



March 16, 2022

**VIA EMAIL**

U.S. Department of State  
Office of Information Programs and Services  
A/GIS/IPS/RL  
SA-2, Suite 8100  
Washington, DC 20522-0208  
[FOIArequest@state.gov](mailto:FOIArequest@state.gov)

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

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

**Requested Records**

American Oversight requests that your agency produce the following records within twenty business days:

1. All electronic communications (including email messages, email attachments, complete email chains, calendar invitations, calendar invitation attachments, and all text messages including complete text message conversations/threads, or complete conversations/threads of messages on messaging platforms such as WhatsApp and Signal, including any message attachments) on unclassified systems sent or received from April 26, 2018, through January 1, 2020, by the custodians specified below that contain any of the following key terms:
  - a. "Marshall Plan"
  - b. IP3
  - c. "International Peace Power & Prosperity"
  - d. Barrack
  - e. "Iron Bridge"
  - f. Ironbridge
  - g. ACU
  - h. Westinghouse
  - i. "Colony Northstar"
  - j. "Colony Capital"
  - k. "Section 123"
  - l. "123 agreement"



- m. PIF
- n. Apollo
- o. Blackstone
- p. Brookfield
- q. KEPCO
- r. Otaiba
- s. Bannon
- t. Flynn
- u. "Saudi Arabia"
- v. KSA

Specified custodians:

- a. Michael "Mike" Pompeo
- b. Brian Bulatao
- c. Ulrich Brechbuhl
- d. Toni Porter
- e. Brian Hook
- f. David Hale
- g. Andrea Thompson
- h. Christopher Ford
- i. David Satterfield
- j. Lisa Kenna

To be clear, for part 1 of this request, American Oversight requests that your agency produce both complete email chains and full threads/conversations for text messages or other messages on messaging applications. For example, if Mr. Pompeo sent or received a text message containing one of the key terms listed above, the complete thread/conversation should be produced, and not just the message containing the key term.

- 2. All electronic communications (including email messages, email attachments, complete email chains, calendar invitations, and attachments thereto, text messages, or messages on messaging platforms such as WhatsApp and Signal, including any message attachments or media) sent from April 26, 2018, through January 1, 2020, on unclassified email systems between (1) the agency custodians specified above in part 1, and (2) any of the following non-governmental individuals or entities:
  - a. Thomas "Tom" Barrack
  - b. Rick Gates
  - c. Paul Manafort
  - d. Keith Alexander
  - e. Jack Keane
  - f. James Cartwright
  - g. Dennis Ross
  - h. Robert "Bud" McFarlane
  - i. Michael Hewitt
  - j. Stuart Solomon
  - k. Stephen Solomon

- l. Alan Dunn
- m. Eric Olson
- n. Frances Fragos Townsend
- o. Lars Butler
- p. Michael Wallace
- q. Mike Rogers
- r. James Heath
- s. John Tanner
- t. Kirkland Donald
- u. Patrick J. O'Reilly
- v. Phillip Eichensehr
- w. Raymond Palumbo
- x. Ziad Asali
- y. Alex Copson
- z. Bill Dudley
- aa. Chris Crane
- bb. Stephen Bolze
- cc. Danny Roderick
- dd. Dan Poneman
- ee. Judy Marks
- ff. Steve Schwarzman
- gg. Lisa Marie Cheney
- hh. William Nitze
- ii. Matthew Grimes
- jj. Justin Chang
- kk. Bruce Flatt
- ll. Jonathan Grunzweig
- mm. Anyone corresponding from an email address ending in  
@acustrategicpartners.com
- nn. Anyone corresponding from an email address ending in @clny.com
- oo. Anyone corresponding from an email address ending in @clns.com
- pp. Anyone corresponding from an email address ending in  
@colonyinc.com
- qq. Anyone corresponding from an email address ending in  
@ip3international.com
- rr. Anyone corresponding from an email address ending in  
@ironnetcybersecurity.com
- ss. Anyone corresponding from an email address ending in  
@scppartners.com
- tt. Anyone corresponding from an email address ending in  
@mcfarlaneassociatesinc.com
- uu. Anyone corresponding from an email address ending in  
@ironbridgesecurity.com

Because both parts of this request concern records solely on the unclassified email system, and because Part 2 of this request concerns communications with non-governmental individuals and entities, records should be straightforward to

process and contain limited and easily segregable exempt information. easily segregable and non-exempt.

As indicated above, for both parts of this request, please provide all responsive records from April 26, 2018, through January 1, 2020.

### **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 primarily and fundamentally 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."<sup>1</sup> The public has a significant interest in whether and to what extent outside companies and individuals influenced Trump administration policymaking on sharing nuclear technology.<sup>2</sup> Questions remain regarding the role of select senior officials, even as further developments have unfolded, such as the July 2021 indictment of Tom Barrack<sup>3</sup> and reporting on former National Security Advisor Mike Flynn's apparent conflicts of interests related to the matter.<sup>4</sup> Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including the Trump administration's willingness to make significant foreign policy and national security decisions relying on non-governmental entities with substantial private interests. American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the

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<sup>1</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>2</sup> See Interim Staff Report, Committee on Oversight and Reform, *Whistleblowers Raise Grave Concerns with Trump Administration's Efforts to Transfer Sensitive Nuclear Technology to Saudi Arabia*, U.S. House of Representatives, Feb. 2019, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Trump%20Saudi%20Nuclear%20Report%20-%20202-19-2019.pdf>; Second Interim Staff Report, Committee on Oversight and Reform, *Corporate and Foreign Interests Behind White House Push to Transfer U.S. Nuclear Technology to Saudi Arabia*, U.S. House of Representatives, July 2019, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Trump%20Saudi%20Nuclear%20Report%20July%202019.pdf>.

<sup>3</sup> Sharon LaFraniere & William Rashbaum, *Thomas Barrack, Trump Fund-Raiser, Is Indicted on Lobbying Charge*, N.Y. Times, updated July 26, 2021, <https://www.nytimes.com/2021/07/20/us/thomas-barrack-trump-indicted.html>.

<sup>4</sup> Travis Gettys, *Michael Flynn Hid \$200k in Payments for Middle East Nuclear Power Plan Before Joining White House*, Salon (Oct. 4, 2021, 5:30 PM) [https://www.salon.com/2021/10/04/michael-flynn-hid-200k-in-payments-for-middle-east-nuclear-power-plan-before-joining\\_partner/](https://www.salon.com/2021/10/04/michael-flynn-hid-200k-in-payments-for-middle-east-nuclear-power-plan-before-joining_partner/).

public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

This request is primarily and fundamentally for non-commercial purposes.<sup>5</sup> 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 financial 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 Twitter.<sup>6</sup>

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.<sup>7</sup> Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the Trump Administration's contacts with Ukraine and analyses of those contacts;<sup>8</sup> posting records and editorial content about the federal government's response to the Coronavirus pandemic;<sup>9</sup> posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;<sup>10</sup> 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

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<sup>5</sup> See 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>6</sup> American Oversight currently has approximately 15,700 page likes on Facebook and 118,000 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 16, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Mar. 16, 2022).

<sup>7</sup> See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

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

<sup>9</sup> 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., *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>.

<sup>10</sup> 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>.

waivers;<sup>11</sup> and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.<sup>12</sup>

Accordingly, American Oversight qualifies for a fee waiver.

### **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.
- 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.<sup>13</sup> 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 systems or if officials have, by intent or through negligence, failed to meet their obligations.<sup>14</sup>

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<sup>11</sup> *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>.

<sup>12</sup> 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>.

<sup>13</sup> 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).

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

- 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,<sup>15</sup> 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 to discuss this request. 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.

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

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<sup>15</sup> 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>.

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 Mehreen Rasheed at [foia@americanoversight.org](mailto:foia@americanoversight.org) or 202-848-1320. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

*/s/Mehreen Rasheed*  
Mehreen Rasheed  
on behalf of  
American Oversight