

United States Department of Energy  
Office of Hearings and Appeals

In the matter of Mary Ann Parker. )  
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Filing Date: November 1, 2012 ) Case No.: FIA-12-0069  
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Issued: November 16, 2012

**Decision and Order**

On November 1, 2012, Mary Ann Parker (“Appellant”) filed an Appeal from a determination issued to her on September 27, 2012, by the Oak Ridge Office (ORO) of the Department of Energy (DOE) (Request Number ORO-2012-0064-PA). In its determination, ORO responded to the Appellant’s request for information filed under the Privacy Act, 5 U.S.C. § 552a, as implemented by DOE in 10 C.F.R. Part 1008. This Appeal, if granted, would require ORO to conduct another search for the requested documents.

**I. Background**

On July 24, 2012, the Appellant submitted a Privacy Act Request to the DOE Headquarters seeking copies of “complete medical records, all areas of work . . . incidents, all duties performed and any documentation records,” and “any documentation records during [her] employment with General Electric and Lockheed Martin at the Pinellas Plant, Largo, Florida from April 1972 to February 1995.” *See* Determination Letter from Amy L. Rothrock, Authorizing Official, Oak Ridge Office, to Mary Ann Parker (Sept. 25, 2012) (“Determination Letter”); Interim Response Letter from Alexander C. Morris, to Mary Ann Parker (Aug. 3, 2012) (“Interim Response Letter”). The Headquarters Office assigned the Appellant’s Privacy Act Request to two separate field offices to conduct a search of its files for responsive documents: the Office of Legacy Management of the Department (Legacy Management) and ORO. *See* Interim Response Letter.

On September 25, 2012, ORO issued its determination letter, informing the Appellant that it was providing copies of her work history report and medical records from her participation in the National Supplemental Screening Program from DOE/ORO’s Oak Ridge Office Associated Universities. *See* Determination Letter. ORO further stated that no other records were found at its Office. Subsequently, the Appellant filed the instant Appeal, claiming that additional records responsive to her search should have been produced. *See* Appeal. Moreover, she asserts that her records from the Pinellas Plant should have been sent to the Albuquerque Office. *Id.*

## II. Analysis

In assessing the adequacy of a search under the Privacy Act, courts apply the “adequacy of search” analysis as under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (FOIA). *Sussman v. U.S. Dep’t of Justice*, 03 Civ. 3618 DRH ETB, 2006 WL 2850608 (E.D.N.Y. Sept. 30, 2006); *see Shores v. FBI*, 185 F. Supp. 2d 77, 82 (D.D.C. 2002); *cf. Sneed v. U.S. Dep’t of Labor*, 14 Fed. Appx. 343, 345 (6th Cir. 2001). 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.” *Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 325 (D.C. Cir. 1999) (quoting *Truitt v. U.S. Dep’t of State*, 897 F.2d 540, 542 (D.C. Cir. 1990)). “[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials.” *Miller v. U.S. 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., Project on Government Oversight*, Case No. TFA-0489 (2011).<sup>1</sup>

In response to our inquiries pertaining to the adequacy of its search for responsive documents, ORO provided us with additional information to evaluate the reasonableness of its search. *See* Email from Linda Chapman, Legal Assistant, ORO, to Shiwali Patel, Attorney-Examiner, OHA (Nov. 9, 2012). ORO stated that it believed that the Appellant was seeking documents pertaining to her medical and personnel files, and as it did not appear that those documents were located at ORO’s plants, it sent the request to its Records Holding Area (RHA) and the Oak Ridge Associated Universities (ORAU). *Id.*

In locating documents pertaining to the Appellant’s medical information, occupational dose exposure and work history, ORAU used the following terms: Appellant’s last name, first name, initials, social security number and birth date. *Id.* It searched the DOE integrated database, the National Supplemental Screening Program database and databases maintained in the Radiation Exposure Monitoring System (REMS) and Radiation Exposure Information and Reporting System (REIRS). *Id.* ORAU further searched electronic and hard-copy files for the National Supplemental Screening Program. *Id.* RHA searched all of its electronic databases, and conducted a search of the Appellant’s name and partial social security number on SF-135’s Term Cards, Data Cards, Shipment 241, Shipment 242, and Shipment 243. *Id.*

Based on the description of the searches conducted by ORAU and RHA, we are satisfied that a search “reasonably calculated to uncover all relevant documents” was conducted. *Valencia-Lucena*, 180 F.3d at 325 (D.C. Cir. 1999). ORO sent the Appellant’s request to two locations – ORAU and RHA – where it knew that the requested documents would be found. Both ORAU and RHA used reasonable search terms to locate responsive documents on multiple databases. Indeed, documents pertaining to the Appellant’s work history report and medical records were located and provided to the Appellant. *See* Determination Letter. As articulated above, “the standard of reasonableness which we apply to agency search procedures *does not require*

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<sup>1</sup> Decisions issued by the Office of Hearings and Appeals (OHA) after November 19, 1996, are available on the OHA website located at <http://www.oha.doe.gov>.

*absolute exhaustion of the files.” Miller, 779 F.2d at 1384-85 (emphasis added).* Hence, ORO has demonstrated that a reasonable search for the requested documents was conducted.

Finally, while not an Appeal of the ORO’s determination, to provide clarification to the Appellant, we will address her claim that the Albuquerque Office should have produced documents in response to her Privacy Act request. Upon receiving the instant Appeal, we contacted the Headquarters Office to inquire whether it forwarded the Appellant’s Privacy Act Request to the Albuquerque Office to conduct a search for responsive documents. Email from Shiwali Patel, Attorney-Examiner, OHA, to Alexander C. Morris, FOIA Officer, Office of Information Resources (Nov. 2, 2012). The Headquarters Office informed us that while documents that originated from the Pinellas Plant were previously located in the Albuquerque Office, those documents were subsequently transferred to Legacy Management. Memorandum of Telephone Conversation between Alexander C. Morris, FOIA Officer, Office of Information Resources, and Shiwali Patel, Attorney-Examiner, OHA (Nov. 2, 2012). Accordingly, the Headquarters Office assigned the Appellant’s request to Legacy Management. *Id.* The Headquarters Office further stated that Legacy Management located documents responsive to the Appellant’s Privacy Act request and that those responsive documents would be forthcoming. *Id.* Moreover, the Headquarters Office provided us with a copy of its Interim Response Letter, dated August 3, 2012, wherein it informed the Appellant that her Privacy Act response was being assigned to Legacy Management and ORO. *See* Interim Response Letter.

Hence, based on the foregoing, the Appeal will be denied.

It Is Therefore Ordered That:

(1) The Privacy Act Appeal filed by the Appellant on November 1, 2012, OHA Case Number FIA-12-0069, is hereby denied.

(2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. 552a(g)(1). 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.

Poli A. Marmolejos  
Director  
Office of Hearings and Appeals

Date: November 16, 2012