United States Department of Energy
Office of Hearings and Appeals

In the Matter of Mark Alfred	)	
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Filing Date: October 26, 2026	)	Case No.: FIA-27-0005
	)	FIA-27-0006
	)	FIA-27-0007
	)	
	)	

Issued: October 30, 2026

Decision and Order

On October 26, 2026,[1] Mark Alfred (Appellant) appealed three interim response letters[2] dated October 22, 2026, issued by the Department of Energy (DOE). The letters responded to Request No. HQ-2027-00159-F (Garrish FOIA), Request No. HQ-2027-00161-F (SoftBank FOIA), and Request No. HQ-2027-00163-F (Section 30004 FOIA), requests filed by 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 letters, DOE denied Appellant's requests for expedited processing of his FOIA requests. Garrish FOIA Interim Response Letter from DOE to Mark Alfred (Oct. 22, 2026); SoftBank FOIA Interim Response Letter from DOE to Mark Alfred (Oct. 22, 2026); Section 30004 FOIA Interim Response Letter from DOE to Mark Alfred (Oct. 22, 2026). Appellant appeals those decisions. Garrish FOIA Appeal from Mark Alfred to OHA Filings (Oct. 24, 2026); SoftBank FOIA Appeal from Mark Alfred to OHA Filings (Oct. 24, 2026); Section 30004 FOIA Appeal from Mark Alfred to OHA Filings (Oct. 24, 2026). In this Decision, we deny the appeals.

I. Background

On October 12, 2026, Appellant submitted two FOIA requests to DOE, asking for records related to "Assistant Secretary Ted Garrish's texts with Saudi Arabia's lobbyist Richard Hohlt" between November 2025 and April 2026 and "Secretary Wright's March 20, 2026 flight to the SoftBank data center announcement at DOE's Portsmouth site, paid by 'SoftBank / Secretary Howard Lutnick.'" Garrish FOIA Request from Mark Alfred to DOE at 1 (Oct. 12, 2026); SoftBank FOIA Request from Mark Alfred to DOE at 1 (Oct. 12, 2026). Appellant also requested expedited processing of both requests, saying with respect to the Garrish FOIA request:

[1] The appeals were emailed to DOE's Office of Hearings and Appeals (OHA) on Saturday, October 24, 2026. Garrish FOIA Appeal at 1; SoftBank FOIA Appeal at 1; Section 30004 FOIA Appeal at 1. OHA considers filings made on non-business days to have been made on the next business day, in this case, October 26, 2026. 10 C.F.R. § 1004.8(c).

[2] On October 24, 2026, Appellant sent OHA three emails appealing three separate interim response letters. The issues in these appeals are fundamentally similar, and we discuss and rule on all three appeals in this Decision.

> I am employed as a full-time reporter. As a member of the news media engaged primarily in the dissemination of information, I request expedited processing on the grounds that these records are urgently needed to inform the public about Saudi Arabia's lobbying of the Department of Energy's top nuclear official during U.S.-Saudi civil nuclear talks.

Garrish FOIA Request at 1. With respect to the SoftBank FOIA Request, he stated:

> I am employed as a full-time reporter. As a member of the news media engaged primarily in the dissemination of information, I request expedited processing on the grounds that these records are urgently needed to inform the public about whether SoftBank, which leases DOE land for its data center, paid for the Energy Secretary's travel to announce the deal.

SoftBank FOIA Request at 1.

On October 13, 2026, Appellant submitted a third request seeking records related to "[t]he $1 billion in One Big Beautiful Bill Act defense money (Sec. 30004) moved from the Pentagon to DOE under the April 20, 2026 Defense Production Act energy determinations." Section 30004 FOIA Request from Mark Alfred to DOE at 1 (Oct. 13, 2026). The request also asked for expedited processing, stating:

> I am employed as a full-time reporter. As a member of the news media engaged primarily in the dissemination of information, I request expedited processing on the grounds that these records are urgently needed to inform the public about how DOE is spending $1 billion in defense money moved from the Pentagon to support coal, oil, gas and grid projects under emergency Defense Production Act determinations.

Id.

DOE issued three interim response letters on October 22, 2026. Garrish FOIA Interim Response Letter at 3; SoftBank FOIA Interim Response Letter at 3; Section 30004 FOIA Interim Response Letter at 3. The letters informed Appellant that DOE was denying his requests for expedited processing because Appellant had "not provided information that establishe[d] that there is any imminent threat to the life or safety of an individual that would justify expeditious processing of the request," and he "[had] not identified an actual or alleged activity that pose[d] any particular urgency that require[d] the dissemination of information in an expedited manner." Garrish FOIA Interim Response Letter at 2; SoftBank FOIA Interim Response Letter at 2; Section 30004 FOIA Interim Response Letter at 2.

Appellant timely appealed the decisions to deny his requests for expedited processing on October 26, 2026. Garrish FOIA Appeal at 1; SoftBank FOIA Appeal at 1; Section 30004 FOIA Appeal at 1. Appellant argues in all three appeals that the FOIA statute "does not require an imminent event or 'breaking news;'" rather it requires the agency to consider current exigency and consequences of a delay. Garrish FOIA Appeal at 1; SoftBank FOIA Appeal at 1; Section 30004 FOIA Appeal at 1. He also argues that his requests regard present public concerns, and delay will prevent the

public from assessing these concerns. Garrish FOIA Appeal at 1; SoftBank FOIA Appeal at 1; Section 30004 FOIA Appeal at 1.

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).

As to the first test, Appellant does not assert that failure to expedite his FOIA requests would result in "an imminent threat to the life or physical safety of an individual." Therefore, we move to the second method of demonstrating a compelling need.

It is clear from the record that Appellant is a member of the news media, and, thus, he is "primarily engaged in disseminating information." Garrish FOIA Request at 1; SoftBank FOIA Request at 1; Section 30004 FOIA Request at 1. We must next determine whether Appellant has shown that there is an "urgency to inform the public concerning actual or alleged Federal Government activity." 5 U.S.C. § 552(a)(6)(E)(v)(II). To make that determination, we consider three factors: "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." *Al-Fayed*, 254 F.3d at 310.

Courts have historically found that a "matter is of a current exigency to the American public" when it is a "breaking news story of public interest" or "when the subject matter of the request was central to a pressing issue of the day." *Wadelton*, 941 F.Supp.2d at 123. Appellant argues that the FOIA statute has no "breaking news" requirement, but does not provide any citation that contradicts the language of *Wadelton*. Garrish FOIA Appeal at 1; SoftBank FOIA Appeal at 1; Section 30004 FOIA Appeal at 1. The Appellant has not brought forward any evidence that there is substantial interest, on the part of the public or the news media generally, in the information that Appellant is seeking in any of his requests. *See Al-Fayed*, 245 F.3d at 311 (explaining that Al-Fayed had failed to show that his request was a matter of exigency to the American public because there was no support for his claims in the record); *ACLU v. Dep't of Justice*, 321 F.Supp.2d 24, 29–30 (D.D.C. 2004) (explaining that the plaintiff had supported its claim that there was urgency to inform the public and that there was a significant recognized interest at stake by citing several newspaper articles discussing the issue). Consequently, he has not demonstrated that there is an urgency to inform the public. *See Wadelton*, 941 F.Supp.2d at 123–24 (finding that when a FOIA

requester could not show their request was a matter of current exigency, there was no urgency to inform the public).

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

III. Order

It is hereby ordered that the Appeals filed on October 26, 2026, by Mark Alfred, FIA-27-0005, FIA-27-0006, and FIA-27-0007, are 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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Poli A. Marmolejos
Director
Office of Hearings and Appeals