



March 11, 2021

Submitted via FOIAonline

FOIA Officer
U.S. Department of State
Office of Information Programs and Services
A/GIS/IPS/RL
2201 C Street N.W., Suite 12A40A
Washington, D.C.
20522-8100

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of the State (“State”) regulations.

CREW requests any and all records or communications from December 20, 2017 to the present referring or relating to Office of Foreign Assets Control (“OFAC”) License No. GLOMAG-2021-371648, which was issued to Arnold & Porter Kaye Scholer LLP, on January 15, 2021, including information submitted to the State Department on behalf of Mr. Dan Gertler or the designated persons or entities listed in Appendix A, and any other records or communications relating to lifting U.S. sanctions against Mr. Gertler or the designated persons and entities listed in Appendix A.

This request covers any and all records or internal and external communications, including interagency communications and with the White House, including any individual with an *.eop.gov email address, and other government agencies, from December 20, 2017 sent or received by or copying, Secretary of State Mike Pompeo, U.S. Ambassador to Israel David Friedman, U.S. Special Representative Elliott Abrams the State Department’s Office of Economic Sanctions Policy and Implementation, the State Department’s Bureau of Economic and Business Affairs, or the State Department’s Office of Sanctions Coordination

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages,

voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and agency regulations, CREW 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 likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

In February, the New York Times reported that with days left in the Trump administration, Treasury Secretary Steven Mnuchin, in consultation with Secretary of State Mike Pompeo, lifted several of the economic and financial sanctions imposed on Israeli billionaire Dan Gertler.¹ The United States had placed stiff sanctions on Gertler in 2017 in response to his corrupt dealings in the Democratic Republic of Congo. The sanctions were devastating, effectively cutting off Gertler's access to the international banking system and freezing money he held in U.S. banks.

Gertler spent the next four years repeatedly lobbying the Trump administration to lift the sanctions. By hiring lobbyists and lawyers like Alan Dershowitz who were closely associated with President Trump and using his high-powered connections, Gertler attempted to use their influence to get his sanctions lifted. Finally, in January 2021, he proposed that in exchange for having the sanctions lifted, "he would agree to have outside monitors track his business and submit regular reports on his financial transactions."² Secretary Mnuchin agreed to these terms. In the one year arrangement, Gertler was granted access to money frozen in U.S. banks, allowing him once again to do business with financial institutions worldwide.

¹ Eric Lipton, *Tough Sanctions, Then a Mysterious Last-Minute Turnabout*, *New York Times*, Feb. 21, 2021, <https://www.nytimes.com/2021/02/21/us/politics/dan-gertler-sanctions.html?searchResultPosition=3>

² *Id.*

The decision to grant Gertler much of what he wanted came without warning, any sort of public announcement, and according to the New York Times, “stunned and angered American diplomats in Washington and Africa and government officials and human rights activists in the Democratic Republic of Congo.”³ According to reports, the U.S. ambassador to Congo was, “at first so confused at the news...that he called officials in Washington to figure out if a mistake had been made,” and reportedly told his colleagues that this decision “made [his] job much tougher.”⁴

The article further disclosed that the “outcome was also distinguished by the secrecy of the process, which cut out the American diplomats most directly responsible for dealing with Congo and fighting corruption in Africa and appeared to have been handled largely at the level of Mr. Mnuchin and Secretary of State Mike Pompeo. The decision became public only after Mr. Trump had left office.”⁵ The Trump administration justified the decision to grant Gertler the special license in part because there was a “national security interest” for the United States due to his business dealings in Africa.⁶ According to Israeli officials who spoke with knowledge of the situation acknowledged that “the United States had informed Israel that in line with a decision by Mr. Mnuchin and Mr. Pompeo, the terms of the sanctions imposed on Mr. Gertler would be eased ‘out of reasons of American national security.’”⁷

The decision to lift the sanctions on Gertler were reportedly met with skepticism as to whether Gertler provided enough security value to outweigh the “human, economic and moral damage contained in the allegations against him” and remained uncertain as to “how the balance could have shifted since sanctions were imposed in 2017.”⁸

Since joining the Trump administration, Secretary Pompeo defined himself as a strong advocate for Israeli issues and advancement. Under his leadership, the State Department took hardline stances supporting Israel that oftentimes countered previous U.S. policy stances and most of the international community. In November, he was the first top American diplomat to visit an Israeli settlement in the occupied West Bank. Following his visit, the Associated Press reported that the shift in U.S. policy “illustrated the deep ties between the outgoing Trump administration and the hard-line government of Israeli Prime Minister Benjamin Netanyahu,” with the Israel-U.S. alliance reaching “unprecedented heights under the Trump administration.”⁹

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Joseph Krauss, [Pompeo is 1st top US diplomat to visit an Israeli settlement](https://apnews.com/article/race-and-ethnicity-israel-boycotts-west-bank-jerusalem-38f09415fb4990ebdcbfea15dcccff514), *Associated Press*, Nov. 19, 2020, <https://apnews.com/article/race-and-ethnicity-israel-boycotts-west-bank-jerusalem-38f09415fb4990ebdcbfea15dcccff514>

In light of this closeness, Secretary Pompeo’s reported involvement in lifting the sanctions against Gertler raises serious questions about whether it was motivated by other concerns, including his personal political interests, rather than intended to serve legitimate U.S. national security interests.¹⁰ Pressure to lift the restrictions came from Israel, “where Mr. Gertler is represented by prominent lawyers including Boaz Ben Zur, whose client list also includes Mr. Netanyahu.”¹¹ According to reports, former U.S. ambassador to Israel David Friedman, was targeted in the push to lift Gertler’s sanctions, who then went on to notify Mnuchin and Pompeo that he “supported the sanctions relief Mr. Gertler wanted, assuming the Treasury Department could work it out.”¹²

On March 8, 2021, under the Biden administration, the Treasury Department and State Department publicly announced that they revoked the license originally issued to Gertler on January 15, 2021. In a joint statement, the agencies rebuked the previous administration’s decision to grant Gertler this license, citing it was “inconsistent with America’s strong foreign policy interests in combating corruption around the world, specifically including U.S. efforts to counter corruption and promote stability in the Democratic Republic of the Congo (“DRC”).”¹³ The departments cited Gertler’s history in engaging in “extensive public corruption” and reaffirmed the United States commitment to standing with the DRC to counter “malign behavior that undermines the country’s institutions and economic opportunities.”¹⁴ The Biden administration’s decision to revoke the license issued to Gertler only adds to our concern that Gertler’s original license was improper and issued with questionable motives.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW’s financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989)

¹⁰ See Lara Jakes, *Pompeo Delivers R.N.C. Speech From Israel, With Eye Toward 2024*, *New York Times*, Aug. 25, 2020, <https://www.nytimes.com/2020/08/25/us/politics/pompeo-trump-jerusalem-republican-convention.html>

¹¹ Eric Lipton, *Tough Sanctions, Then a Mysterious Last-Minute Turnabout*, *New York Times*, Feb. 21, 2021, <https://www.nytimes.com/2021/02/21/us/politics/dan-gertler-sanctions.html?searchResultPosition=3>

¹² *Id.*

¹³ Ned Price, *Revocation of License Granted for Dan Gertler*, *Department of State*, Mar. 8, 2021, <https://www.state.gov/revocation-of-license-granted-for-dan-gertler/>

¹⁴ *Id.*



(holding non-profit a “representative of the news media” and broadly interpreting the term to include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW’s website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website, and that site has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact Jenna Grande at foia@citizensforethics.org or 202-408-5565. Also, if CREW’s request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to foia@citizensforethics.org. Thank you for your assistance.

Sincerely,

Jenna Grande
Press Secretary