

# **EXHIBIT 13**



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**SENT VIA: FOIA STAR PORTAL**

August 28, 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. 2023-02259

Dear Director Talebian:

I write to appeal the August 25, 2023 determination letter from Douglas R. Hibbard regarding FOIA Request No. 2023-02259 (“Denial Letter”). I requested records relied upon by Attorney General Garland in making certain statements to Congress and the public. In the Denial Letter, Mr. Hibbard wrote:

[s]uch a request is not reasonably described in a way that will allow agency personnel to conduct an appropriate records search in that it would require Department personnel to conduct research, analysis, and formulation of opinions in order to determine which records were “relied upon” by Attorney General Garland. As such, your request is not seeking specific records, but rather records that would only be responsive to your request based on our research into the subjective question of whether and for what purpose they were used by Attorney General Garland.

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. 2023-02259 provides more than sufficient detail to permit a search. It provides citations to the precise statements underlying the records sought. The Office of Information Policy (“OIP”) has more than sufficient information to conduct a search for the requested records. Requests of this kind have



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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 on climate science.)

In short, FOIA Request No. 2023-02259 provides more than sufficient information for OIP to conduct a search for records relied upon by Attorney General Garland in making his statements to Congress and the public. The Request identifies the speaker, the specific statements made, and the dates those statements were made. OIP 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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