

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

In the Matter of Sherry A. Wiley)
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Filing Date: January 10, 2022)
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Case No.: FIA-22-0003

Issued: January 28, 2022

Decision and Order

On January 10, 2022, Sherry A. Wiley (Appellant), appealed a Determination Letter issued to her from the Department of Energy’s (DOE) Office of the Inspector General (OIG) and the Energy Efficiency and Renewable Energy’s Golden Field Office (GFO) regarding Request No. HQ-2021-00957-F. In their December 9, 2021, and January 7, 2022, determination letters, the OIG and the GFO responded to the Appellant’s request (Request) filed pursuant to the Freedom of Information Act (FOIA), 5. U.S.C. § 522, as implemented by the DOE in 10 C.F.R. Part 1004. In its December 9 Determination Letter, OIG identified 47 responsive documents, releasing three with redactions made pursuant to 5 USC § 552(b)(6) (Exemption 6) and (b)(7)(c) (Exemption 7(c)). The OIG also referred one document to the GFO, which, as described in its January 7 Determination Letter, made redactions to this document pursuant to the same exemptions. In her Appeal and subsequent communication, the Appellant seemingly argues that the OIG failed to complete an adequate search for all responsive records. In this Decision, we deny the appeal.

A. Background

On August 3, 2021, the Appellant submitted the Request asking for documents pertaining to “21-0228-C...the [Department] of Energy OIG Investigation case number.” FOIA Request from Appellant at 1 (August 5, 2021). The DOE’s Office of Public Information (OPI) assigned the matter to the OIG on August 5, 2021, to conduct a search pursuant to the Request.

On December 9, 2021, the OIG informed the Appellant that it had located forty-seven responsive documents. Final Determination Letter from Anthony Cruz to Appellant at 1 (December 9, 2021). Documents 1, 2, and 4 were released to the Appellant with redactions made pursuant to Exemptions 6 and 7(c), and Documents 5 through 47 were not provided to the Appellant, as the Appellant had either sent, authored, or previously received these documents in their unredacted form. *Id.* The Determination letter did state that the Appellant could request a copy of these documents if she so desired. *Id.* The December 9 Determination Letter also confirmed that Document 3 had been sent to the GFO “for a determination regarding its releasability.” *Id.* In its January 7 Determination Letter, the GFO released Document 3 to the Appellant with redactions made pursuant to Exemptions 6 and 7(c). Final Determination Letter from Derek Passarelli to Appellant at 1 (January 7, 2022).

In her January 10, 2022, Appeal, the Appellant stated that the response she had received was “bogus, watered down, false information[.]” Appeal at 1. She went on to describe the documents that she received as “run-around rhetoric, bluffing, bogus information[.]” *Id.* The Appellant was asked to provide a clear and concise statement describing the basis for her appeal. Email from Noorassa Rahimzadeh to Appellant at 1 (January 18, 2022). In a response pursuant to this request, the Appellant stated that she had been seeking documents that indicate she had been denied the grant for which she had applied because she had “signed” the ownership of her “business away.” Email from Appellant to Noorassa Rahimzadeh at 1 (January 18, 2022). She also stated that she had been seeking “all the information and documentation that was presented against [her,]” which the “GFO, DOE, and OIG” had “used in...consideration of” whether to award her the grant. *Id.* As described below, we deem her Appeal as challenging the adequacy of the search conducted for documents responsive to her FOIA Request.

A. Analysis

Adequacy of Search

In responding to a request for information filed under 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, and whether the search conducted was reasonable depends on the facts of each case. *See, e.g., In the Matter of Ayyakkannu Manivannan*, Case No. FIA-17-0035 (2017); *Coffey v. Bureau of Land Mgmt.*, 249 F. Supp. 3d 488, 497 (D.D.C. 2017) (citing *Weisberg v. Dep’t of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984)).

Read in a light most favorable to the Appellant, the Appellant asserts that the OIG failed to perform an adequate search in response to her Request, as the OIG failed to provide her with the documents described in her January 18 statement to the Office of Hearings and Appeals (OHA). In our review of the present case, we requested that the OIG provide information regarding the searches performed pursuant to the Appellant’s Request. OHA was informed that the search for documents pertaining to OIG investigation case number 21-0228-C was conducted on August 5, 2022, by an OIG investigator prior to being sent to a supervisory investigative analyst for review. Email from Amy Sirignano to Noorassa Rahimzadeh at 1 (January 25, 2022). The search was conducted in the iPrism system, an electronic case management system where documents of the requested kind are kept and maintained. *Id.* The search term used was “21-0228-C,” reflecting the appropriate case number. *Id.* The analyst did not perform a search outside of the case management system. *Id.*

An examination of the documents provided to the Appellant reveal that they pertain to an OIG investigation that was provided the case number 21-0228-C. Given that the OIG conducted an electronic search for responsive documents in the electronic system where these documents are usually kept and maintained and that the Appellant only requested documents pertaining to the OIG investigation case number 21-0228-C, we find that the OIG’s search was reasonably calculated to uncover responsive documents.

Order

It is hereby ordered that the Appeal filed on January 10, 2022, by Sherry A. Wiley, Case File No. FIA-22-0003, is denied in accordance with the explanation provided above.

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. § 522(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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