



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

August 31, 2020

FOIA Nos.: 2018-06-192, 2018-08-115, 2018-08-116  
OASIS No.: 1139588

Tim Mak  
National Public Radio, Inc.  
1111 North Capitol St., N.E.  
Washington, DC 20002

Dear Mr. Mak:

Re: *National Public Radio, Inc. et al v. United States Department of the Treasury*, Civil  
Action No. 1:19-CV-0017 (JDB)

This letter is the Office of Foreign Assets Control's (OFAC) seventeenth interim response to your three Freedom of Information Act (FOIA), 5 U.S.C. § 552, requests to the Department of the Treasury as outlined below.

FOIA No.	Date of Request	Subject of Request
2018-06-192	May 14, 2018	Alexander Torshin, Oleg Deripaska
2018-08-115	August 14, 2018	Maria Butina
2018-08-116	August 14, 2018	Kalashnikov Concern, Mark Barnes, National Rifle Association

On August 22, 2019, the Court ordered Treasury to review documents at a rate of 3,000 pages per month, regardless of how many documents are identified as being responsive.

In accordance with this court order, for this seventeenth interim release OFAC has reviewed at least 3,000 pages of records. Of the pages reviewed for this release, OFAC determined that 284 pages were responsive to your FOIA requests. The remaining pages were duplicates, non-responsive, or fall within the categories of records that we have agreed not to process at this time. Of the 284 responsive pages, two pages are pending processing through the submitter notice process (see 31 C.F.R. §1.5); 39 pages are pending processing as consultations to other governmental agencies and/or within Treasury as specified in the filler pages (*see* 31 C.F.R. §1.3(d)(1)); 233 pages are being released in full; one page is being withheld in full pursuant to FOIA exemption (b)(3), with portions of that page withheld under exemptions (b)(5), (b)(6), and (b)(7)(C); and nine pages are being released in part with redactions made pursuant to FOIA exemptions (b)(4), (b)(5) and (b)(6).<sup>1</sup>

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<sup>1</sup> OFAC has determined that the spreadsheet (19\_011-E3-00022604) referred to in the filler page at Bates 2018-08-116: 009335 is responsive because it mentions Kalashnikov and was attached to an email sent between OFAC employees (Bates No. 2018-08-116: 009333-009334). We note that the redactions in the spreadsheet are pre-existing, since the spreadsheet was previously released in response to another FOIA request from another requester in 2017.

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We are supplementing our fifteenth interim release with 41 pages (Bates Nos. 2018-08-116: 8850-8890) for which we have completed the submitter notice process. These 41 pages are being released to you in full.

Additionally, we have received consultation responses from another component of Treasury and the Department of Commerce's Bureau of Industry and Security (BIS). As a result, we are supplementing our twelfth interim release with seven pages (Bates Nos. 2018-08-116: 8037-8043) and our sixteenth interim release with 19 pages (Bates Nos. 2018-08-116: 9121-9125; 9128-9132; 9134-9142). Of these 26 supplemental pages, 11 pages contain entirely duplicative content, six pages are being released in full, and nine pages are being released in part with redactions made pursuant to FOIA exemptions (b)(3), (b)(5), (b)(6), (b)(7)(C), and (b)(7)(E).

FOIA exemption (b)(3) allows for the withholding of records or information that is prohibited from disclosure by another federal statute. OFAC is withholding a record created or obtained in the implementation of the Foreign Narcotics Kingpin Designation Act (Kingpin Act) [21 U.S.C. §§ 1901-08] pursuant to 21 U.S.C. § 1904(e)(3). BIS applied exemption (b)(3) to information pursuant to the Export Control Reform Act of 2018 (ECRA). Section 1761(h)(1)(A)–(B) of ECRA states, in pertinent part, that “information submitted or obtained in connection with an application for a license or other authorization to export, reexport, or in-country transfer items or engage in other activities, a recordkeeping or reporting requirement, an enforcement activity, or other operations” further described in the statute “shall be withheld from public disclosure and shall not be subject to disclosure under section 552(b)(3) of title 5, United States Code, unless the release of such information is determined by the Secretary to be in the national interest.” 50 U.S.C. § 4820(h)(1)(A)–(B). This Section does not merely authorize maintaining the confidentiality of information obtained under ECRA, but requires such information not be disclosed unless its release is determined to be in the national interest. In the absence of a national interest determination authorizing release of information responsive to your request and consistent with the criteria of Section 1761(h), any such information cannot be released.

FOIA exemption (b)(4) protects from disclosure “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” OFAC used this exemption to withhold transaction amounts associated with individual license requests.

FOIA exemption (b)(5) protects from disclosure “inter-agency” or “intra-agency” records and information which would not be available by law to a party other than an agency in litigation with that agency. OFAC and BIS used exemption (b)(5) to withhold information under the deliberative process privilege. OFAC determined that some records or information, if released, would: 1) hinder open and frank discussions on matters of policy between subordinates and superiors; and/or 2) prematurely disclose proposed policies before they are actually adopted; and/or 3) engender public confusion from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action.

OFAC also used exemption (b)(5) to withhold information under the attorney-client privilege which protects confidential communications between government attorneys and their clients relating to legal matters for which Treasury has sought professional advice.

FOIA exemption (b)(6) protects from disclosure personal privacy information, the release of which would constitute a clearly unwarranted invasion of personal privacy. OFAC used a balancing test to determine that the individuals' right to personal privacy outweighs the public's right to release of the information. Treasury used exemption (b)(6) to withhold information such as names of individuals, telephone numbers, email addresses, and addresses.

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.

OFAC withheld information, compiled for a law enforcement purpose, under FOIA exemption (b)(7)(C) to protect personal privacy information in law enforcement records, the release of which would constitute an unwarranted invasion of personal privacy. The courts have determined that there are strong privacy interests inherent in law enforcement records. OFAC withheld such information as the names of individuals. BIS used (b)(7)(C) to protect such information as names of individuals, telephone numbers, and email addresses.

OFAC withheld information, compiled for a law enforcement purpose, under FOIA exemption (b)(7)(E) to protect information that if released would disclose techniques and procedures that could reasonably be expected to risk circumvention of the law.

OFAC will continue to process its records until all responsive records have been processed.

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If you have any questions or would like to discuss this matter, please feel free to contact Trial Attorney Joshua Kolsky at (202) 305-7664.

Sincerely,

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

Enclosures:

1. Seventeenth Interim Release (250 pages, including eight filler pages and one spreadsheet)
2. First Supplement to Twelfth Interim Release (seven pages)
3. First Supplement to Fifteenth Interim Release (41 pages)
4. First Supplement to Sixteenth Interim Release (11 pages, including three filler pages)

CC: [joshua.kolsky@usdoj.gov](mailto:joshua.kolsky@usdoj.gov)