AMERICAN OVERSIGHT

February 13, 2025

VIA EMAIL

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David O'Dowd, FOIA Public Liaison
National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 6150
Washington, D.C. 20530
(202) 233-0754
nsdfoia@usdoj.gov

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer(s):

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, 28 C.F.R. Part 16, American Oversight makes the following request for records.

After the conclusion of the Senate Judiciary Committee's January 30, 2025 nomination hearing for Kash Patel to become Director of the Federal Bureau of Investigation (FBI), reporting by *Business Insider* led the nonprofit Public Citizen to send a letter alerting the Senate Judiciary Committee that Patel did not register as a foreign agent nor disclose paid work for "consulting services" that he provided to the Embassy of Qatar between February 2021 and November 2024.[1] Less than one week later, on her first day as Attorney General, Pam Bondi issued a memo limiting the Department of Justice's (DOJ) enforcement of the Foreign Agents Registration Act (FARA), a decades-old federal law requiring the disclosure of advocacy and lobbying work on behalf of certain foreign actors.[2] American Oversight seeks records with the potential to shed light on DOJ's changes to FARA in light of the aforementioned allegations against Patel.

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[1] Bryan Metzger, *Trump FBI Pick Kash Patel Made More Than $2.6 Million from Consulting, Paid Speeches, and Books Last Year*, Business Insider (Jan. 30, 2025, 5:14 PM), https://www.businessinsider.com/trump-fbi-director-kash-patel-financial-disclosure-2025-1; *Letter to Senate Judiciary Committee: Kash Patel's Undisclosed 'Consulting Services' for Qatar Require Immediate Examination*, Public Citizen, Feb. 4, 2025, https://www.citizen.org/article/letter-to-senate-judiciary-committee-kash-patels-undisclosed-consulting-services-for-qatar-require-immediate-examination/.

[2] *See, e.g.*, Evan Perez, *Attorney General Bondi Cuts Back on Programs that Ran Afoul of Trump*, CNN (Feb. 6, 2025, 3:02 PM), https://www.cnn.com/2025/02/06/politics/bondi-trump-election-fara-justice/index.html.

Requested Records

American Oversight seeks expedited review of this request for the reasons identified below and requests that DOJ produce the following records as soon as practicable, and at least within twenty business days:

> All records reflecting guidance — including directives, instructions, directions, memoranda, policies, informal email guidance, and/or any other informal written guidance — regarding FARA issued, modified, and/or otherwise altered **on or after January 20, 2025.**

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government."[3] The public has a significant interest in DOJ enforcement of FARA.[4] Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including potential actions pursuant to FARA regarding Kash Patel — who is nominated to lead the FBI — and DOJ leadership. American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

This request "is not primarily in the commercial interest of the requester. "[5] In fact, as a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight's commercial interest. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and X (formerly Twitter).[6]

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[3] 5 U.S.C. § 552(a)(4)(A)(iii).
[4] *See supra* note 2.
[5] 5 U.S.C. § 552(a)(4)(A)(iii).
[6] American Oversight currently has approximately 16,000 followers on Facebook and 95,800 followers on X (formerly Twitter). American Oversight, Facebook, https://www.facebook.com/weareoversight/ (last visited Feb. 13, 2025); American

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.[7] Examples reflecting this commitment include the posting of records related to the first Trump Administration's contacts with Ukraine and analyses of those contacts;[8] posting records and editorial content about the federal government's response to the COVID-19 pandemic;[9] posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the first Trump administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;[10] the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers;[11] and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.[12]

Accordingly, American Oversight qualifies for a fee waiver.

Oversight (@weareoversight), X (formerly Twitter), https://x.com/weareoversight (last visited Feb. 13, 2025).

[7] *See generally News*, American Oversight, https://www.americanoversight.org/blog.

[8] *Trump Administration's Contacts with Ukraine*, American Oversight, https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine.

[9] *See generally The Trump Administration's Response to Coronavirus*, American Oversight, https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus; *see, e.g.*, *'We've All Given Up Getting a Straight Answer From You Guys: Frustrated Emails Between Illinois Governor's Office and White House*, https://www.americanoversight.org/weve-all-given-up-getting-a-straight-answer-from-you-guys-frustrated-emails-between-illinois-governors-office-and-white-house.

[10] *See generally Audit the Wall*, American Oversight, https://www.americanoversight.org/investigation/audit-the-wall; *see, e.g.*, *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, American Oversight, https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall.

[11] *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, American Oversight, https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, American Oversight, https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents.

[12] *See generally Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense; *see, e.g.*, *New Information on Pompeo's 2017 Trips to His Home State*, American Oversight, https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state.

Application for Expedited Processing

Pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 28 C.F.R. Part 16, American Oversight requests that your agency expedite the processing of this request.

I certify to be true and correct to the best of my knowledge and belief that the information requested is urgently needed in order to inform the public concerning actual or alleged government activity.[13] After the conclusion of the Senate Judiciary Committee's January 30, 2025 nomination hearing for Kash Patel to become Director of the FBI, *Business Insider* reported that Patel's financial disclosure showed income from consulting work that included the Embassy of Qatar as a client.[14] This reporting led the nonprofit Public Citizen to send a letter alerting the Senate Judiciary Committee that Patel did not register as a foreign agent nor disclose paid work for the "consulting services" that he provided to the Embassy of Qatar between February 2021 and November 2024.[15] Less than one week later, on her first day as Attorney General, Pam Bondi issued a memo limiting DOJ enforcement of the Foreign Agents Registration Act (FARA),[16] the decades-old federal law that potentially required Patel's disclosure of his consulting work on behalf of the Embassy of Qatar.[17] Given DOJ's enforcement role pursuant to FARA and Patel's pending nomination to serve in a leadership role at the agency, the American public is entitled to records responsive to American Oversight's requests centered on FARA enforcement and the law's potential application to Patel. The American public has a substantial and urgent interest in understanding the Trump Administration's recent actions regarding FARA and DOJ's decision whether or not to enforce it, especially amidst reporting of relevant potential conflicts of interest regarding Patel's paid work on behalf of foreign entities and his pending nomination to lead the FBI, the nation's top law enforcement agency within DOJ.[18]

Moreover, I certify to be true and correct to the best of my knowledge and belief that there is an urgent need to inform the public about DOJ enforcement of FARA and

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[13] 28 C.F.R. Part 16.5(e)(1)(ii).
[14] Bryan Metzger, *Trump FBI Pick Kash Patel Made More Than $2.6 Million from Consulting, Paid Speeches, and Books Last Year*, Business Insider (Jan. 30, 2025, 5:14 PM), https://www.businessinsider.com/trump-fbi-director-kash-patel-financial-disclosure-2025-1.
[15] *Letter to Senate Judiciary Committee: Kash Patel's Undisclosed 'Consulting Services' for Qatar Require Immediate Examination*, Public Citizen, Feb. 4, 2025, https://www.citizen.org/article/letter-to-senate-judiciary-committee-kash-patels-undisclosed-consulting-services-for-qatar-require-immediate-examination/.
[16] *See supra* note 2.
[17] *See, e.g.*, Matt Sledge, *How Many Trump Officials Have Taken Money From Qatar?*, The Intercept (Feb. 11, 2025, 7:02 AM), https://theintercept.com/2025/02/11/trump-qatar-ethics-patel-zeldin-bondi/.
[18] *See, e.g.*, Brain Slodysko et al., *Kash Patel Had a Roster of Foreign Clients. Their Interests Could Clash with FBI He Hopes to Lead*, L.A. Times (Feb. 9, 2025, 9:29 AM), https://www.latimes.com/world-nation/story/2025-02-09/kash-patel-had-a-roster-of-foreign-clients-their-interests-could-clash-with-fbi-he-hopes-to-lead.

Patel's potential conflicts of interest regarding his paid work as an allegedly unregistered foreign agent. In a Feb. 3, 2025, letter to the Senate Judiciary Committee, nonprofit State Democracy Defenders Action noted that, as Director of the FBI, Patel "will be able to enforce—or not enforce—a series of laws that could impact Qatar's and other foreign principals' ability to influence United States policymaking, including" FARA.[19] The public requires the requested information urgently to both inform themselves about Patel's fitness to serve as Director of the FBI and engage with their senators who are likely to soon face a confirmation vote for Patel and may be able to investigate the matter.[20]

I further certify that American Oversight is primarily engaged in disseminating information to the public. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. Similar to other organizations that have been found to satisfy the criteria necessary to qualify for expedition,[21] American Oversight "'gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience.'"[22] American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, and other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and X (formerly Twitter).[23] As discussed previously, American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content.[24]

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[19] *Ethics Experts Sound the Alarm on Patel's Qatar Connection*, State Democracy Defenders Action, Feb. 3, 2025, https://statedemocracydefenders.org/2025/02/ethics-experts-sound-the-alarm-on-patels-qatar-connection/; Rebecca Beitsch, *Patel Scrutinized Over Past Work for Qatar*, The Hill (Feb. 4, 2025, 9:01 AM), https://thehill.com/homenews/administration/5124971-kash-patel-qatar-work-fbi-nomination/.

[20] *See, e.g.*, Hailey Fuchs, *Committee Punts on Kash Patel Vote as Democrats Keep Up the Pressure*, Politico (Feb. 6, 2025, 11:19 AM), https://www.politico.com/live-updates/2025/02/06/congress/kash-patel-fbi-confirmation-00202842.

[21] *See ACLU v. U.S. Dep't of Justice*, 321 F. Supp. 2d 24, 30–31 (D.D.C. 2004); *EPIC v. Dep't of Defense*, 241 F. Supp. 2d 5, 15 (D.D.C. 2003).

[22] *ACLU*, 321 F. Supp. 2d at 29 n.5 (quoting *EPIC*, 241 F. Supp. 2d at 11).

[23] American Oversight currently has approximately 16,000 followers on Facebook and 95,800 followers on X (formerly Twitter). American Oversight, Facebook, https://www.facebook.com/weareoversight/ (last visited Feb. 13, 2025); American Oversight (@weareoversight), X (formerly Twitter), https://x.com/weareoversight (last visited Feb. 13, 2025).

[24] *See generally News*, American Oversight, https://www.americanoversight.org/blog; *see, e.g.*, *Emails and Resume of Trump's Pick to Head Government Personnel Office*, American Oversight, https://www.americanoversight.org/emails-and-resume-of-trumps-pick-to-head-government-personnel-office; *CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings; *State Department Releases Ukraine Documents to American Oversight*, American Oversight,

Accordingly, American Oversight's request satisfies the criteria for expedition.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.

- In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions.

- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.

- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.[25] It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official

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https://www.americanoversight.org/state-department-releases-ukraine-documents-to-american-oversight; *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, American Oversight, https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business; *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, American Oversight, https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia; *Sessions' Letter Shows DOJ Acted On Trump's Authoritarian Demand to Investigate Clinton*, American Oversight, https://www.americanoversight.org/sessions-letter.

[25] *See Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); *cf. Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

systems or if officials have, by intent or through negligence, failed to meet their obligations.[26]

- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,[27] and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.

- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

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[26] *See Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

[27] Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, "Managing Government Records Directive," M-12-18 (Aug. 24, 2012), https://www.archives.gov/files/records-mgmt/m-12-18.pdf.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Ben Sparks at foia@americanoversight.org or (202) 873-1741. Also, if American Oversight's request for expedition is not granted or its request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Ben Sparks
Ben Sparks
on behalf of
American Oversight