Department of Energy
Washington, DC 20585

JAN 09 2019

BY ELECTRONIC MAIL

[redacted]

Re: Case No. FIA-18-0042
Request No. [redacted]

Dear [redacted]

The Department of Energy (DOE) has considered the Freedom of Information Appeal that you filed on December 17, 2018. As the enclosed Decision and Order indicates, the DOE has determined that the Appeal, Case No. FIA-18-0042, be denied.

If you have any questions regarding this Decision and Order, please contact Kristin L. Martin, Attorney-Advisor, at the Office of Hearings and Appeals, by electronic mail message at Kristin.Martin@hq.doe.gov or by telephone number (202) 287-1550.

Sincerely,

[redacted]

Poli A. Marmolejos
Director
Office of Hearings and Appeals

Enclosure

Department of Energy
Washington, DC 20585

United States Department of Energy
Office of Hearings and Appeals

In the Matter of: [redacted]	)		
	)		
Filing Date: December 17, 2018	)	Case No.:	FIA-18-0042
	)		
	)		

Issued: JAN 0 9 2019

Decision and Order

On December 17, 2018, [redacted] (Appellant) appealed a Determination Letter issued to [redacted] from the Department of Energy's (DOE) Advanced Research Projects Agency-Energy (ARPA-E) regarding Request No. [redacted] In that determination, ARPA-E responded to a request filed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by DOE in 10 C.F.R. Part 1004. ARPA-E withheld all responsive documents in their entirety pursuant to FOIA Exemption (b)(4). It withheld one requested category of information pursuant to FOIA Exemption (b)(6) and withheld another requested category because it had already made the information publicly available. The Appellant challenged all of the Determination Letter's conclusions. In this Decision, we deny the Appeal.

I. BACKGROUND

On July 23, 2018, the Appellant filed a FOIA request with the DOE, which was forwarded to ARPA-E. Determination Letter at 1 (Sept. 14, 2018). One month later, the Appellant revised [redacted] request to include only the following records:

(1) The research proposals in the two applications that led to the awards DE-AR0000087 and DE-AR0000159;
(2) The objectives, aims, and hypotheses in these two applications;

(3) The names of the postdoctoral researchers tasked with carrying out the projects described in these two applications;
(4) The start and end dates for each of these two awards; and
(5) The final progress report for each of these two awards.

Id. ARPA-E conducted a search and, in accordance with 10 C.F.R. § 1004.11, provided the submitter of the responsive documents, the University of Massachusetts at Amherst (UMass-Amherst), an opportunity to submit its views regarding the documents' release. *Id.*

ARPA-E withheld in their entirety documents responsive to items (1), (2), and (5) of the request. Determination Letter at 1. These documents were withheld pursuant to Exemption 4 of the FOIA, which protects trade secrets and confidential commercial or financial information from release. *Id.* In the Determination Letter, ARPA-E explained that the responsive documents contained confidential commercial information, the release of which could cause substantial harm to UMass-Amherst's competitive position. *Id.* at 1–2. The Determination Letter also explained that the small amount of non-exempt information contained in the responsive documents was not reasonably segregable "because it would require significant time and resources to separate it from exempt information, and would result in the disclosure of incomplete, fragmented, and unintelligible numbers and figures that would have no meaning." *Id.* at 2.

ARPA-E withheld the names of the postdoctoral researchers pursuant to Exemption 6 of the FOIA, which protects personal privacy interests. Determination Letter at 2. The Determination Letter explained that the Appellant had not identified an "adequate public interest that outweighs the personal privacy interests implicated in the responsive records" due largely to the request's failure to state how the Appellant intended to disclose the information or how the information would contribute to the public's understanding of government activities. *Id.* The Determination Letter further explained that "where no public interest is found, withholding the information is proper, even if the privacy interest is only modest." *Id.*

ARPA-E declined to release the start and end dates for the two projects because that information was publicly available on the agency's website. Determination Letter at 2. The Determination Letter provided a link to the location of the requested information. *Id.*

On December 17, 2018, the Appellant timely filed an appeal of the Determination Letter with the DOE's Office of Hearings and Appeals (OHA) and requested an extension until February 2019 to file a brief outlining [redacted] arguments on appeal. Preliminary Appeal. The OHA granted the Appellant an extension to file [redacted] arguments, setting the due date at December 28, 2018.[1] The Appellant challenged ARPA-E's determinations regarding Exemption 4, segregability, Exemption 6, and public availability. Appeal Argument (Appeal).

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[1] The Appellant requested on December 28, 2018, that [redacted] be allowed to file [redacted] brief after close of business. As such, the brief was formally received on December 31, 2018, but is considered timely submitted.

II. ANALYSIS

The FOIA is intended to ensure an informed citizenry, which is "needed to check against corruption and to hold the governors accountable to the governed." *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978). When an agency denies a FOIA request, it is the agency's burden to justify its decision, showing that responsive agency records were withheld properly. *See Kissinger v. Reporters Comm. For Freedom of the Press*, 445 U.S. 136, 150 (1980). In its Determination Letter, ARPA-E asserted that it withheld documents responsive to request items (1), (2), and (5) pursuant to Exemption 4; that it withheld information responsive to request item (3) pursuant to Exemption 6; and that the Appellant could locate publicly available information responsive to request item (4) at a provided agency website. For the following reasons, ARPA-E's assertions are justified.

A. Exemption 4

Exemption 4 shields from mandatory disclosure (a) trade secrets or (b) information that is "commercial or financial," "obtained from a person," and "privileged or confidential." 5 U.S.C. § 552(b)(4); 10 C.F.R. § 1004.10(b)(4); *Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 766 (D.C. Cir. 1974). In this case, the Determination Letter contends that the information is "confidential, financial, and proprietary information that cannot be reasonably segregated." Upon review of the responsive documents, I have determined that they consist almost entirely of trade secrets and confidential commercial information, and that the remaining information is not reasonably segregable.

1. Trade Secrets

For Exemption 4 purposes, a trade secret is a "secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort." *Taylor v. Babbitt*, 760 F. Supp. 2d 80, 85 (D.D.C. 2011) (citing *Pub. Citizen Health Research Grp. v. Food & Drug Admin.*, 704 F.2d 1280, 1288 (D.C. Cir. 1983). The information at issue must directly relate to the productive process. *Id.* Information is considered secret if the submitter has not shared it publicly and has not intended for it to be released publicly. *Id.* at 86–87. Information is commercially valuable if there is economic value in the competitive advantage the owner enjoys over others by virtue of its exclusive access to the data. *Id.* at 89 (citing *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1012 (1984)).

The documents responsive to request items (1), (2), and (5) primarily contain detailed descriptions of the scientific processes, materials, and techniques involved in UMass-Amherst's research.[2] The end goal of the research described was to create a microbial electrosynthesis process in which microbes use electricity to convert carbon dioxide into transportation fuel. This process would

[2] For purposes of this decision, this information will be referred to as "the Technical Information."

make an existing trade commodity, transportation fuel, as well as invent an entirely new trade commodity, the microbes, and is clearly the end product of both innovation and substantial effort. The Technical Information directly describes the what, how, and why of the productive process.

According to the Exhibits submitted by the Appellant, UMass-Amherst has published articles on the subject. However, these articles describe the research in broad terms, outlining the most basic tenets of its research but never in the technical detail of the responsive documents. *See* Ex. 3; Ex. 4; Ex. 7. These publications lack the details necessary to replicate or build upon the experiments and UMass-Amherst has consistently maintained that the information in the responsive documents is not to be publicly available.[3] Accordingly, I find that the Technical Information is secret for purposes of Exemption 4.

UMass-Amherst's research, if successful, could result in a globally significant scientific breakthrough that could substantially alter the biofuel industry and, per ARPA-E's intellectual property agreement, UMass-Amherst would own the technology. ARPA-E Intellectual Property Provisions For Grant With Domestic Universities and Nonprofit Organization at 4. Advances in biofuel technologies have economic value, and the research described in the responsive documents has economic value for UMass-Amherst because it is now closer to such an advance than others who do not have access to the technical information. Therefore, I find that the technical information is commercially valuable.

For the foregoing reasons, I find that the technical information constitutes a trade secret for purposes of Exemption 4 of the FOIA. Accordingly, ARPA-E properly withheld the technical information.

2. Confidential Commercial and Financial Information

Federal courts have held that the terms "commercial or financial" should be given their ordinary meanings and that records are commercial as long as the submitter has a "commercial interest" in them. *Pub. Citizen Health Research Grp.*, 704 F.2d at 1290. ARPA-E's authorizing statute further defines commercial and financial information under Exemption 4 of the FOIA to include "plans for commercialization of technologies developed under the award, including business plans, technology-to-market plans, market studies, and cost and performance models." 42 U.S.C. § 16538(n). With respect to the requirement that the withheld information be "obtained from a person," it is well established that "person" refers to a wide-range of entities, including an "individual, partnership, corporation, association, or public or private organization." *Comstock*

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[3] For example, the Appellant's Exhibit 3, an article published by the UMass-Amherst research team on the topic of microbial electrosynthesis, discusses the different kinds of microbes that may be appropriate for the project, while the documents responsive to request items (1), (2), and (5) discuss which microbes were and will be used and why. Ex. 3 at 3–4.

Int'l, Inc. v. Export-Import Bank, 464 F. Supp. 804, 806 (D.D.C. 1979); *see also Niagara Mohawk Power Corp.*, OHA Case No. TFA-591 (2000).

In order to determine whether the information is "confidential," the agency must first determine whether the information was either voluntarily or involuntarily submitted. Information is considered involuntarily submitted if "any legal authority compels its submission, including informal mandates that call for the submission of the information as a condition of doing business with the government." *Lepelletier v. FDIC*, 977 F. Supp. 456, 460 n. 3 (D.D.C. 1997), *aff'd in part, rev'd in part on other grounds*, 164 F.3d 37 (D.C. Cir. 1999).

Involuntarily submitted information is considered confidential if its release would be likely to cause substantial harm to the competitive position of submitters. *Nat'l Parks & Conservation Ass'n*, 498 F.2d at 770. "Courts generally defer to an agency's predictions concerning the repercussions of disclosure, acknowledging that predictions about competitive harm are not capable of exact proof." *SACE v. Dep't of Energy*, 853 F. Supp. 2d 60, 71 (D.D.C. 2012). To qualify as substantial, an identified harm must "flow from the affirmative use of proprietary information by competitors." *United Techs. Corp. v. U.S. Dep't of Def.*, 601 F.3d 557, 563 (D.C. Cir. 2010); *Public Citizen Health Research Grp.*, 704 F.2d at 1291 n. 30. Additionally, "[t]he D.C. Circuit has recognized that the use of information by consumers, suppliers, labor unions, and other entities, even if those entities are not direct competitors, may be detrimental to a company's competitive position." *Ctr. for Auto Safety v. U.S. Dep't of Treasury*, 133 F. Supp. 3d 109, 129 (D.D.C. 2015). "Conclusory and generalized allegations of substantial competitive harm, of course, are unacceptable and cannot support an agency's decision to withhold requested documents." *Pub. Citizen Health Research Grp.*, 704 F.2d at 1291.

The information withheld under Exemption 4 was submitted by UMass-Amherst, a person under *Comstock*, and it is commercial and financial in nature. UMass-Amherst has a commercial interest in the research processes and outcomes described in the documents and a financial interest in the cost estimates included in the documents. Because the information was submitted as a condition of doing business with ARPA-E, its submission was involuntary. ARPA-E reasonably asserts that release of that information would cause substantial competitive harm by giving UMass-Amherst's research and ideas to its competitors. It is not difficult to imagine scenarios in which, were the withheld information to be made public, other labs used the released research to beat UMass-Amherst to a patentable product or used the released business plans to interfere with UMass-Amherst's tech-to-market plans. Therefore, I find that the information withheld under Exemption 4 is confidential commercial and financial information.

The Appellant argues that Exemption 4 was improperly invoked for several reasons. First [redacted] argues that "it is undisputed that the items 1, 2, and 5 do not relate to 'trade secrets and commercial or financial information'," and that the information in those items "is supposed to be published by the time or after the funds have ended." Appeal at 9. [redacted] further argues that, because UMass-Amherst has already published its research results, release of the records responsive to items (1),

(2), and (5) would not affect others' ability to use the research and ideas produced by the DOE grants.

First, the content of items (1), (2), and (5) is very much in dispute, as evidenced by the differing characterizations in the Determination Letter and the Appeal. A conclusory statement that the contents are not what ARPA-E describes carries no weight. Second, the Appellant cites no authority for [redacted] assertion that the information in the responsive documents should have been published and, as such, there is no reason to believe that UMass-Amherst would intend to publish information marked as confidential. [redacted] cites, as examples of publication, two articles that acknowledge DOE funding as contributory to the research. *Id.* at 9–10. However, these articles do not publish the confidential information or trade secrets contained in the responsive documents, nor do they publish the cost estimates for the project. *See supra* note 3. Furthermore, mere acknowledgment of DOE funding does not strip the applications for that funding of their confidentiality. Third, even if UMass-Amherst has published the results of the DOE funded research, those results are not the subject of the documents responsive to request items (1) and (2). Those items requested preliminary documents and applications, objectives, aims, and hypotheses that necessarily do not include the results of research performed at a later date. Moreover, as published research typically does not include the exact technical and procedural details that comprise the final technical report responsive to request item (5), disclosure of that document would likely allow others to profit from the fruits of UMass-Amherst's labor in a way that they currently cannot.

The Appellant's above arguments seem to suggest that [redacted] already knows the contents of the responsive documents. If [redacted] did indeed already have such information, resort to the FOIA would be unnecessary. *See Conti v. United States Dep't of Homeland Sec.*, 2014 U.S. Dist. LEXIS 42544, at *36–37 (S.D.N.Y. Mar. 24, 2014). [redacted] arguments characterizing the contents of the documents are unpersuasive precisely because [redacted] has not viewed them. *Vaughn v. Rosen*, 484 F.2d 820, 823 (D.C. Cir. 1973) ("[T]he party with the greatest interest in obtaining disclosure is at a loss to argue with desirable legal precision for the revelation of the concealed information. Obviously the party seeking disclosure cannot know the precise contents of the documents sought."). It is unsurprising, therefore, that the Appellant's strongest challenge to ARPA-E's invocation of Exemption 4 deals with the categorical treatment of grant applications and results. *See id.* at 824 ("The best appellant can do is to argue that the exception is very narrow and plead that the general nature of the documents sought make it unlikely that they" qualify for the exemption.).

The Appellant argues that research plans contained in grant applications may not be withheld under Exemption 4 of the FOIA, citing *Washington Research Project, Inc. v. HEW*, 366 F. Supp 929, 935 (D.D.C. 1973). In that case, the requestor sought documents relating to research grants by the National Institute of Mental Health (NIMH) for studies on drug treatment of children with certain conditions. *Id.* at 931. All of the grantees were either public institutions or private non-profit educational, medical, or research institutions and the research results were not intended to be commercially marketed. *Id.* The court found that, because the grant funds were not "sought for the production or marketing of a product or service," the information requested was not commercial in nature. *Id.* at 936. As such, it could not be withheld pursuant to Exemption 4. *Id.*

Part of ARPA-E's core mission is technology transfer and commercialization. *See* 42 U.S.C. § 16538(e)(3)(D); 42 U.S.C. § 16538(o)(4)(B); *Tech-To-Market (T2M)*, ARPA-E, https://arpa-e.energy.gov/?q=site-page/tech-market-t2m (last visited Jan. 2, 2018) ("Preparing technologies for an eventual transfer from lab to market is a key element of ARPA-E's mission, specifically called for in our statutory mandate from Congress."). Published articles submitted as Exhibits by the Appellant show that UMass-Amherst's research was oriented toward commercialization and commodification. Ex. 3; Ex. 4. The reasoning in *Washington Research Project* is inapplicable in the instant case because, unlike the NIMH grants, the ARPA-E grants relevant to the Appellant's FOIA request were intended to produce a commercially viable product that would be marketed for the benefit of the grantee, UMass-Amherst. Accordingly, I find that the information withheld pursuant to Exemption 4 is confidential commercial and financial information.[4]

For the foregoing reasons, I find that ARPA-E properly invoked Exemption 4 in withholding documents responsive to requested items (1), (2), and (5).

3. Segregability

The FOIA requires agencies to take reasonable steps to segregate nonexempt information. 5 U.S.C. § 552(a)(8)(A). The FOIA does not require perfection in segregability and segregability may be unreasonable when there is a relatively small amount of non-exempt material and "the cost of line-by-line analysis would be high and the result would be an essentially meaningless set of words and phrases." *Mead Data Cent., Inc. v. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

The Appellant requests a granular level of redaction that goes beyond both reasonable care and responsiveness to [redacted] request. The majority of the information in the responsive documents can be withheld as trade secrets or confidential commercial information because it describes processes, techniques, supplies, and measurements. The remaining information relates almost entirely to the marketability of the project, including planning documents and cost models, and is statutorily exempt from disclosure under ARPA-E's authorizing statute. 42 U.S.C. § 16538(n). After all this information is withheld, no substantive information remains to disclose. Indeed, the only meaningful information in the responsive documents is exempted from release. Accordingly, the exempt information is not reasonably segregable from the non-exempt information. For the foregoing reasons, I find that ARPA-E fulfilled its obligation to take reasonable steps to segregate nonexempt information.

B. Exemption 6

Exemption 6 allows an agency to withhold an individual's personal information if its release would constitute a "clearly unwarranted" invasion of privacy. *Judicial Watch, Inc. v. FDA*, 449 F.3d 141,

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[4] The information in the responsive documents that could be withheld as a trade secret could also be withheld as confidential commercial information because UMass-Amherst holds an economic interest in it.

152 (D.C. Cir. 2006). The D.C. Circuit has prescribed a two-part test for determining the proper application of Exemption 6. *Am. Oversight v. United States GSA*, 311 F. Supp. 3d 327, 345 (D.D.C. 2018). First, the withheld record must be a personnel or medical file, or a similar file. *Id.* A record is considered a "similar file" if it "contains personal information identifiable to a particular person." *Cook v. Nat'l Archives & Records Admin.*, 758 F.3d 168, 175 (2d Cir. 2014). Next, the interests must be balanced by determining whether "disclosure would compromise a substantial, as opposed to a *de mimimis*, privacy interest," and, if so, "whether the public interest in disclosure outweighs the individual privacy concerns." *Am. Oversight*, 311 F. Supp. 3d at 345 (internal quotations omitted).

Individuals' names are not categorically exempt from release because "the privacy interest at stake may vary depending on the context in which it is asserted." *Am. Immigration Lawyers Ass'n v. Exec. Office for Immigration Review*, 830 F.3d 667, 675 (D.C. Cir. 2016). Private citizens have a stronger privacy interest in the nondisclosure of their names than do government employees and all individuals have a privacy interest in the nondisclosure of their names in connection with financial information. *Id.* at 675–76; *Judicial Watch, Inc. v. FDA*, 449 F.3d 141, 153 (D.C. Cir. 2006). Risk of harm to named individuals can further increase privacy interests. *Judicial Watch, Inc.*, 449 F.3d at 153. Evidence of wrongdoing by the named Individual can create a strong public interest in disclosure. *Am. Immigration Lawyers Ass'n*, 830 F.3d at 675–76. Names that the agency has previously disclosed in the same or similar context as the FOIA request may be ineligible for nondisclosure under Exemption 6 if they are "no longer subject to a significant, protectable privacy interest." *Am. Oversight*, 311 F. Supp. 3d at 346–47.

The Appellant makes three arguments challenging ARPA-E's invocation of Exemption 6 to withhold the names of postdoctoral researchers tasked with carrying out the projects specified in [redacted] request. First, [redacted] argues that the researchers have no privacy interest in the nondisclosure of their names alone by stating that, in the Determination Letter, "ARPA-E insinuates that Appellant has requested more than the names of the postdocs." Appeal at 14. Next, [redacted] argues that disclosure of the researchers' names would contribute to the "public's understanding that there are loopholes in the Government's activities of which some grantees take advantage to create illegitimate postdoctoral research associate positions."[5] *Id.* Finally, [redacted] argues that disclosure of postdoctoral researchers' names is common when research results are published and that this common industry practice waives any privacy interest the researchers have in the nondisclosure of their names. *Id.* at 14–15.

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[5] In [redacted] original FOIA request, the Appellant stated that the information would contribute to an understanding by the general public because [redacted] and [redacted] panel "will definitely further the understanding of the subject matter by the general public." Ex. 1. The Appellant characterized the significance of this contribution by stating that it would "contribute significantly to public understanding of the operations and activities of the government. The access of the reviewers panel to these documents is essential to explain to the general public the way the government supports some research projects." *Id.* The OHA considers the public interest argument put forth in the Appeal to be a restatement of this original public interest argument.

The Appellant's first argument declares that names alone are categorically not exempt from release. However, *Judicial Watch* indirectly states that names alone may be exempt from release, noting that Exemption 6 "does not categorically exempt individuals' identities . . . because the privacy interest at stake may vary depending on the context in which it is asserted." *Judicial Watch, Inc.*, 449 F.3d at 153. It is well-established that individuals have a privacy in the nondisclosure of their names. *See id.* at 152–53. Therefore, the privacy interests of the postdoctoral researchers must be weighed against the public's interest in the disclosure of their names.

The Appellant's second argument asserts the public's interest in discovering fraud and abuse among government grantees. However, it is difficult to see a nexus between this stated public interest and the information sought. In *Judicial Watch*, the requester sought the disclosure of the names and addresses of individuals who had worked on the approval of the drug mifepristone. *Judicial Watch, Inc.*, 449 F.3d at 152. The requester asserted that the public had an interest in the disclosure because mifepristone may pose dangerous health risks to female users. *Id.* at 153. The court called this argument a non sequitur, stating that "[e]ven if mifepristone has significant health risks, these names and addresses prove nothing about the nature or even the existence of the risks." *Id.* Similarly in this case, the names of postdoctoral researchers would prove nothing about the nature, or even the existence, of illegitimate research associate positions. ARPA-E properly found that the Appellant had not adequately stated a public interest in disclosure of the names. On balance against this dearth of public interest, the individuals' privacy interest in the nondisclosure of their names prevails.

The Appellant's final argument, that common industry practice waives any privacy interest in nondisclosure of the individuals' names, is erroneous. Even if the practice of publishing postdoctoral researchers' names is ubiquitous, it was almost certainly not done in this case, or the Appellant would not need to request the names through the FOIA. Moreover, departure from the norm of voluntary disclosure is indicative of active steps taken to protect a privacy interest, quite the opposite of waiver.

For the foregoing reasons, I find that ARPA-E properly invoked Exemption 6 in withholding the names of the postdoctoral researchers.

C. Publicly Available Information

An agency is not required to disclose, pursuant to a FOIA request, information that it has already published or made available. *United States DOJ v. Tax Analysts*, 492 U.S. 136, 152 (1989). The Appellant argues that ARPA-E improperly declined to disclose the start and end dates of the awards at issue because the public information accessible at the agency website provided was difficult to locate without first having the link; the award numbers and any extension requests were not listed on the website; and the website was published on April 29, 2010, before the project ended.

First, the Appellant's inability to find the information [redacted] requested does not mean that it was not publicly available. Indeed, this information was available to [redacted] without first having the link as it

was on a public, searchable website.[6] Second, though the dates on the website were not labeled with the award numbers, the Determination Letter identified them as the dates responsive to the request. The Appellant had only requested dates and, thus, information about separate award periods or funding requests is not responsive to the request. Finally, the Appellant submitted no credible evidence that the dates listed are false. For these reasons, I find that ARPA-E did not err in declining to provide information that it had already made publicly available.

III. ORDER

For the foregoing reasons, I find that ARPA-E properly withheld all documents responsive to request items (1), (2), (3), and (5), and that its declining to disclose documents responsive to request item (4) was permissible. It is hereby ordered that the Appeal filed on December 17, 2018, by [redacted] No. FIA-18-0042, 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:

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

[redacted]

Director
Office of Hearings and Appeals

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[6] For instance, a link to a landing page for ARPA-E projects that included the link provided in the Determination Letter can be found using the following search terms on Google: "site:arpa-e.energy.gov electrosynthesis Amherst".