VIA ONLINE PORTAL

Kevin Krebs
Assistant Director, FOIA Unit
Executive Office for United States Attorneys
Department of Justice
175 N Street NE
Suite 5.400
Washington, DC 20530
Via FOIAOnline

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.

Public reports suggest that the United States has engaged in a troubling pattern of conduct surrounding Halkbank, a state-owned Turkish bank. President Erdogan has reportedly exerted intense pressure aimed at sparing the bank from criminal charges for sanction evasion.\(^1\) After being instructed by President Trump to liaise with President Erdogan on the matter last year,\(^2\) Attorney General Barr reportedly attempted to negotiate a settlement that would have allowed the bank to avoid indictment, but he faced opposition from the U.S. Attorney for the Southern District of New York, Geoffrey Berman.\(^3\) Although Halkbank has been charged with criminal activities, it may have been able to circumvent accountability had these interventions succeeded.\(^4\)

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2. See id.
4. Nick Wadhams, Saleha Mohsin, Stephanie Baker, & Jennifer Jacobs, *Mnuchin Asked by Top Senate Democrat to Detail Turkey Dealings*, BLOOMBERG (Oct. 24, 2019, 11:00 AM),
American Oversight seeks documents with the potential to shed light on whether and to what extent the investigation of and law enforcement proceedings against Halkbank were influenced by political interests.

**Requested Records**

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

All records reflecting communications (including emails, email attachments, text messages, messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp), telephone call logs, calendar invitations, calendar entries, meeting notices, meeting agendas, informational material, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) between (i) any of the specified officials listed below, and (ii) any person at the White House, including anyone with an email address ending in eop.gov, regarding Halkbank or the case of *United States v. Halkbank*, Crim. No. 15-867.

1. Geoffrey Berman, United States Attorney for the Southern District of New York
2. Audrey Strauss, Deputy United States Attorney for the Southern District of New York
3. Craig Stewart, Chief Counsel to the United States Attorney for the Southern District of New York
4. Laura Grossfield Birger, Chief of the Criminal Division for the Southern District of New York
5. Anyone with responsibility for the prosecution of Halkbank, which was indicted in the case of *United States v. Halkbank*, Crim. No. 15-867, including but not limited to Michael Lockard, Johnathan Rebold, Sidhardha Kamaraju, David Denton, and Kiersten Fletcher

Please provide all responsive records from April 1, 2019, through the date the search is conducted.

**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.” The public has a significant interest in the enforcement of sanctions against international banks, and in particular, the regulation of Halkbank. The alleged conduct has implications for the politicization of the Department of Justice and the involvement of political interests in driving law enforcement decision-making. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including the extent to which the enforcement of sanctions is influenced by a political agenda. 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 primarily and fundamentally for non-commercial purposes. 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.

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website. Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include 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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6 See Orden & Scannell, supra note 3.
7 See id.
waivers;\(^{11}\) 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;\(^{12}\) posting records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;\(^{13}\) posting records and analysis relating to the federal government’s efforts to sell nuclear technology to Saudi Arabia;\(^{14}\) and posting records and analysis regarding the Department of Justice’s decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President’s political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.\(^{15}\)

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. For instance, if the request seeks “communications,” please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages),

\(^{15}\) Sessions’ Letter Shows DOJ Acted on Trump’s Authoritarian Demand to Investigate Clinton, AMERICAN OVERSIGHT, https://www.americanoversight.org/sessions-letter.
voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.

- 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. 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.

- 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, 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

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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 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 Emma Lewis at foia@americanoversight.org or
202.919.6303. 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,

Austin R. Evers  
Executive Director  
American Oversight