



Committee on Transportation and Infrastructure
U.S. House of Representatives

Peter A. DeFazio
Chairman

Washington, DC 20515

Sam Graves, MO
Ranking Member

Katherine W. Dedrick, Staff Director

October 1, 2019

Paul J. Sass, Republican Staff Director

Emily Murphy
Administrator
General Services Administration (GSA)
1800 F Street, NW
Washington, DC 20405

Dear Administrator Murphy:

As documented in the General Services Administration Inspector General's (GSA IG) January 16, 2019, report on the Old Post Office Building, President Trump's ownership interest in the Trump International Hotel, which leases the GSA-managed Old Post Office Building in Washington, D.C., raises questions of compliance with the U.S. Constitution and the terms of the lease.¹ Specifically, it raises questions about (i) the U.S. Constitution's Foreign Emoluments Clause², which prohibits U.S. presidents from receiving payments from foreign states without Congressional consent, (ii) the U.S. Constitution's Presidential Emoluments Clause³ (also known as the Domestic Emoluments Clause), which prohibits U.S. presidents from receiving payments from U.S. state governments and the U.S. Federal Government, other than salary, (iii) section 37.19 of the lease, which prohibits any elected Federal official in the United States from being admitted to any share or part of the lease,⁴ and (iv) section 37.2 of the lease, which requires compliance with all laws of the United States including the U.S. Constitution⁵.

In the January 2019 report, GSA IG concluded that GSA recognized the possibility that constitutional issues may breach the lease, but GSA decided not to address these issues in connection with its management of the lease. It also found GSA improperly ignored the

¹ "Evaluation of GSA's Management and Administration of the Old Post Office Building Lease," Office of Inspector General (OIG), General Services Administration (GSA), (JE19-002), January 16, 2019, accessed here: <https://www.gsaig.gov/content/evaluation-gsas-management-and-administration-old-post-office-building-lease>.

² U.S. Constitution, Article I, Section 9, Clause 8

³ U.S. Constitution, Article II, Section 1, Clause 7

⁴ General Services Administration, *Ground Lease, By and Between The United States of America (as "Landlord") and Trump Old Post Office LLC (as "Tenant")* (GS-LS-11-1307) (Aug. 5, 2013), accessed here: <https://www.gsa.gov/reference/freedom-of-information-act-foia/electronic-reading-room>.

⁵ General Services Administration, *Ground Lease, By and Between The United States of America (as "Landlord") and Trump Old Post Office LLC (as "Tenant")* (GS-LS-11-1307) (Aug. 5, 2013), accessed here: <https://www.gsa.gov/reference/freedom-of-information-act-foia/electronic-reading-room>.

and it found that GSA's unwillingness to address the constitutional issues affected its analysis of Section 37.19 of the lease and the agency's decision to grant the tenant, the Trump Old Post Office LLC, an Estoppel Certificate, which certified the lease as valid.⁶

GSA's failure to appropriately address these issues is even more problematic in light of the manner in which its rental payments are calculated under the lease. Under Article V of the lease, GSA can receive, as a part of its monthly rental payments, a portion of Trump International Hotel's gross revenue.⁷ This creates an inherent conflict for GSA, which is benefitting from a lease that may not be valid and could be violating the U.S. Constitution's Emoluments Clauses.

Worse still, GSA isn't even attempting to gather the relevant financial data it needs to ensure compliance with the terms of lease or the U.S. Constitution. As GSA's Public Buildings Commissioner Dan Matthews acknowledged at our September 25, 2019, Subcommittee on Economic Development, Public Buildings, and Emergency Management hearing, GSA has not yet conducted an audit of the Trump International Hotel. Based on his testimony, it appears the only audited information that GSA has about the hotel, are annual audits conducted by a third-party company chosen by the Trump International Hotel.

Given GSA's past failures to address constitutional and contractual issues raised by President Trump's ownership interest in the Trump International Hotel, and the possibility that GSA may now be receiving rents earned from constitutional violations and/or a breached lease, we respectfully request that GSA do the following:

- 1) Produce the financial records and legal analysis to our committee as requested in our January 22, 2019 letter, which includes, but is not limited to full and complete copies of the Trump Old Post Office LLC's annual and monthly statements.
- 2) Conduct an audit to determine:
 - a. The amount of rent GSA is receiving pursuant to its lease of the Old Post Office Building, including what portion of that rent consists of GSA's share of the hotel's gross revenue, and identify what steps GSA is taking to ensure that it is receiving all gross revenue-related rent it is owed.
 - b. The amount of rent GSA is receiving that derives, in any part, from payments received by the Trump International Hotel from foreign governments or their entities, U.S. state governments, and/or the Federal Government of the United States, and what steps GSA is taking to ensure that:
 - i. The Trump Old Post Office LLC is not receiving revenue in violation of the U.S. Constitution or the terms of its lease with GSA; and

⁶ Office of the Inspector General, General Services Administration, *Evaluation of GSA's Management and Administration of the Old Post Office Building Lease*, p. 23 (JE19-002) (Jan. 16, 2019) accessed here: <https://www.gsaig.gov/content/evaluation-gsas-management-and-administration-old-post-office-building-lease>.

⁷ General Services Administration, *Ground Lease, By and Between The United States of America (as "Landlord") and Trump Old Post Office LLC (as "Tenant")* (GS-LS-11-1307) (Aug. 5, 2013), accessed here: <https://www.gsa.gov/reference/freedom-of-information-act-foia/electronic-reading-room>.

- ii. GSA is not receiving any Trump Old Post Office LLC revenue that may be in violation of the U.S. Constitution or the terms of its lease with GSA.
- 3) Use GSA's authority under Section 5.5 of its lease to Trump Old Post Office LLC to inspect the hotel's records and to identify and report to this committee all of the hotel's transactions with foreign governments or their entities, U.S. state governments, and the Federal Government of the United States, including but not limited to the following:
 - i. The Embassy of Kuwait's 2017 and 2018 National Day celebrations at the Trump International Hotel in Washington, D.C.⁸
 - ii. A 2018 Philippine Independence Day celebration at the Trump International Hotel in Washington, D.C.⁹
 - iii. Rooms and meals purchased by then-Maine Governor Paul LePage and his staff at the Trump International hotel in Washington, D.C.¹⁰

In attempting to identify transactions that may be responsive to this request, we expect GSA to, at a minimum, search for records involving email addresses ending in ".gov" or any U.S. state .gov such as "Maine.gov"; transactions paid for with a U.S. government or state government credit card; transactions paid for by credit card from any foreign government; as well as all records relating to the Trump Organization's annual donations to the U.S. Treasury of profits from foreign governments.¹¹

Section 5.4 of the lease between GSA and Trump Old Post Office LLC expressly entitles GSA to cause audits of the books and records of Trump International Hotel LLC on the hotel's premises to be performed by an auditor of GSA's choosing within four years after the end of each lease year.¹² Section 5.5 of the lease gives GSA the power to inspect, examine, and audit hotel records.¹³ Given that the hotel opened nearly three years ago, on October 26, 2016, time is of the essence.

⁸ David A. Fahrenthold and Jonathan O'Connell, *Kuwaiti embassy returns to Trump hotel in D.C. for its national day celebration*, Washington Post, Jan. 26, 2018, accessed here: https://beta.washingtonpost.com/politics/kuwaiti-embassy-returns-to-trump-hotel-in-dc-for-its-national-celebration/2018/01/26/1355f9c0-02cd-11e8-8acf-ad2991367d9d_story.html.

⁹ Bernard Condon and Stephen Braun, *Philippines Latest Foreign Country to Book the Trump International Hotel*, NBC Washington, Apr. 28, 2018 accessed here: <https://www.nbcwashington.com/news/local/Philippines-Latest-Foreign-Country-to-Book-Rooms-at-the-Trump-International-Hotel-481144831.html>.

¹⁰ Ellen Cranley, *The former governor of Maine reportedly spent at least \$22,000 in taxpayer money at Trump's DC hotel*, Business Insider, Feb. 17, 2019 accessed here: <https://www.businessinsider.com/maine-gov-lepage-spent-22000-of-taxpayer-money-at-trumps-dc-hotel-2019-2>.

¹¹ Lucien Bruggeman, *Trump Org reports \$191,000 profit from foreign governments, cuts check to Treasury*, ABC News, Feb. 25, 2019, accessed here: <https://abcnews.go.com/Politics/trump-org-reports-191000-profit-foreign-governments-cuts/story?id=61303571>.

¹² General Services Administration, *Ground Lease, By and Between The United States of America (as "Landlord") and Trump Old Post Office LLC (as "Tenant")* (GS-LS-11-1307) (Aug. 5, 2013), accessed here: <https://www.gsa.gov/reference/freedom-of-information-act-foia/electronic-reading-room>.

¹³ *Id.*

The issues outlined above combined with the specific emoluments concerns regarding the Trump International Hotel make an audit of the GSA Old Post Office Building lease, along with the document production to the committee and record inspection described above of the utmost importance and we hope you will begin this work as soon as possible. If you are unable or unwilling to conduct any part of the actions indicated above, please provide us with a written explanation detailing the obstacles or reasons for not fulfilling this request. Please respond to the committee in writing by October 16, 2019, regarding your intended plan regarding the requests we have outlined in this letter.

We appreciate your attention to this matter. If you have any questions about this request, please contact _____.

Sincerely,



PETER A. DeFAZIO
Chair



DINA TITUS
Chair
Subcommittee on Economic
Development, Public Buildings, and
Emergency Management

cc: The Honorable Sam Graves, Ranking Member
Committee on Transportation & Infrastructure

The Honorable Mark Meadows, Ranking Member
Subcommittee on Economic Development,
Public Buildings, and Emergency Management