

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

In the Matter of Sergei Shipilov	)	
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Filing Date: July 9, 2018	)	Case No.: FIA-18-0028
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Issued: July 18, 2018

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**Decision and Order**

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On July 9, 2018, Sergei Shipilov (Appellant) appealed a determination letter issued to him from the Department of Energy’s (DOE) Office of Inspector General (OIG) (Request No. HQ-2018-00853-F). In the determination, OIG responded to a 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. OIG conducted a search and located one responsive document. The Appellant challenged the adequacy of the search. This Appeal, if granted, would require an additional search for responsive information.

**I. Background**

On March 26, 2018, the Office of Public Information (OPI) received a FOIA request from the Appellant, seeking “the results of [an] investigation” on which the Appellant had submitted information to the U.S. House Committee on Appropriations and the U.S. Senate Committee on Appropriations. FOIA Request (March 26, 2018). In response, OPI assigned the request to DOE’s OIG. Assignment Letter (April 6, 2018). OIG conducted a search and located one responsive document. Determination Letter (May 15, 2018).

On July 9, 2018, the Office of Hearings and Appeals (OHA) received the Appellant’s challenge to OIG’s determination. FOIA Appeal (July 9, 2018). As it was unclear on the face of the appeal the basis on which the Appellant sought to appeal the determination, OHA sought clarification from the Appellant through email correspondence. Email between Sergei Shipilov and OHA (July 13, 2018). The Appellant clarified that he sought to appeal the adequacy of the search and was “not satisfied with how the [OIG] handled the investigation.” *Id.* Although the OIG made four redactions containing what appear to be names and contact information of OIG personnel, the Appellant did not indicate that he objects to any of these redactions in either his appeal or his subsequent communications with OHA. *See* FOIA Appeal (July 9, 2018); Email between Sergei Shipilov and OHA (July 13, 2018).

**II. Analysis**

“Under the FOIA, an agency is obliged to make available to the public records that are reasonably described in a written request, if not exempt from disclosure.” *Kidder v. F.B.I.*, 517 F. Supp. 2d 17, 23 (D.D.C. 2007); 5 U.S.C. §§ 552(a)(3)(A), (b). “A request reasonably describes records if the agency is able to determine precisely what records are being requested.” *Tax Analysts v. Internal Revenue Serv.*, 117 F.3d 607, 610 (D.C.Cir.1997) (internal quotation marks and citation omitted).

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.” *Truitt v. Dep’t of State*, 897 F.2d 540, 542 (D.C. Cir. 1990). The standard of reasonableness we apply “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).\*

OIG provided our office with information regarding the search it conducted to process the Appellant’s FOIA request. The OIG explained that as a result of the Appellant’s submission of information, it maintained a case file containing the Appellant’s official complaint and the OIG’s communications with the Appellant. Memorandum of Phone Conversation between the OIG and OHA (July 11, 2018). Therefore, when it received the Appellant’s FOIA request, it searched its case database using the keyword “Shipilov.” *Id.* As the Appellant specifically indicated that he was seeking the “results of the investigation,” the OIG solely located and provided the result of this case, a letter referring the case to the Hotline Director of the U.S. Department of Interior. *Id.*; Determination Letter (May 15, 2018). The OIG clarified that the file contained no other “results” as it did not received any correspondence from the U.S. Department of Interior in response to the letter. Memorandum of Phone Conversation between the OIG and OHA (July 11, 2018).

On appeal, the Appellant asserts that not only is he dissatisfied with the search the OIG conducted and the document it provided, but he is also not satisfied with the investigation that the OIG conducted. Email between Sergei Shipilov and OHA (July 13, 2018). He asserts that the OIG failed to conduct an investigation and failed to inform him of the status of the investigation. *Id.* In his FOIA Request, however, the Appellant did not indicate that he was seeking any information other than “the results of the investigation.” FOIA Request (March 26, 2018). As such, based upon the request originally submitted by the Appellant, we find that the OIG conducted a search reasonably calculated to uncover the records sought by the Appellant, and that the search was therefore adequate.

If the Appellant now seeks additional information from the OIG, he is free to file a second FOIA request. However, the OIG is not required to conduct a new search based upon the Appellant’s subsequent additions to his original request. To require this would allow the Appellant to submit what is essentially a new FOIA request with the same priority as his original request. *See Amnesty Int’l v. CIA*, No. 07-5435, 2008 WL 2519908, at 13 (S.D.N.Y. June 19, 2008) (concluding that the agency was not required to conduct a new search based upon subsequent clarifications, where the

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\* Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at [www.energy.gov/oha](http://www.energy.gov/oha).

agency had no doubt about what the requestor sought, as this would allow the requestor additional searches with the same priority as the initial request).

Finally, to the extent that the Appellant is now posing questions on appeal regarding the OIG's decisions or reasoning in the subject investigation, we note that the "FOIA is a mechanism to obtain access to records, not answers to questions." *Amnesty Int'l v. CIA*, No. 07-5435, 2008 WL 2519908, at 13.

For the foregoing reasons, we conclude that OIG conducted an adequate search, and we deny the appeal.

### **III. Order**

It is hereby ordered that the Appeal filed on July 9, 2018, by Sergei Shipilov, FIA-18-0028, 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 one's right to pursue litigation. OGIS may be contacted in any of the following ways:

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