:

I request expedited processing under the standard involving urgency to inform the public about government activity. This FOIA seeks records of Department of Energy contracts and collaborations with the Western Kentucky University Center for Research and Development, which may involve dual use technologies such as high-performance computing, energy systems, and electromagnetic field research. There is growing public concern over the use of federal funds for technologies with potential applications in surveillance, directed energy, and behavioral influence. Releasing this information promptly will contribute to urgent public understanding and oversight of government-funded research with possible national security and civil liberties implications.

Id. at 3.

¹ The Appeal was filed at 8:42 PM Eastern Time. Appeal Letter Email at 1. OHA considers filings made after 5:00 PM Eastern Time to have been made on the next business day.

DOE issued an interim response letter on June 4, 2025. Interim Response Letter at 3. The letter informed the Appellant that DOE was denying his request for expedited processing because the rationale that the Appellant provided “[had] not provided information that establishes that there is any imminent threat to the life or safety of an individual that would justify expeditious processing of the request” and “[had] not identified an actual or alleged activity that poses any particular urgency that requires the dissemination of information in an expedited manner.” *Id.* at 2.

The Appellant timely appealed the decision to deny his request for expedited processing on June 9, 2025. Appeal at 1. The Appellant makes two arguments in his appeal. First, he argues that his request concerns a matter of current exigency to the American public. *Id.* Second, he contends that delaying the disclosure would compromise a significant recognized public interest. *Id.* at 2.

II. Analysis

Agencies must grant expedited processing to FOIA requesters “in cases in which the person requesting the records demonstrates a compelling need.” 5 U.S.C. § 552(a)(6)(E)(i)(I). A person may demonstrate a compelling need in one of two ways. First, the person might show that failure to expedite their FOIA request “could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.” *Id.* § 552(a)(6)(E)(v)(I). Alternatively, the person might show that they are “primarily engaged in disseminating information” and that there is an “urgency to inform the public concerning actual or alleged Federal Government activity.” *Id.* § 552(a)(6)(E)(v)(II). These criteria are applied narrowly to avoid unduly delaying responses to requests that do not qualify for expedited processing and to ensure that meritorious requests for expedited processing can be processed with appropriate haste “because prioritizing all requests would effectively prioritize none.” *Al-Fayed v. CIA*, 254 F.3d 300, 310 (D.C. Cir. 2001). It is the requestor’s burden to prove that there is a compelling need. *Wadelton v. Dep’t of State*, 941 F.Supp.2d 120, 122 (D.D.C. 2013) (citing *Al-Fayed*, 254 F.3d at 305 n. 4).

The Appellant asserted in his FOIA request that he should be granted expedited processing under the second standard. Therefore, the Appellant must first show that he is “primarily engaged in disseminating information.” To show that a FOIA requester is primarily engaged in disseminating information, they must establish that disseminating information is their “main activity, and not merely incidental to other activities that are their actual, core purpose.” *Energy Policy Advocates v. Dep’t of the Interior*, No. 21-1247, 2021 U.S. Dist. LEXIS 180480, at *7 (D.D.C. Sept. 22, 2021). In his request, the Appellant asserted that he was seeking expedited processing “under the standard involving urgency to inform the public,” but he did not contend that he personally engaged in disseminating information. FOIA Request at 2. In his appeal, the Appellant made no claims about whether he was engaged in disseminating information. Appeal at 1–3. Without a showing that the Appellant is “primarily engaged in disseminating information,” his claim cannot succeed.

We find that the Appellant has not met his burden to show that there is a compelling need in regard to his request. Accordingly, we find his request for expedited processing should not be granted.

III. Order

It is hereby ordered that the Appeal filed on June 9, 2025, by Tyler Webster, FIA-25-0038, 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. § 522(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 your right to pursue litigation. You may contact OGIS in any of the following ways:

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