

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

In the Matter of Julie Reddick)
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Filing Date: August 18, 2015) Case No.: FIA-15-0047
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Issued: September 16, 2015

Decision and Order

On August 18, 2015, Ms. Julie Reddick (Appellant) filed an Appeal from a determination issued to her by the Office of Information Resources (OIR) of the Department of Energy (DOE) (Request No. HQ-2015-01554-F). In that determination, OIR responded to a request for information filed by the 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. This Appeal, if granted, would require OIR to conduct an additional search for responsive documents.

I. Background

On July 6, 2015, DOE received a FOIA request from the Appellant seeking “a copy of the Consulting Services Agreement between the Department of Energy (HQ) and Mr. Michael (Mike) Nartker.” Request from Appellant to DOE (July 3, 2015). OIR assigned the request to the Office of Environmental Management (EM) to conduct a search. Determination Letter from Alexander Morris, OIR, to Appellant (August 10, 2015) at 1. On August 10, 2015, OIR issued a determination stating that “no responsive records exist in EM.” *Id.*

On appeal, the Appellant contends that Mr. Nartker is “documented to be a current contractor” within EM and that EM should therefore have the requested document. Appeal from Appellant to the Office of Hearings and Appeals (August 18, 2015). Along with her Appeal, the Appellant provided a document indicating that Mr. Nartker is a DOE contractor employee. *See* DOE Program Weekly Report, Richland Operations Office (June 25, 2015).

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., Ralph Sletager*, Case No. FIA-14-0030 (2014).*

When we contacted OIR regarding its search for responsive documents, OIR informed us that Mr. Nartker is indeed a contractor employee for EM. Memorandum of Telephone Conversation between Alexander Morris, OIR, and Gregory Krauss, OHA (August 18, 2015). However, although there is a contractual relationship between EM and Mr. Nartker’s employer, EM does not have a contract with Mr. Nartker. E-mail from Melanie Holt, EM, to Danyelee Coffey, OIR (August 20, 2015). Accordingly, since the request sought a contractual agreement between DOE and Mr. Nartker, no responsive documents exist.

The courts in *Truitt* and *Miller* require that an agency responding to a FOIA request conduct a search reasonably calculated to uncover all relevant documents. Based on the foregoing information, we find that no additional search is necessary. It appears to us, however, that if the Appellant is seeking a copy of the contract between Mr. Nartker’s employer and DOE, the Appellant could file a new FOIA request for that document.

It Is Therefore Ordered That:

- (1) The Appeal filed on August 18, 2015, by Julie Reddick, Case No. FIA-15-0047, 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 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.

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Poli. A. Marmolejos
Director
Office of Hearings and Appeals
Date: September 16, 2015