United States Department of Energy  
Office of Hearings and Appeals

In the Matter of Robert Orr, Jr.  

Filing Date: March 26, 2014  

Issued: April 16, 2014

Decision and Order


I. Background

On October 25, 2013, the Appellant submitted a FOIA Request, seeking “all documents creating and/or describing the terms of whatever the arrangement is between China and the United States for the research, design, and/or development of molten salt nuclear technology in China.” On March 12, 2014, ORO responded to the Appellant’s FOIA Request stating that it searched its files and the files of the Oak Ridge National Laboratory (ORNL) record repositories and program offices, and that it could not locate any responsive records. See Determination Letter from Amy L. Rothrock, Authorizing Official, ORO, to Appellant (Mar. 12, 2014). In his Appeal, the Appellant contests the adequacy of search and claims that other offices within the DOE should have possession of the requested documents.

II. Analysis

In responding to a request for information filed under the FOIA, it is well established that an agency must conduct a search “reasonably calculated to uncover all relevant documents.” Valencia-Lucena v. U.S. Coast Guard, 180 F.3d 321, 325 (D.C. Cir. 1999) (quoting Truitt v. Dep’t of State, 897 F.2d 540, 542 (D.C. Cir. 1990)). “[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials.” Miller v. Dep’t of State, 779 F.2d 1378, 1384-85 (8th Cir. 1985); accord Truitt, 897 F.2d at 542. We have not
hesitated to remand a case where it is evident that the search conducted was in fact inadequate. See, e.g., Project on Government Oversight, Case No. TFA-0489 (2011).*

In response to our inquiries, ORNL stated that it asked its legal group and contracts group to search for “any agreement or contract the laboratory had between China and ORNL regarding molten salt reactors,” and after conducting a search, both groups responded that they could not locate any responsive documents. See Email from Bryan Quilty, Lab Records Manager, ORNL, to Shiwali Patel, Attorney Advisor, OHA (Apr. 14, 2014). ORNL further explained that both groups maintain databases of the MOUs and contracts and that they used the following search terms to locate the requested documents: “ORNL,” “China,” “Molten Salt Reactor,” and “MSRE.” See Email from Bryan Quilty, Lab Records Manager, ORNL, to Shiwali Patel, Attorney Advisor, OHA (Apr. 15, 2014). Nonetheless, their search did not yield any responsive documents. Accordingly, based on the above, we conclude that ORO has conducted a reasonable search to uncover relevant documents. See Valencia-Lucena, 180 F.3d at 325.

Finally, after receipt of the Appeal, the DOE’s Office of Information Resources (OIR) stated that it would forward the Appellant’s FOIA Request to the Office of Nuclear Energy (NE) to search for responsive documents. See Email from Alexander Morris, FOIA Officer, OIR, to Shiwali Patel, Attorney Advisor, OHA (Apr. 9, 2014). Thus, as requested by the Appellant, another DOE office will be conducting a search for the documents he requested. Accordingly, we will deny this Appeal.

It Is Therefore Ordered That:

1. The Freedom of Information Act Appeal filed by the Appellant on March 26, 2014, OHA Case Number FIA-14-0019, is hereby denied.

2. This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 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.

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* Decisions issued by the Office of Hearings and Appeals (OHA) after November 19, 1996, are available on the OHA website located at http://www.energy.gov/oha.
Poli A. Marmolejos  
Director  
Office of Hearings and Appeals  

Date: April 16, 2014