

**Exhibit 2**



## Department of Energy

Washington, DC 20585

November 16, 2021

C. Peter Sorenson  
Sorenson Law Office  
PO Box 10836  
Eugene, Oregon 97440

Via email: [petesorenson@gmail.com](mailto:petesorenson@gmail.com)

Re: HQ-2022-00153-F

Dear Mr. Sorenson,

This is an interim response to the request for information that you sent to the Department of Energy (DOE) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. You requested the following:

- 1) Any reports, training manuals or documents, policy directives, and emails to and from any American academic institutions including but not limited to administrators, employees, grant recipients or administrators, associated unions, and businesses or commercial entities working with academic intuitions; regarding the “China Initiative” and/or those records that relate to federal funding or grants and the following laws and/or their contents generally:
  - a. 18 U.S.C. § 371 – Conspiracy
  - b. 18 U.S.C. § 666 – Theft or bribery concerning programs receiving federal funds
  - c. 18 U.S.C. § 1001 – Unlawful statements or entries generally
  - d. 18 U.S.C. § 1343 – Wire Fraud
  - e. 18 U.S.C. § 1512(c)(1)-(2) – Alteration, destruction, mutilation, or concealment of records; obstruction of official proceedings
  - f. 18 USC § 1542 – False statement in application and use of passport
  - g. 18 U.S.C. § 1546 – Fraud and misuse of visas, permits, and other documents
  - h. 18 U.S.C. § 1831 – Economic espionage
  - i. 18 U.S.C. § 1832 – Theft of trade secrets
- 2) All records pertaining to the agency’s communications to or from American academic institutions, associations or groups representing academics, unions representing university or college staff and employees, businesses or academic activities on American academic institutions’ campuses that include any of the following word combinations:
  - a. “Chinese” and/or “China” + “Non-traditional collector(s)”



- b. “Chinese” and/or “China” + “Non-traditional Intelligence collector(s)”
  - c. “Chinese” and/or “China” + “conflict(s) of interest(s)”
  - d. “Chinese” and/or “China” + “conflict(s) of commitment(s)”
  - e. “Chinese” and/or “China” + “Falsifying”
  - f. “Chinese” and/or “China” + “Failing to report”
  - g. “Chinese” and/or “China” + “Misleading statement(s)”
  - h. “Chinese” and/or “China” + “Obscure(d) affiliation”
  - i. “Chinese” and/or “China” + “Funding restriction(s)”
  - j. “Chinese” and/or “China” + “Restriction(s) of fund(s)”
  - k. “Chinese” and/or “China” + “Restriction(s) of funding”
  - l. “Chinese” and/or “China” + “Restriction(s) to fund(s)”
  - m. “Chinese” and/or “China” + “Restriction(s) to funding”
  - n. “Chinese” and/or “China” + “Fraud”
  - o. “Chinese” and/or “China” + “Defraud”
  - p. “Chinese” and/or “China” + “Scheme to defraud”
  - q. “Chinese” and/or “China” + “Scheme to conceal”
  - r. “Chinese” and/or “China” + “Conceal(ing)”
  - s. “Chinese” and/or “China” + “Conceal(ed)”
  - t. “Chinese” and/or “China” + “Foreign support”
  - u. “Chinese” and/or “China” + “Economic Espionage”
  - v. “Chinese” and/or “China” + “Theft”
  - w. “Chinese” and/or “China” + “Theft of trade secret(s)”
- 3) Records containing statistics or data concerning the number of instances or reports of grant fraud initiated per year, month or any other time period, as well as any statistics or data concerning race, ethnicity, and or the national origin of those involved in these instances or reports.
- 4) Records containing statistics or data concerning the race, ethnicity, and or the national origin of those targeted by currently open or closed investigations as part of the “china initiative” or violations of any of the federal laws listed above as part of request (1).
- 5) Records relating to the agency’s expenditures, budget, allocation of funds, or other monetary distributions relating to the enforcement of the federal laws listed above as part of request (1), or laws, regulations, or rules relating to them or their general purpose.

Upon completion of the search and review of any records located, you will be provided a response.

For purposes of assessment of any fees, you have been categorized under the DOE regulation that implements the FOIA at Title 10, Code of Federal Regulations (CFR), Section 1004.9(b)(4), as an “other” requester. Requesters in this category are entitled to two (2) free hours of search time and are provided 100 pages at no cost.

In your letter, you requested a waiver of all fees associated with the processing of your request. Pursuant to 10 CFR 1004. 9(8), I have reviewed the information you provided in the request to support your request for a fee waiver. I have determined that the information satisfies the criteria considered for a waiver of fees. A waiver, therefore, is appropriate for

any fees that may be incurred because the subject of the request relates to a government activity, and information about the activity could lead to greater understanding by the public about the matter. You also have demonstrated the ability and intent of your organization to disseminate the information to the public in a form that can further understanding of the subject matter.

In your request, you requested expedited processing of your request. In your request, you provided the following specific justification for expedited processing:

The records requested are urgently needed to inform the public about possible ongoing civil rights violations being carried out by the government in its pursuit of the “China Initiative.” Beyond the government’s likely discriminatory prosecutions under this initiative, the effect of the unlawful discrimination is likely having a chilling effect on the collaboration and free association rights of Asian Americans, especially concerning their roles and opportunities in academic and scientific institutions.

The FOIA permits agencies to expedite the processing of requests if requesters demonstrate a “compelling need.” 5 U.S.C. § 552(a)(6)(E)(i)(I). A “compelling need” is established when one of two criteria are met. 5 U.S.C. § 552(a)(6)(E)(v)(II). The criteria are met when (1) failure to obtain the records quickly “could reasonably be expected to pose an imminent threat to the life or physical safety of an individual,” or (2) if the “requester is primarily engaged in, disseminating information” and can demonstrate that there is an “urgency to inform the public concerning actual or alleged Federal Government activity.” *Id.*

The reasons you have provided do not adequately address the basis for which a request may be expedited. You have not provided material that establishes that there is any threat to the life or safety of an individual that would justify expeditious processing of the request. You also have not identified an actual or alleged activity that poses any particular urgency that requires the dissemination of information in an expedited manner.

In order to determine whether a requester has demonstrated an “urgency to inform,” and hence a “compelling need,” courts consider at least three factors: (1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity. *Al-Fayed v. C.I.A.*, 254 F. 3d 300,310 (D.C. Cir. 2001); *Associated Press v. DOE*, Case No. TFA-0273 (September 11, 2008).

Your request does not sufficiently address factor one or two. For these reasons, I am denying your request for expeditious processing. The request will be processed in accordance with provisions of the FOIA.

The denial of your request for expedited processing may be appealed within 90 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to Director, Office of Hearings and Appeals, HG-I, L'Enfant Plaza, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585-1615. The written appeal, including

the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal by e-mail to [OHA.filings@hq.doe.gov](mailto:OHA.filings@hq.doe.gov), including the phrase "Freedom of Information Appeal" in the subject line. (This is the method preferred by the Office of Hearings and Appeals.) The appeal must contain all the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where DOE's records are situated, or (4) in the District of Columbia.

You may contact DOE's FOIA Public Liaison, Alexander Morris, FOIA Officer, Office of Public Information, at 202-586-5955 or by mail at MA-46/Forrestal Building 1000 Independence Avenue, S.W. Washington, D.C. 20585 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Please refer to the above referenced number in any communications about the request. If you have any questions about the processing of your request, you may contact Jennifer Goldsmith, or myself, in this office at MA-46/Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, or at 202-586-5955.

I appreciate the opportunity to assist you with this matter.

Sincerely,

Alexander C. Morris  
FOIA Officer  
Office of Public Information