

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

In the Matter of Douglas P. Harden )  
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Filing Date: April 6, 2026 )  
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Case No.: FIA-26-0027

Issued: April 13, 2026

**Decision and Order**

Douglas P. Harden (Appellant) appeals an Interim Response Letter issued to him from the Department of Energy (DOE), Office of the General Counsel (OGC) concerning Request No. HQ-2026-01482-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. In its Interim Response Letter, DOE OGC denied the Appellant’s request for expedited processing of his FOIA request. As explained below, we deny the appeal.

**I. Background**

On March 27, 2026, the Appellant submitted a FOIA request to the DOE. FOIA Request from Douglas P. Harden to DOE (March 27, 2026). The request sought copies of records contained in two case files held by the DOE Office of Inspector General (OIG) in connection with an administrative proceeding. FOIA Request at 2. The Appellant’s FOIA request sought “correspondence, memoranda, emails, and all attachments to those records,” recordings of interviews, and “all related supporting documentation.” *Id.* The Appellant also requested that his FOIA request receive expedited processing. *Id.* at 3. In support of his request for expedited processing, the Appellant wrote:

. . . there is an urgent and time-sensitive need to provide these records to the Intelligence Community Office of Inspector General External Review Panel (IC OIG ERP) for an official review. Without these records, the Panel’s review will be incomplete and its recommendations delayed, which will materially impair the Panel’s ability to evaluate enterprise risk and thereby undermine effective oversight and accountability.

*Id.*

On April 1, 2026, the DOE OGC issued an Interim Response Letter to the Appellant denying his request for expedited processing. Interim Response Letter from DOE to Douglas P. Harden at 1–3 (April 1, 2026). In its Interim Response Letter, the DOE OGC notified the Appellant that he was not entitled to expedited processing of his request because he did not establish that there was an “imminent threat to the life or safety of an individual that would justify expeditious processing of the request,” and he did not identify an activity that “poses any particular urgency that requires the dissemination of information in an expedited manner.” *Id.* at 2.

On April 6, 2026, the Appellant appealed the DOE OGC's denial of expedited processing with the DOE's Office of Hearings and Appeals (OHA). Appeal Letter Email from Douglas P. Harden to OHA (April 6, 2026). In the appeal, the Appellant asserted that he seeks the requested records for "oversight accountability" and that he needs the requested records on an expedited basis to demonstrate how the DOE OIG's handling of the administrative proceeding "is flawed and inconsistent with governing requirements." Appeal at 6–7. The Appellant also asserted that the "utility of the requested records is time-sensitive," and if the records are produced after the IC OIG ERP completes "key phases of review," "the records will be materially less useful (and potentially unusable) for meaningful oversight review in the current cycle." *Id.* at 6.

## II. Analysis

Under the FOIA, agencies generally process requests in the order they are received and must respond to a request within 20 business days. 5 U.S.C. § 552(a)(6)(A)(i); 10 C.F.R. § 1004.5(d)(1), (6). However, a requester that is granted "expedited processing" receives a preference over other requests before the agency, and is entitled to have his or her request processed "as soon as practicable." 10 C.F.R. § 1004.5(d)(6). The FOIA provides that expedited processing should be granted only in cases where a "compelling need" for the records exists and "in other cases determined by the agency." 5 U.S.C. § 552(a)(6)(E)(i); 10 C.F.R. § 1004.5(d)(6). A "compelling need" exists when either "a failure to obtain requested records on an expedited basis . . . could reasonably be expected to pose an imminent threat to the life or physical safety of an individual" or "with respect to a request made by a person primarily engaged in disseminating information, [there is an] urgency to inform the public concerning actual or alleged Federal Government activity." 5 U.S.C. § 552(a)(6)(E)(v)(I)–(II); 10 C.F.R. § 1004.5(d)(6). A FOIA requester bears the burden of demonstrating that a "compelling need" exists, entitling him or her to expedited processing. 5 U.S.C. § 552(a)(6)(E)(i); *Al-Fayed v. CIA*, 254 F.3d 300, 303 (D.C. Cir. 2001). In this case, the Appellant did not contend that he is a member of the media or other person primarily engaged in disseminating information, so we will determine whether the Appellant has demonstrated that an imminent threat to the life or physical safety of an individual exists.

The Appellant has not demonstrated that a threat to the life or safety of an individual exists should DOE fail to produce the requested records on an expedited basis. The Appellant did not identify a threat to a specific individual. The Appellant asserted that failure to receive the requested records on an expedited basis will "undermine effective oversight" carried out by the IC OIG ERP. FOIA Request at 3; Appeal at 6. However, the Appellant has failed to demonstrate how such an impairment constitutes a threat to his, or anyone else's, life or physical safety. Merely alleging that records are necessary to raise awareness of how the government is conducting its operations is not sufficient justification for expedited processing. *See Sarah Okeson*, OHA Case No. FIA-21-0004 at 6 (2021) (Appellant failed to justify entitlement to expedited processing where they alleged the public had a "general interest in its government's activities.").

Finally, even if the Appellant had identified a threat to an individual, he did not explain how such a threat was imminent. The Appellant suggests that a phase of the IC OIG ERP's review of an administrative proceeding, rather than an identified threat, is imminent. He claimed that the utility of the requested records is "time-sensitive" and will be "materially less useful" to the IC OIG ERP in its oversight activities if the records are not received before it completes "key phases of review." Appeal at 6–7. The Appellant did not establish how the requested records are connected to

resolution of the issues involved in the administrative proceeding and how a failure to receive the records on an expedited basis would constitute a threat that is imminent.

Therefore, the Appellant did not demonstrate that failure to receive the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.

### **III. Order**

It is hereby ordered that the appeal filed by Douglas P. Harden on April 6, 2026, Case No. FIA-26-0027, 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  
College Park, MD 20740  
Web: [ogis.archives.gov](http://ogis.archives.gov) Email: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 202-741-5770 Fax: 202-741-5769  
Toll-free: 1-877-684-6448

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