United States Department of Energy
Office of Hearings and Appeals

In the Matter of Kyle Warfel	)	
	)	
Filing Date: October 5, 2026	)	Case No.: FIA-27-0002
	)	
	)	

Issued: October 29, 2026

Decision and Order

Kyle Warfel (Appellant) appeals a final determination letter (Determination Letter) issued to him from the Department of Energy (DOE) concerning Request No. HQ-2026-02327-F (Request), 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 the final Determination Letter DOE stated that a search had been conducted and that no responsive documents had been found. *See* Determination Letter from Department of Energy to Kyle Warfel at 1 (October 5, 2026). Appellant challenges (1) the sufficiency of the final Determination Letter; and (2) the adequacy of the search. In this Decision, we deny the appeal.

I. Background

A. Procedural History

On August 18, 2026, Appellant submitted a FOIA Request to DOE that stated as follows:

> I request the following records from the Office of Intelligence and Counterintelligence: All counterintelligence assessments, final reports, memoranda, briefings, and related analytical products concerning unidentified flying objects (UFOs), unidentified anomalous phenomena (UAP), non-human intelligence (NHI), or similar aerial/anomalous phenomena, including any references to foreign intelligence, security threats, or protective operations. Date range: January 1, 2010 – December 31, 2025.

Determination Letter at 1; *see also* FOIA Request Confirmation #310874(1) (Request Confirmation).[1]

On September 30, 2026, the DOE HQ FOIA Officer, sent Appellant an email informing Appellant that the entire DOE, not just the Office of Intelligence and Counterintelligence (IN), is currently engaged in an agency-wide, comprehensive processing of UAP records that are being published to the Department of War's (DoW) website as part of the Presidential Unsealing and Reporting Systems for UAP Encounters (PURSUE) and closing Appellant's request. Email from DOE HQ

[1] The FOIA Request Confirmation was sent via email correspondence to the Office of Hearings and Appeals (OHA) from the DOE HQ FOIA Officer on October 7, 2026, as part of DOE's response to the instant Appeal.

FOIA Officer to Kyle Warfel (September 30, 2026) (DOE Sept. 30 Email). That same day, Appellant responded to the DOE HQ FOIA Officer's email and requested a revised determination on his Request. *See* Email from Kyle Warfel to DOE HQ FOIA Officer (Appellant Sept. 30 Email).

On October 5, 2026, a final Determination Letter was issued informing Appellant that the Request had been assigned to the IN and that no responsive documents were found. Determination Letter at 1. The Determination Letter also noted that no responsive documents from IN have been released as part of the agency-wide response to PURSUE, which comports with IN's determination that it has no responsive documents to Appellant's request. *See* Appeal Letter Email from Kyle Warfel to OHA (October 5, 2026) (Appeal).

On October 5, 2026, Appellant timely submitted the instant Appeal to OHA.

B. Final Determination Letter, Agency Response, and Search Scope

Appellant challenges the sufficiency of the Determination Letter and the adequacy of the search, arguing (1) the Determination Letter "does not identify systems, custodians, or search terms"; (2) "[t]he September 30 email is an admission that records withing the scope were being processed [and] the final letter does not explain the reversal or identify any posted records that satisfies the request"; and (3) the search was inadequate as "[i]t was limited to IN, with a cutoff of September 24, 2026." Appeal at 1–2.

On October 6, 2026, OHA contacted DOE HQ's FOIA Officer to inquire about the search methodology employed by IN when determining that it could not locate responsive records. *See* Email from OHA to DOE HQ's FOIA Officer, (October 6, 2026) (Oct. 6 Email). OHA received responses on October 7, 14, and 19, 2026. *See* Email from DOE HQ's FOIA Officer to OHA (October 7, 2026) (Oct. 7 Email); Email from Office of the General Counsel (GC) to OHA (October 14, 2026) (Oct.14 Email); Emails from GC to OHA (October 19, 2026) (Oct. 19 Emails). The October 7 Email also included a Freedom of Information Act Search Certification Form (Search Certificate) from IN. *See* Oct. 7 Email, attachment. Pursuant to the Search Certificate, as of September 24, 2026, IN had searched staff records, email accounts, archived email accounts, archived onsite records holdings, and archived offsite records holdings for all search terms and dates included in Appellant's Request, and had not found responsive documents. *See id*; *see also* Oct. 19 Emails.

In creating the Search Certificate and Determination Letter to the Appellant, IN relied on the more-extensive search for documents that is being conducted agency-wide pursuant to the President's PURSUE directive. *See* Oct. 7 Email; Oct. 19 Emails. This search has included "identifying and releasing Government files related to alien and extraterrestrial life, unidentified aerial phenomena (UAP), and unidentified flying objects (UFOs), and any and all other information connected to these highly complex, but extremely interesting and important, matters." *See* U.S. Dep't of War, *Presidential Unsealing and Reporting System for UAP Encounters* (PURSUE), https://www.war.gov/ufo/ (last visited October 23, 2026). In response to PURSUE, the DoW, "with support from the Office of the Director of National Intelligence (ODNI), is overseeing government wide efforts to expeditiously find, review, identify, declassify, and publicly release unresolved UAP-related records and historical documents in the federal government's possession." *See id*. In

fulfilling DOE's obligations under PURSUE, IN has searched all files within its custody in the date range requested by Appellant, using over 112 search terms, including all those asked for by Appellant. *See* Oct. 14 Email; Oct. 19 Emails.

II. Analysis

A. Sufficiency of the Determination Letter

Appellant first challenges the sufficiency of the final Determination Letter. Appeal at 1. In responding to requests for records under the FOIA, agencies are required to notify requesters of the decisions reached "and the reasons therefor." 5 U.S.C. § 552(a)(6)(A)(i)(I). Additionally, determination letters must meet certain requirements to allow requesters to determine whether a response is adequate. A determination letter must: (1) describe the results of searches; (2) indicate which information was withheld; and (3) specify the exceptions under which information was withheld. *See, e.g.*, *Center for Biological Diversity*, OHA Case No. FIA-17-0053 at 4 (2017) (explaining the required elements of a determination letter); *Great Lakes Wind Truth*, OHA Case No. FIA-14-0066 (2014); *Tom Marks*, OHA Case No. TFA-0288 (2009).

Appellant argues that the Determination Letter is deficient because it does not list search terms or identify custodians or systems. *See* Appeal at 1. There is no specific requirement that DOE, in its determination letters, provide those details at this juncture of the FOIA process. *See generally* 10 C.F.R. §§ 1004.4(d)(2), 1004.7 (only requiring that the FOIA Officers inform requesters when no responsive records exist and of their right to appeal the adequacy of the search). Furthermore, this Decision provides Appellant with information as to IN's search methodology. That the Determination Letter lacked this information does not, by itself, provide a basis for granting the Appeal. The Determination Letter states that the Request was assigned to IN, that IN started the search on September 24, 2026, and that, upon completing the search, IN found no responsive documents. *See* Determination Letter at 1. As such, the final Determination Letter meets the requirements of 5 U.S.C. § 552(a)(6)(A)(i)(I).

B. Adequacy of the Search

Appellant next challenges the adequacy of the search performed, arguing that responsive documents must exist, pursuant to the September 30, 2026, email, and that the search was inadequate in the scope of offices searched. *See* Appeal at 1–2. 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). "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). In conducting a search, an agency must search in locations where responsive records are likely to be found. *Powell v. IRS*, 280 F. Supp. 3d 155, 162–63 (D.D.C. 2017). An agency is not required to conduct an exhaustive search of each of its record systems; 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 reasonability of the agency's search depends on the facts of each case. *Coffey v. Bureau of Land Mgmt.,* 249 F. Supp. 3d 488, 496 (D.D.C. 2017). "It

does not undermine the FOIA inquiry if that universe of files was assembled through another investigation as long as it encompasses all of the files expected to have responsive materials." *Judical Watch, Inc. v. United States Dep't of State*, 2021 U.S. Dist. LEXIS 144516 * 11 (D.D.C. 2021).

Appellant first argues that the search and Determination Letter are insufficient because:

> On September 30, 2026, [the DOE HQ FOIA Officer] wrote that DOE was processing UAP records for posting at the Department of War site and that "the records processed as part of this initiative includes the entirety of the scope of records you are seeking." He closed the request on that basis. The final letter then states that IN searched, located no responsive records, and that DOE material posted at war.gov/UFO does not contain records responsive to this request. Those statements conflict. The September 30 email is an admission that records within the scope were being processed. The final letter does not explain the reversal or identify any posted record that satisfies the request.

Appeal at 1–2. This is a misconstruing of the DOE September 30 Email. The DOE September 30 Email does not state that IN has specifically located, processed, or released any documents in response to PURSUE. *See* DOE Sept. 30 Email. Rather the DOE September 30 Email states that the agency-wide response to PURSUE includes any and all records that may be produced in response to Appellant's request. *See id*. Specifically, the DOE September 30 Email states, where relevant:

> As you may or may not know, the Department is actively working on an *agency wide* comprehensive processing of UAP records that are being posted to the DoW's website . . . *[t]he records processed as part of this initiative includes the entirety of the scope of records you are seeking*.

Id. (emphasis added). This is not a definitive statement that records in the custody of IN have been found or released in response to PURSUE, rather it states that the entirety of the DOE, including all of its components, is engaged in an agency-wide processing of UAP records. *See id*. In fact, the final Determination Letter directly addresses the DOE September 30 Email stating, "[Appellant] will note that the posted information on that website from DOE *does not contain records responsive to your request, and that is consistent with this determination* that there are no responsive records, specifically no records from/authored by the Office of Intelligence and Counterintelligence." Determination Letter at 1 (emphasis added). Accordingly, there is no discrepancy between the DOE September 30 Email and the final Determination Letter.

Appellant also argues that the search was inadequate because "[i]t was limited to IN, with a cutoff of September 24, 2026[;] [and] [r]ecords of this type may also be held by NNSA, the national laboratories, or field intelligence liaison offices." Appeal at 2.

As a preliminary matter, Appellant limited the scope of the search to IN, and to specific search terms, namely: "unidentified flying objects (UFOs), unidentified anomalous phenomena (UAP), non-human intelligence (NHI), or similar aerial/anomalous phenomena, including any references to foreign intelligence, security threats, or protective operations." Determination Letter at 1; *see*

also Request Confirmation at 1. Appellant may not, on appeal, extend the scope of the search to include offices outside the jurisdiction of IN, such as the NNSA and national laboratories, which are not under the authority of IN.[2] Regarding field intelligence liaison offices, when asked whether field intelligence liaison offices are organized under IN and whether such offices were searched, GC responded, "FIE offices use the same classified network as headquarters and as such, headquarters' personnel have the ability to search those records for FOIA requests." *See* Oct. 14 Email. Appellant has not alleged any facts as to why a cut-off date of September 24, 2026, for a search would be insufficient for finding responsive documents created through December 31, 2025. In the October 19 Emails, GC confirmed that the search IN conducted under PURSUE, which it relied upon in fulfilling its search obligations for Appellant's Request, included a search for responsive documents from January 1, 2010 through December 31, 2025, which is the entire time frame requested by Appellant. *See* Oct. 19 Emails.

While IN has relied on the search conducted pursuant to PURSUE to create the Search Certificate, that is permissive where such a search is reasonably calculated to uncover all responsive documents to a FOIA request. *See Judical Watch, Inc. v. United States Dep't of State*, 2021 U.S. Dist. LEXIS 144516 * 11 (D.D.C. 2021). As stated above, under PURSUE, DoW is "is overseeing government wide efforts to expeditiously find, review, identify, declassify, and publicly release unresolved UAP-related records and historical documents in the federal government's possession." U.S. Dep't of War, *Presidential Unsealing and Reporting System for UAP Encounters* (PURSUE), https://www.war.gov/ufo/ (last visited October 23, 2026). As part of that effort, IN has searched all files within its custody in the date range requested by Appellant, using over 112 search terms, including all those asked for by Appellant. *See* Oct. 14 Email; Oct. 19 Emails.

IN has provided documentation, through the DOE HQ FOIA Officer, that IN has searched staff records, email accounts, archived email accounts, archived onsite records holdings, and archived offsite records holdings for all search terms and dates included in Appellant's Request, including all databases and systems of record, i.e., "electronic file folders, share spaces, SharePoint, email," and "[a]ll email accounts that IN has records jurisdiction of," and did not find responsive documents. *See* Oct. 7 Email, attachment; Oct. 14 Email; Oct. 19 Emails. Accordingly, OHA finds that IN has conducted an adequate search reasonably calculated to uncover responsive documents.

III. ORDER

It is hereby ordered that the Appeal filed on October 5, 2026, by Kyle Warfel, Case No. FIA-27-0002 is hereby 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

[2] *See* Department of Energy, Organization Chart as of August 3, 2026, https://www.energy.gov/documents/department-energy-organization-chart (last accessed October 21, 2026).

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: https://www.archives.gov/ogis Email: ogis@nara.gov
Telephone: 202-741-5770 Fax: 202-741-5769
Toll-free: 1-877-684-6448

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