

available in early 2018.” Determination Letter (January 4, 2018). As such, BPA suggested that the Appellant submit a subsequent FOIA Request at a later date. *Id.*

On April 4, 2018, the Office of Hearings and Appeals (OHA) received the Appellant’s challenge to BPA’s determination. FOIA Appeal (April 4, 2018). In the Appeal, the Appellant contends that, “[t]he ‘determination’ is not the issue, it is that the responsive agency is simply not responding – saying that they are all ‘too busy’ to write a couple of sentences to complete the HOT [m]eeting minutes so they can be distributed.” FOIA Appeal (April 4, 2018). OHA requested clarification as to the basis of the Appeal, and the Appellant responded, stating that “[t]he objection is that the actual information I’m looking for is conspicuous by its absence. There is no information on the actual discussions and actions that took place during the meeting.” Email from Appellant to OHA (April 9, 2018). The Appellant also noted that a typical FOIA response “includes post-meeting Minutes that tell what actually happened in the meeting; business old and new, projects ongoing and proposed and new funding to be distributed through the HOT. This is the information I am actually looking for - and it's the only information that is missing from this response.” *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).³

In response to our inquiry on this case, BPA provided our office with information regarding the search it conducted to process the Appellant’s FOIA request. BPA informed us that it searched the electronic databases of its Federal Hydro Projects Operations and its Generating Assets offices using the search terms “Hydro-Optimization Team Meeting (or) HOT Meeting (and) 2017.” Email from BPA to OHA (April 6, 2018); Determination Letter (January 4, 2018). The result of the search was the “Agenda for Hydro-Optimization Team Meeting, October 26, 2017, 12:30 pm – 4:00 pm (PST).” Email from BPA to OHA (April 6, 2018). This was a two page document that was released to the Appellant in its entirety, without redactions. *Id.*

BPA informed the Appellant in its Determination Letter that the meeting minutes he sought had not yet been created. After BPA sent the Determination Letter and provided the Appellant with the available responsive documents, it remained in contact with the Appellant. On March 30, 2018, BPA informed the Appellant that due to a lack of staff availability, the meeting minutes had not been drafted. Email Chain between Appellant and BPA, Subject: BPA-2017-00310-F –Albright – FOIA Requester Inquiry (March 30, 2018). BPA additionally offered to inquire into the availability and status of the meeting minutes and share any new information with the Appellant as BPA obtained it. *Id.*

³ Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at www.energy.gov/oha.

The FOIA pertains to those documents in an agency's possession at the time of a request. *In the Matter of John Qualls*, Case No. FIA-14-0021 (2014). The statute does not require an agency to compile or create records for the purposes of satisfying a FOIA request. *Id.*; 5 U.S.C. 552; 10 C.F.R. § 1004.4(d). Furthermore, BPA is under no obligation to provide the Appellant with continuing updates after a FOIA Request has been processed and a determination has been issued on the matter. *See* 5 U.S.C. § 552 (a)(6)(A). Based on the foregoing, we find that BPA 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.

III. Order

It is hereby ordered that the Appeal filed on April 4, 2018, by Actuation Test Equipment Company, Case No. FIA-18-0020, 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 the right to pursue litigation. OGIS may be contacted in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS, College Park, MD 20740
Web: ogis.archives.gov Email: ogis@nara.gov
Telephone: 202-741-5770 Fax: 202-741-5769
Toll-free: 1-877-684-6448

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