



*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, NNSA provided us with additional information to evaluate the reasonableness of its search. NNSA stated that it requested NIS to conduct a search for responsive documents and that NIS “lead[s] bilateral physical protection assessments of U.S.-obligated nuclear material in foreign facilities.” *See* Email from Theresa Sullivan, Document Specialist, NNSA/OGC, to Shiwali Patel, Attorney- Examiner, OHA (Jan. 17, 2014). It searched “[i]nformation related to physical protection assessments conducted by DOE and its predecessor agencies in the Netherlands in the 1970s.” *See id.* NIS reviewed the hard copy files for Netherlands, “which still contains information regarding assessments conducted in the timeframe of the request.” *See id.* However, it could not locate a file referencing the URENCO gas centrifuge uranium enrichment facility. *See id.* Indeed, NNSA stated that its “records indicate that no DOE assessment was conducted at the URENCO gas centrifuge enrichment facility at Almelo from 1977-1979.” *See id.* Furthermore, as to Appellant’s request for reports on the “theft of information on gas centrifuge technology by Pakistani technologist A.Q. Khan,” NNSA stated that NIS and its predecessor offices would not have any responsive records as it “never had a programmatic mandate to conduct investigations on the theft of information from foreign companies.” Email from Theresa Sullivan, Document Specialist, NNSA/OGC, to Shiwali Patel, Attorney- Examiner, OHA (Jan. 22, 2014). Based on the foregoing, we are satisfied that NNSA has conducted an adequate search for documents that are responsive to the Appellant’s FOIA request. As stated above, the standard for agency search procedures is reasonableness, which “does not require absolute exhaustion of the files.” *Miller*, 779 F.2d at 1384-85.

Finally, we contacted the Office of Information Resources (OIR) to inquire why the FOIA Request was not forwarded to other DOE Offices to conduct searches for documents, as requested by the Appellant. *See* Email from Shiwali Patel, Attorney-Examiner, OHA, to Alexander Morris, FOIA Officer, OIR (Jan. 23, 2014). In response, on January 23, 2014, OIR forwarded the Appellant’s FOIA Request to the Office of Legacy Management (LM) and Office of History and Heritage Resources (OHHR) to conduct a search for responsive documents. *See* Email from Alexander Morris, FOIA Officer, to John Montgomery, LM, and Terry Fehner, OHHR (Jan. 23, 2014). Thus, those searches are pending. Once the Appellant receives a response from those other offices, it may appeal those determinations if not satisfied by them.

Thus, for these reasons, we will deny this Appeal.

It Is Therefore Ordered That:

(1) The Freedom of Information Act Appeal filed by the Appellant on January 14, 2014, OHA Case Number FIA-14-0004, is hereby denied.

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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>.

(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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Poli A. Marmolejos  
Director  
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Date: January 28, 2014