

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST**

2019-000296

3

RESPONSE
TYPE☐

INTERIM

☒

FINAL

REQUESTER:

James J. Johnson, Esq.

DATE:

01/24/2020

DESCRIPTION OF REQUESTED RECORDS:

Items 1, 2, 4-8, which describe seven enumerated categories of records relating to the Access Authorization [AA] Program, including specifically identified records of the TVA's AA Program, and items 3 and 9, which describe records relating to the termination of your client's access authorization, and certain licensee records during the Cycle 13 Tritium harvest.

PART I. -- INFORMATION RELEASED

- ☐ The NRC has made some, or all, of the requested records publicly available through one or more of the following means: (1) <https://www.nrc.gov>; (2) public ADAMS, <https://www.nrc.gov/reading-rm/adams.html>; (3) microfiche available in the NRC Public Document Room; or FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>.
- ☐ Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (See Part I.D -- Comments) for a disclosure determination and direct response to you.
- ☐ We are continuing to process your request.
- ☒ See Part I.D -- Comments.

PART I.A -- FEES**AMOUNT**

- ☐ You will be billed by NRC for the amount indicated.
- ☐ You will receive a refund for the amount indicated.
- ☐ Fees waived.

- ☐ Since the minimum fee threshold was not met, you will not be charged fees.
- ☒ Due to our delayed response, you will not be charged search and/or duplication fees that would otherwise be applicable to your request.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). See 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- ☐ We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- ☐ Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- ☒ You may appeal this final determination within 90 calendar days of the date of this response. If you submit an appeal by mail, address it to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Mail Stop T-2 F43, Washington, D.C. 20555-0001. You may submit an appeal by e-mail to FOIA.resource@nrc.gov. You may fax an appeal to (301) 415-5130. Or you may submit an appeal through FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>. Please be sure to include on your submission that it is a "FOIA Appeal."

PART I.C -- REFERENCES AND POINTS OF CONTACT

You have the right to seek assistance from the NRC's FOIA Public Liaison by submitting your inquiry at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>, or by calling the FOIA Public Liaison at (301) 415-1276.

If we have denied your request, you have the right to seek dispute resolution services from the NRC's Public Liaison or the Office of Government Information Services (OGIS). To seek dispute resolution services from OGIS, you may e-mail OGIS at ogis@nara.gov, send a fax to (202) 741-5789, or send a letter to: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. For additional information about OGIS, please visit the OGIS website at <https://www.archives.gov/ogis>.



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PART I.D -- COMMENTS

In our first interim response, dated November 27, 2019, we addressed the records described in paragraphs 3 and 9 of your request. Since this response concerned allegation records, this response has not been made publicly available.

In our second interim response, dated January 17, 2019, we addressed the records described in paragraphs 6 through 8 of your request. These records dealt with a now-closed proposed rulemaking about the Access Authorization [AA] program.

With this third, and final, response, we are addressing the records described in paragraphs 1, 2, 4, and 5 of your request. These records pertain to TVA's AA program. For these paragraphs in your request, we reached out to staff in the Office of Nuclear Security & Incident Response [NSIR] and Region II. According to NSIR staff, while NSIR regulates and oversees the AA program, the records described in these paragraphs would be expected to be maintained by licensees within their standard operating procedures that are not (routinely) transmitted to NSIR. NSIR did tell us that the relevant regional office (in the case of TVA, that would be Region II) might have the records as part of their inspection activities. However, NSIR does not track any such activities. In conferring with RII, staff informed us that such records would not be centrally housed but rather may be found within ADAMS or shared drives, or within individual employees' electronic and/or paper files. Inspection reports would have to be reviewed to determine whether they addressed the AA program. In light of this information, we have concluded that a "reasonable search" (i.e., a search that is calculated to locate responsive records by staff with knowledge of the subject matter, but without imposing an undue burden on the agency) is not possible.

Signature - Freedom of Information Act Officer or Designee

Stephanie A. Blaney

Digitally signed by Stephanie A. Blaney
Date: 2020.01.24 14:11:42 -05'00'