

EXHIBIT 25



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SENT VIA: FOIA STAR PORTAL

September 14, 2023

Bobak Talebian
Director
Office of Information Policy
United States Department of Justice
Sixth Floor
441 G Street NW
Washington, DC 20530

RE: FOIA Request No. 2023-02939

Dear Director Talebian:

I write to appeal the August 25, 2023 determination letter from Kevin Krebs regarding FOIA Request No. 2023-02939 (“Denial Letter”). I requested records relied upon by United States Attorney David Weiss in making certain statements to Congress. In the Denial Letter, Mr. Krebs wrote:

[s]uch a request is not reasonably described in a way that will allow this office and/or the United States Attorney’s Office of the District of Delaware (USAO-DE) to conduct an appropriate records search. EOUSA and USAO-DE personnel would need to conduct research and analysis to determine which records were “relied upon” by U.S. Attorney Weiss.

The determination that the request does not reasonably describe the records sought is incorrect. 5 U.S.C. § 552(a)(3)(A) requires a request “reasonably describe[] such records” sought. This requirement calls for “a reasonable description enabling the Government employee to locate the requested records’ but it is ‘not to be used as a method of withholding records.’ *Bristol-Myers Co. v. FTC*, 424 F.2d 935, 938 (quoting S. Rep. No. 813 at 8). FOIA Request No. 2023-02939 provides more than sufficient detail to permit a search. It provides citations to the precise statements underlying the records sought. EOUSA and USAO-DE each have more than sufficient information to conduct a search for the requested records. Requests of this kind have received the District Court for the District of Columbia’s sanction. *See Pub. Emps. for Env’t Resp. v. U.S. Env’t Prot. Agency*, 314 F. Supp. 3d 68, 78 (D.D.C. 2018) (ordering EPA to search for and disclose records relied upon by EPA Administrator Pruitt in making statements



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on climate science.)

In short, FOIA Request No. 2023-02939 provides more than sufficient information for EOUSA and USAO-DE to conduct a search for records relied upon by U.S. Attorney Weiss in making his statements to Congress. The Request identifies the speaker, the specific statements made, and the dates those statements were made. EOUSA and USAO-DE should conduct a search for the requested records and provide all responsive records as soon as practicable.

Sincerely,

Mike Howell
Director of the Oversight Project and
Author at The Daily Signal
The Heritage Foundation
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