

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

In the Matter of: Catherine Rinaldi)
)
Filing Date: August 1, 2024) Case No.: FIA-24-0044
)
_____)

Issued: August 16, 2024

Decision and Order

On August 1, 2024, Catherine Rinaldi (Appellant) appealed a determination letter (Determination Letter) issued to her from the Department of Energy’s (DOE) National Nuclear Security Administration (NNSA) regarding Request No. FOIA 24-00298-LB, 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. In the Determination Letter, NNSA indicated that it does not maintain the kinds of records requested and did not perform a search for that reason. Appellant challenged the decision not to search for the records. In this Decision, we deny the appeal.

I. BACKGROUND

On January 8, 2024, Appellant filed a FOIA request seeking:

[A]ny records the DOE and National Nuclear Security Administration, may have on me, and a government chip, connected to a computer diagram of my body. I was told the military and CIA have had a chip put on me, and have been talking to people in this chip, for the past 3 years.

I would appreciate your help in documenting this chip and computer diagram exist, that I never consented to.

FOIA Request at 1–2 (Jan. 8, 2024) (Request). The request was partially transferred to NNSA. Memorandum from Alexander Morris, FOIA Officer, DOE, to Christina Hamblen, FOIA Officer, NNSA (May 28, 2024). NNSA initially determined that the requested records were not reasonably described and asked Appellant to clarify whether she had been an NNSA employee and, if so, in what office. FOIA Officer Request Checklist at 1; Email from Lora Bright, FOIA Analyst, NNSA, to Catherine Rinaldi, Appellant (June 6, 2024). Appellant responded via voicemail stating that she had never been employed by the U.S. government. Voicemail from Catherine Rinaldi, Appellant, to Lora Bright, FOIA Analyst, NNSA, (June 6, 2024); Determination Letter at 1.

On July 29, 2024, NNSA issued the Determination Letter to Appellant stating that the information she requested was outside NNSA’s purview, that NNSA did not maintain records on the topic, and

that, therefore, no search was conducted. Determination Letter at 1. Appellant filed the instant appeal, arguing that NNSA could not know that records did not exist without conducting a search. Appeal at 1 (Aug. 1, 2024). NNSA responded, stating that it does not “maintain medical records on non-employees, to include those related to actions that may have been taken by other federal agencies (e.g. the military or CIA as described by the requester),” or “CIA records, medical records of non-employees, or biotechnology records as related to implantation of chips or diagrams of the bodies of private citizens.” Letter from Laura Bright, FOIA Analyst, NNSA, to Kristin L. Martin, Attorney, Office of Hearings and Appeals (August 8, 2024). NNSA further stated that it could not conduct a search reasonably calculated to uncover the requested records because there was no location within NNSA in which such records would exist. *Id.*

II. ANALYSIS

When processing a FOIA request, the agency must conduct a search that is reasonably calculated to uncover all relevant documents. *Inst. for Justice v. IRS*, 941 F.3d 567, 569–70 (D.C. Cir. 2019). However, an agency is not required to search records that it does not maintain. *Viola v. United States DOJ*, 306 F. Supp. 3d 321, 329 (D.D.C. 2018). It is well-established that “[w]here the Government’s declarations establish that a search would be futile, the reasonable search required by FOIA may be no search at all.” *Macleod v. United States Dep’t of Homeland Sec.*, 2017 U.S. Dist. LEXIS 153651, *31 (D.D.C. Sept. 21, 2017) (citing *Reyes v. U.S. Emtl. Prot. Agency*, 991 F. Supp. 2d 20, 27 (D.D.C. 2014)). In this case, NNSA confirmed that it does not create, receive, or maintain the kind of records requested. Appellant has not stated why CIA and military biotechnical or medical records would be stored at NNSA and does not allege NNSA involvement in the project from which she seeks records.

For the foregoing reasons, I find that NNSA’s closure of the request without performing a search was reasonable and did not violate the FOIA’s requirement to perform an adequate search.

III. ORDER

It is hereby ordered that the Appeal filed on August 1, 2024, by Catherine Rinaldi, No. FIA-24-0044, 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

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