

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

In the Matter of Institute for Research:)	
Middle Eastern Policy, Inc.)	
)	
Filing Date: January 11, 2018)	Case No.: FIA-18-0004
_____)	

Issued: January 30, 2018

Decision and Order

On January 11, 2018, the Institute for Research: Middle Eastern Policy, Inc. (Appellant) appealed a determination letter issued to it from the Department of Energy’s (DOE) Oak Ridge Office (ORO) (Request No. ORO-2018-00056-F). In the determination, ORO 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. ORO stated that it found no responsive documents. The Appellant challenged the adequacy of the search. This Appeal, if granted, would require an additional search for responsive information.

I. Background

On May 16, 2017, the Office of Public Information (OPI) received a FOIA request from the Appellant, requesting “copies of all DOE classification briefing correspondence, including DOE emails, calendar entries, memos and all other correspondence from classification officials charged with implementing WPN-136.” Amended FOIA Request (May 17, 2017). The Appellant clarified that “[t]his is included [sic] but not limited to correspondence related to the provision of ‘special briefings’ about skirting the issue of Israel’s nuclear weapons.” *Id.* The Appellant additionally noted that “WPN-136 is a classification bulletin titled ‘Guidance on Release of Information Relating to the Potential for an Israeli Nuclear Capability.’” *Id.* In response, OPI assigned the request to DOE’s Office of Environment, Health, Safety and Security (AU), which did not locate any responsive documents. OPI Determination Letter (September 20, 2017). Accordingly, OPI transferred the request to 18 additional DOE offices, one of which was ORO. *Id.* ORO conducted a search and did not locate any responsive documents. ORO Determination Letter (December 19, 2017).

On January 11, 2018, the Office of Hearings and Appeals (OHA) received the Appellant’s challenge to ORO’s determination. FOIA Appeal (January 11, 2018). In the Appeal, the Appellant

alleges that an adequate search was not conducted as “DOE employees are known to receive training on how to implement WPN-136.” *Id.*

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.” *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).*

ORO provided our office with information regarding the search it conducted to process the Appellant’s FOIA request. Upon receipt of the FOIA request, three separate ORO offices conducted searches: (1) the Records Holding Area; (2) the Central Library; and (3) the Classification Office. Email Chain between OHA and ORO (January 16, 2018 - January 29, 2018).

The Records Holding Area searched within four systems: (1) its document management system, which houses retired records; (2) a document accountability tracking system (DATS), which tracks all secret and various unclassified documents housed in ORO; (3) a classified database, created for classified document accountability purposes; and (4) an Excel database that has been compiled and maintained by ORO to assist in record searches. *Id.* The Records Holding Area searched all four systems using the terms: “WPN-136,” “Classification Bulletin,” “Israeli Nuclear Capability,” “Guidance on Release of Information relating to potential for an Israeli Nuclear Capability,” “Classification briefing implementing WPN-136,” and “Israeli.” *Id.*

ORO explained that DATS is a database that “contains a listing of all documents maintained” in the Central Library. *Id.* Accordingly, when the Central Library received the Appellant’s FOIA request, it also searched DATS. *Id.* It used the search terms “WPN-136” and “Guidance on Release of information relating to the Potential for an Israeli Nuclear Capability.” *Id.*

Finally, the ORO Classification Office performed a manual search of its classified repository and an electronic search of the Classification Guidance System, which ORO explained is a DOE-wide database. *Id.* The Classification Office searched using the term “WPN-136.” *Id.* Although ORO indicated that the Classification Office located the classification bulletin itself, which served as the basis of this FOIA request, the Classification Office did not locate any of the correlative documents sought by the Appellant in the request. *Id.*

Based on the foregoing, we find that ORO conducted a search reasonably calculated to uncover the records sought by the Appellant, and that the search was therefore adequate. Thus, we deny the present appeal.

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

III. Order

It is hereby ordered that the Appeal filed on January 11, 2018, by the Institute for Research: Middle Eastern Policy, Inc., FIA-18-0004, 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 your right to pursue litigation. You may contact OGIS in any of the following ways:

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Date: January 30, 2018