DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

February 23, 2021

FOIA Nos.: 2020-05-016
OASIS No.: 1177212

Austin R. Evers
Executive Director
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005

VIA ELECTRONIC MAIL: foia@americanoversight.org

Dear Mr. Evers:

This letter is our final response to your April 29, 2020 Freedom of Information Act (FOIA), 5 U.S.C. § 552, requests to the Department of the Treasury seeking "[a]ny records reflecting the contents of any interagency meetings (including but not limited to Policy Coordination Committees (PCCs), Interagency Policy Committees (IPCs), Deputies Committees (DCs), or Principals Committees (PCs)) including discussions of whether or not to impose new sanctions—or to ease existing restrictions—on Russian oligarch Oleg Deripaska." Treasury referred your request to the Office of Foreign Assets Control (OFAC) for processing on May 13, 2020.

OFAC is experiencing a substantial backlog of FOIA requests that has adversely affected its response time.

Please be advised that OFAC will neither confirm nor deny the existence of records responsive to your request, pursuant to exemptions (b)(1), (b)(6), (b)(7)(A) and (b)(7)(C) of the FOIA, unless there was an actual investigation that was publicized. The mere acknowledgement of an investigation could reveal classified information and thereby cause harm to our national security posture. Until an actual designation, enforcement action or public acknowledgement of an investigation by Treasury has occurred, release of any information confirming or denying the existence of an investigation could conceivably tip off the subjects of pending investigations. The mere acknowledgement of an OFAC investigation would allow the subject of the investigation the opportunity to engage in asset flight and change their habits and routines such that an enforcement action or designation would be impossible to obtain. Conversely, if OFAC were to acknowledge that it was not investigating an individual that was actually involved in criminal activity, that information alone may embolden the individual in their continued criminal activities.

To the extent that records may exist which are subject to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) [21 U.S.C. §§ 1901-08] please be aware that all records or information obtained or created pursuant to the Kingpin Act is exempt from the provisions of the FOIA (5 U.S.C. § 552(a)(3)) pursuant to 21 U.S.C.§ 1904(e)(3). Lastly, the courts have determined that “the [mere] mention of an individual's name in a law enforcement file will engender comment and speculation and carries a stigmatizing connotation.”

FOIA exemption (b)(1) protects from disclosure records and information that has been deemed classified "under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy" and is "in fact properly classified pursuant to such Executive order." The release of this type of information or records will cause damage (ordinary, serious or grave) to the national security posture of the United States or its allies.

FOIA exemption (b)(6) protects from disclosure personal privacy information, the release of which would constitute a clearly unwarranted invasion of personal privacy. OFAC uses a balancing test to determine whether the individuals’ right to personal privacy outweigh the public’s right to release of the information.

FOIA exemption (b)(7) protects from disclosure records and information compiled for a law enforcement purpose, the release of which would violate one of the six subparts of the exemption.

Subpart (b)(7)(A) relates to information, compiled for a law enforcement purpose, the release of which release could reasonably be expected to interfere with pending or perspective enforcement proceeding.

Subpart (b)(7)(C) related to information compiled for a law enforcement purpose, the release of which would constitute a clearly unwarranted invasion of personal privacy. The courts have determined that there are strong privacy interests inherent in law enforcement records.

You may appeal our final determination, in writing, within 90 days after the date of this letter to the FOIA Appeal, FOIA and Transparency; Privacy, Transparency, and Records; Department of the Treasury, 1500 Pennsylvania Ave., NW, Washington, DC 20220. The deciding official for OFAC appeals is the Director, Office of Foreign Assets Control. Please include a copy of this letter with your letter of appeal and reference FOIA number 2020-05-016 in future correspondence.

You may seek dispute resolution services from Treasury’s FOIA Public Liaison by contacting Mark Bittner, Director, FOIA & Transparency, Office of Privacy, Transparency and Records at 202-622-8098 or FOIAPL@treasury.gov.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

If you need to contact our office about this matter, you may send an email to our FOIA Requester Service Center at OFACFOIAOffice@treasury.gov or call us at (202) 622-2500, option 3 and leave a detailed message. Please reference FOIA number 2020-05-016 in your correspondence.

Sincerely,

Marshall H. Fields Jr.

Digitally signed by Marshall H. Fields Jr.
Date: 2021.02.23 13:12:15 -05'00'

Marshall H. Fields, Jr.
Assistant Director
Information Disclosure and Records Management
Office of Sanctions Support and Operations
Office of Foreign Assets Contro1

Enclosure: Administrative Appeal and Dispute Resolution Sheet

ADMINISTRATIVE APPEAL AND DISPUTE RESOLUTION SHEET

ADMINISTRATIVE APPEAL RIGHTS

You may file an appeal with the Department of the Treasury when an adverse determination related to your request has been made, under the below circumstances, see 31 C.F.R. § 1.4(h):

- The requested records have been denied in part or in whole;
- The request does not reasonably describe the records sought;
- The information requested is not a record subject to the FOIA;
- The requested record does not exist, cannot be located, has been destroyed;
- The requested record is not readily reproducible in the form or format sought by the requester;
- You have been denied a fee waiver or issue; and
- Your request for expedited processing has been denied.

Your appeal, other than an appeal of a denial for expedited processing, must be submitted in writing and to be considered timely. It must be postmarked, or in the case of electronic submissions, transmitted, within 90 calendar days after the date of the component's final response. An appeal of a denial for expedited processing must be submitted in writing within 90 days of the date of the initial determination to deny expedited processing. The appeal must be signed by you or your representative, and contain the following information:

- Your name and address;
- Date of your initial request;
- Date of the letter denying your request;
- Description of why you believe the initial determination was in error; and
- The FOIA/PA number assigned to your request.

Please mail your appeal to: FOIA Appeal
FOIA and Transparency
Privacy, Transparency, and Records
Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

The deciding official for OFAC appeals is the Director, Office of Foreign Assets Control.

DISPUTE RESOLUTION SERVICES

Available through:

1. The Treasury FOIA Public Liaison by contacting Mark Bittner, Director, FOIA & Transparency, Office of Privacy, Transparency and Records at 202-622-8098 or FOIAPL@treasury.gov.

2. The Office of Government Information Services (OGIS) by emailing them at ogis@nara.gov or calling them at 1-877-684-6448.