

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

In the Matter of Informed Consent)
Action Network)
)
Filing Date: June 10, 2025)
_____)

Case No.: FIA-25-0039

Issued: June 26, 2025

Decision and Order

Informed Consent Action Network (ICAN) (Appellant) appeals a final determination letter (Determination Letter) issued to it from the Department of Energy (DOE), Advanced Research Projects Agency - Energy (ARPA-E), concerning Request No. HQ-2025-02065-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 after conducting a search, DOE ARPA-E identified various responsive records that were publicly available on its website. Determination Letter from the DOE ARPA-E to ICAN. at 1 (March 17, 2025). In this appeal, the Appellant challenges the adequacy of the DOE's search. Appeal Letter Email from ICAN to OHA at 1–4 (June 10, 2025). In this Decision, we grant the appeal.

I. Background

On January 29, 2025, the Appellant submitted a FOIA request to the DOE seeking the following records:

All notes, minutes, and presentation materials – including but not limited to slides, charts, video and/or audio recording(s), handouts, etc., from any collaboration meetings regarding airplane emissions and contrails with the Federal Aviation Administration [(FAA)], the National Aeronautics and Space Administration [(NASA)], and the Environmental Protection Agency [(EPA)].

FOIA Request from ICAN at 1 (January 29, 2025).

On February 3, 2025, a FOIA Analyst transferred the Appellant's FOIA request to the DOE ARPA-E to conduct a search for responsive records. Determination Letter at 1. Upon receiving the FOIA request, DOE ARPA-E personnel discussed the request with its Program Director and asked the Director to conduct a search for responsive records. Telephone Memorandum between DOE ARPA-E and OHA (June 16, 2025).

The Program Director conducted an electronic search¹ of his work email account and his file management system. *Id.* After completing an electronic search, the Program Director located records from an October 8, 2024, Contrails Mitigation Federal Outreach Meeting, which the Program Director moderated, and which featured representatives from NASA and the FAA. *Id.* DOE ARPA-E's Program Director was the only DOE representative at the meeting, and any materials the Program Director would have related to this meeting would be found in his email and electronic filing system. *Id.* Any individuals that would have provided support to the Program Director for the Contrails Mitigation Federal Outreach Meeting, would have provided their materials to the Program Director, for his records. *Id.* DOE ARPA-E personnel were not able to determine how the Program Director conducted his search, and if he used search terms, what terms were used. *Id.* at 2; Email from DOE ARPA-E to OHA (July 23, 2025).²

On March 17, 2025, the DOE ARPA-E issued a Determination Letter to the Appellant. Determination Letter at 1–2. In the Determination Letter, the DOE ARPA-E notified the Appellant that, after conducting a search, they located various responsive records, which they made publicly available on their website at the following link: [2024 Contrails Mitigation Federal Outreach Meeting | ARPA-E](#). *Id.* at 1. The DOE ARPA-E website provides the agenda used for the October 8, 2024, Contrails Mitigation Federal Outreach Meeting, as well as links to additional records, including biographical information about the speakers, and presentation slides that were used during the meeting. 2024 Contrails Mitigation Federal Outreach Meeting, ARPA-E (last visited June 24, 2025), <https://arpa-e.energy.gov/news-and-events/events/2024-contrails-mitigation-federal-outreach-meeting>. The presentation slides contain charts and photographs. *Id.*

On June 10, 2025, the Appellant filed the instant appeal with OHA, challenging the adequacy of the DOE's search. Appeal at 1–4. In its appeal, the Appellant wrote that the responsive records provided by the DOE on its website did not include notes, minutes, or presentation materials and therefore, the DOE did not execute an adequate search. *Id.* at 3.

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, 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)). “The adequacy of a FOIA search is generally determined not by the fruits of the search, but by the appropriateness of the methods used to carry out the search.” *Jennings v. Dep’t of Justice*, 230 F. App’x 1, 1 (D.C. Cir. 2007) (internal quotation marks omitted).

¹ DOE ARPA-E does not maintain paper, or “manual” records. Telephone Memorandum at 1. If DOE ARPA-E personnel participate in a meeting, the office does not collect or maintain notes, or minutes, from its meetings, and its meetings are not recorded. *Id.*

² DOE ARPA-E did not provide to OHA documentation of the search that was performed for the Appellant’s FOIA request. The information obtained by OHA was communicated verbally based on the personal knowledge and recollection of DOE ARPA-E personnel. Telephone Memorandum at 1–2.

Where a search involves a review of electronic record systems, a government agency should describe, “with reasonable detail,” the methods it used to perform a search, including “the search terms and the type of search performed,” so the adequacy of the search can be determined. *Reporters Comm. For Freedom of the Press v. FBI*, 877 F.3d 399, 404 (D.C. Cir. 2017), citing *Oglesby*, 920 F.2d at 68. OHA has ordered that DOE program offices conduct new searches where we could not determine which terms the office used to conduct its search. *The Brennan Center for Justice*, OHA Case No. FIA-24-0007 at 3 (2024) (search certificate produced by a DOE program office did not identify what terms were used to conduct the search and, therefore, OHA could not determine whether the search was reasonably calculated to locate responsive records).

After reviewing the information obtained from DOE ARPA-E, we do not have enough information upon which to conclude that their search was adequate. There is no documentation of the search conducted by DOE ARPA-E’s Program Director in response to the Appellant’s FOIA request. Although DOE ARPA-E personnel could surmise, based upon their personal knowledge and recollection, how their Program Director might have searched his email account and file management system, there is no information as to how the search was actually conducted, including, for example, the terms he used to perform the search. Because OHA has insufficient information regarding DOE ARPA-E’s search, we cannot determine whether its search was adequate.

III. Order

It is hereby ordered that the appeal filed by ICAN, on June 10, 2025, Case No. FIA-25-0039, is granted. This matter is remanded to conduct a new search for records responsive to the Appellant’s FOIA request and issue a new determination.

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:

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