



The House Committee on
Transportation & Infrastructure

PROBLEMS ON PENNSYLVANIA AVENUE:

GSA's Mishandling of the Old Post Office
Lease to the Trump Organization

December 2021

PREPARED FOR:

CHAIR OF THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

PETER A. DEFAZIO

AND

CHAIR OF THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC
BUILDINGS, AND EMERGENCY MANAGEMENT

DINA TITUS

BY MAJORITY STAFF OF
THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

TRUMP
INTERNATIONAL HOTEL

Contents

1. Executive Summary	1
Background	
Oversight of the OPO Building Lease	
Key Findings	
- Stonewalling Congress	
- Lack of Foreign and Domestic Government Patronage Review	
- GSA Has Removed Its Ethical Guardrails	
- The Trump International Hotel Losses, Loans, and Forgiveness	
- Loans from Family Businesses	
- Net Losses	
- Loan Forgiveness	
- Foreign Profits	
- Faulty Projections	
- Poor Occupancy Rates	
2. GSA’s Management of the OPO Building Lease	10
Complex Ownership Structure and Conflicts of Interest	
- President Trump’s Refusal to Divest	
- Trump Old Post Office LLC Business Structure Changes	
- Ownership Structure of Trump Old Post Office LLC Following Trump’s Election as President	
- Trump Companies with a Financial Interest in the Trump International Hotel	
Constitutional (Emoluments) Issues	
- Foreign Emoluments	
- Presidential Profits from the Trump International Hotel Lease	
- Definition of Foreign Government Entity	
- Trump Organization Pamphlet on Donation of Profits from Foreign Government Patronage	
- Identification of Revenue from Foreign Government Entities	
- Domestic Emoluments	
- Interested Parties Provision in OPO Building Lease	
3. Congressional Oversight	25
Teapot Dome Scandal and Lessons from History	
Congress’s Oversight Authority	
Efforts to Hinder the Committee’s Investigation	

-PROBLEMS ON PENNSYLVANIA AVENUE-
Contents

4.	Investigating GSA’s Oversight of the OPO Building Lease Estoppel Certificate GSA OIG’s Investigation of the OPO Building Lease GSA OIG Findings and Recommendation Failure of GSA to Implement OIG Recommendation	29
5.	GSA’s Failure to Act and Need for Legislative Action Removing Ethical Guardrails Mistakes & Missteps Potential Legislative Remedies	33
6.	By The Numbers – The Finances of the Trump International Hotel - Graphic #1: Net Losses - Graphic #2: Monthly Profits and Losses - Graphic #3: Revenue by Category - Graphic #4: Profits from Foreign Government Patronage - Graphic #5: Foreign Government Profits vs. Total Net Losses - Graphic #6: Loans From Family Businesses - Graphic #7: Loan Forgiveness - Graphic #8: Faulty Projections - Graphic #9: Poor Occupancy Rates	40

1. Executive Summary

-PROBLEMS ON PENNSYLVANIA AVENUE-

1. Executive Summary

Background

The Committee on Transportation and Infrastructure (committee) has oversight authority over “public buildings” and the Public Buildings Service of the General Services Administration (GSA)—the civilian landlord of the federal government.¹ This oversight authority includes matters related to the planning, site and design, construction, acquisition, and renovation of public buildings, courthouses, and border facilities, and the leasing of space for federal employees. The committee’s authorization and oversight authority include the physical plant and infrastructure of the Capitol complex and use of the Capitol Grounds, the facilities of the White House complex, the facilities of the Smithsonian Institution, the John F. Kennedy Center for the Performing Arts, and other federal facilities.² Importantly, the committee has jurisdiction over measures related to the use and transfer or exchange of federal buildings.³

GSA owns or leases over 376.9 million square feet of space across 9,600 buildings.⁴ These holdings include the Old Post Office (OPO) Building, a unique, historic property located at 1100 Pennsylvania Avenue NW.⁵ Constructed in the 1890s, the building served as the U.S. Post Office Department Headquarters and the main post office for the nation’s capital.⁶ It was placed on the National Register of Historic Places in 1973.⁷ Beginning in 1983, the OPO Building was used to house federal agency offices and limited retail space.⁸ Attempts by GSA to introduce amenities, such as new retail shops and a food court, failed to generate profits and the federal government lost money year after year.⁹ For example, in 2007, the building had rental receipts of \$5.4 million and total expenses of \$11.9 million, resulting in a loss of \$6.1 million to the federal government.¹⁰

In 2008, Congress enacted the Old Post Office Building Redevelopment Act of 2008 (P.L. 110-359), which directed GSA to redevelop the Old Post Office Building.¹¹ On March 24, 2011, GSA issued a request for proposals for the redevelopment of the Old Post Office Building, paving the way for the selection of a private developer to transform the underperforming and underutilized

¹ Rules of the House of Representatives, 117th Congress, Rule X, clause 1(r), accessed here: <https://rules.house.gov/sites/democrats.rules.house.gov/files/117-House-Rules-Clerk.pdf>; Committee Rules 2021-2022, Committee on Transportation and Infrastructure, U.S. House of Representatives, February 2021, p. iv, accessed here: <https://www.govinfo.gov/content/pkg/CPRT-117HPRT43188/pdf/CPRT-117HPRT43188.pdf>

² Committee Rules 2021-2022, Committee on Transportation and Infrastructure, U.S. House of Representatives, February 2021, p. iv, accessed here: <https://www.govinfo.gov/content/pkg/CPRT-117HPRT43188/pdf/CPRT-117HPRT43188.pdf>; and Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, accessed here: <https://transportation.house.gov/subcommittees/economic-development-public-buildings-and-emergency-management-116th-congress>

³ Ibid.

⁴ “GSA Properties,” General Services Administration, October 11, 2017, accessed here: <https://www.gsa.gov/real-estate/gsa-properties>

⁵ “Old Post Office, Washington, DC,” General Services Administration, accessed here: <https://www.gsa.gov/historic-buildings/old-post-office-washington-dc>

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ H. Rept. 110-724, Old Post Office Redevelopment Act of 2008 (2008), pp. 3 - 4, accessed here: <https://www.congress.gov/110/crpt/hrpt724/CRPT-110hrpt724.pdf>

¹⁰ Ibid, p. 3.

¹¹ Old Post Office Redevelopment Act of 2008, P.L. 110-359, accessed here: <https://www.congress.gov/110/plaws/publ359/PLAW-110publ359.pdf>

-PROBLEMS ON PENNSYLVANIA AVENUE-

1. Executive Summary

historic building.¹² On February 7, 2012, after reviewing the proposals, GSA announced the selection of the Trump Organization as the developer.¹³ However, the Trump Old Post Office LLC is the party to the lease and was created after the Trump Organization won the competition.

On August 5, 2013, GSA (as landlord) and Donald J. Trump, an owner of the Trump Old Post Office LLC (as tenant) signed a 60-year lease agreement that called for redeveloping the OPO Building into a luxury 263 guest room hotel.¹⁴ The lease is also referred to as a “ground lease,” which is defined as “an agreement in which a tenant is permitted to develop a piece of property during the lease period, after which the land and all improvements are turned over to the property owner.”¹⁵ The Trump Organization’s proposal called for a grand ballroom, restaurants, meeting facilities, and a spa.¹⁶ The hotel had a “soft” opening on Monday, September 12, 2016, and a grand opening on Wednesday, October 26, 2016.¹⁷

GSA is authorized to lease vacant or underutilized federally owned property to private and non-federal entities.¹⁸ GSA can also use its leasing authority to allow for retail or limited-scope use.¹⁹ These sorts of leases are known as “outleases” and GSA has engaged in several hundred outleases, the most notable and controversial of which has been the leasing of the Old Post Office Building to house the Trump International Hotel. There is nothing untoward or inappropriate per se about outleasing, but the election of Donald J. Trump as president in 2016 created significant conflicts of interest and potential violations of the U.S. Constitution. President Trump became both the ultimate landlord of the Old Post Office building as the nation’s chief executive and the tenant of the building due to his financial stake in the company that operates the Trump International Hotel. President Trump refused to divest from the hotel, although he transferred his ownership to a revocable trust controlled by his son, Donald J. Trump, Jr., and the long-time Chief Financial

¹² “GSA Seeks to Redevelop D.C.’s Old Post Office,” press release, General Services Administration, March 24, 2011, accessed here: <https://web.archive.org/web/20180106030700/https://www.gsa.gov/node/78229>

¹³ “GSA Selects the Trump Organization as Preferred Developer for DC’s Old Post Office,” press release, General Services Administration, February 7, 2012, accessed here: <https://web.archive.org/web/20191225191137/https://www.gsa.gov/about-us/newsroom/news-releases/gsa-selects-the-trump-organization-as-preferred-developer-for-dcs-old-post-office>.

¹⁴ Ground Lease by & between the U.S. (as “Landlord”) & Trump Old Post Office LLC (as “Tenant”), Lease No.: GS-LS-11-1307, Recitals and Article IV, August 5, 2013, accessed here: https://www.gsa.gov/cdnstatic/Part_One_of_Segment_001_of_OPO_Ground_Lease_%282013%29_RA.pdf; Daniel J. Sernovitz, “How the government could profit from Donald Trump,” *Washington Business Journal*, June 6, 2013, accessed here: https://www.bizjournals.com/washington/breaking_ground/2013/06/how-the-government-could-profit-from.html

¹⁵ James Chen, “Ground Lease,” *Investopedia*, July 28, 2020, accessed here: <https://www.investopedia.com/terms/g/ground-lease.asp>

¹⁶ “GSA and Trump Organization Reach Deal on Old Post Office Lease,” press release, General Services Administration, June 5, 2013, accessed here: <https://www.gsa.gov/about-us/newsroom/news-releases/gsa-and-trump-organization-reach-deal-on-old-post-office-lease>; Daniel J. Sernovitz, “2013: Donald Trump buys the Old Post Office,” *Washington Business Journal*, December 20, 2013, accessed here: <https://www.bizjournals.com/washington/news/2013/12/20/year-in-review-trump-old-post-office.html>

¹⁷ Rick Massimo, “Trump attends grand opening of his DC hotel,” *WTOP*, October 26, 2016, accessed here: <https://wtop.com/dc/2016/10/trump-speak-grand-opening-dc-hotel/>; Ian Simpson, “Trump luxury hotel opens just blocks from the White House,” *Reuters*, September 12, 2016, accessed here: <https://www.reuters.com/article/us-usa-trump-hotel/trump-luxury-hotel-opens-just-blocks-from-the-white-house-idUSKCN1125L>

¹⁸ 40 U.S.C. § 581(d) - Outleasing, General Services Administration, accessed here: <https://www.gsa.gov/real-estate/gsa-properties/outleasing>

¹⁹ *Ibid.*

-PROBLEMS ON PENNSYLVANIA AVENUE-

1. Executive Summary

Officer of the Trump Organization, Allen Weisselberg.²⁰ According to the U.S. Office of Government Ethics (OGE), “[T]he grantor of a revocable living trust retains such rights of control and enjoyment with respect to the trust property that OGE must view the grantor as the true owner of the property.”²¹ In essence, the establishment of the revocable trust did nothing to remove the financial and constitutional conflicts regarding the OPO lease to Donald J. Trump’s company, in which President Trump continued to maintain a financial interest.²²

Oversight of the OPO Building Lease

The Committee on Transportation and Infrastructure has been investigating the lease of the Old Post Office Building to the Trump International Hotel, which is owned and operated by the Trump OPO LLC, since the 115th Congress. During the 115th Congress, then-Ranking Member Peter A. DeFazio sent GSA several requests for records and information, but GSA refused to comply.²³ In July 2017, the Democratic staff of the committee issued a staff report regarding the lease of the OPO Building to the Trump Organization and Democratic Members on the committee introduced a Resolution of Inquiry in an attempt to compel GSA to provide records.²⁴ At the beginning of the 116th Congress, on January 22, 2019, Chair DeFazio and Rep. Dina Titus, just prior to being named Chair of the Subcommittee on Economic Development, Public Buildings, and Emergency Management, sent a records request letter to GSA regarding the lease.²⁵ That request generated more than 10,000 pages of records to the committee from the agency.²⁶ However, GSA

²⁰ Susanne Craig and Eric Lipton, “Trust Records Show Trump Is Still Closely Tied to His Empire,” *The New York Times*, February 3, 2017, accessed here: <https://www.nytimes.com/2017/02/03/us/politics/donald-trump-business.html> and Letter from GSA Contracting Officer Kevin Terry to Donald J. Trump, Jr. at Trump Old Post Office LLC, March 23, 2017, Exhibit 14, p. 161, accessed here:

https://www.gsa.gov/cdnstatic/Contracting_Officer_Letter_March_23_2017_Redacted_Version.pdf

²¹ Memorandum DO-02-15, “Subject: Revocable Trusts,” Office of Government Ethics, June 11, 2002, p. 7, accessed here:

[https://www.oge.gov/Web/OGEnsf/0/779AB96CB7B358F5852585BA005BED65/\\$FILE/049c1099d7f24751a838deaa7047bdd12.pdf](https://www.oge.gov/Web/OGEnsf/0/779AB96CB7B358F5852585BA005BED65/$FILE/049c1099d7f24751a838deaa7047bdd12.pdf)

²² Prepared Statement of Walter M. Shaub, Jr., Senior Advisor, Citizens for Responsibility and Ethics in Washington, and Former Director, U.S. Office on Government Ethics, Hearing titled, “Landlord and Tenant: The Trump Administration’s Oversight of the Trump International Hotel Lease,” before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, pp. 98-100, accessed here:

<https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>

²³ “Old Post Office: Trump Hotel Oversight,” Committee on Transportation and Infrastructure, accessed here:

<https://transportation.house.gov/committee-activity/old-post-office-trump-hotel-oversight>

²⁴ “Breach of a Lease: The Tale of the Old Post Office in the Swamp,” Democratic Staff Report prepared for Ranking Member Peter A. DeFazio, Committee on Transportation and Infrastructure, U.S. House of Representatives, July 12, 2017, accessed here: https://transportation.house.gov/imo/media/doc/wysiwyg_uploaded/2017-07-12%20RPT%20Trump%20Hotel_0.pdf; H.Res.437, Of inquiry requesting the President to provide certain documents in the President’s possession, introduced July 28, 2017, accessed here:

<https://www.congress.gov/115/bills/hres437/BILLS-115hres437rh.pdf>

²⁵ Letter from Chair Peter DeFazio, House Committee on Transportation and Infrastructure, and Chair Dina Titus, House Subcommittee on Economic Development, Public Buildings, and Emergency Management, to GSA Administrator Emily Murphy, January 22, 2019, accessed here: <https://transportation.house.gov/news/press-releases/chairman-defazio-rep-titus-press-gsa-on-the-repeated-refusal-to-respond-to-questions-surrounding-trumps-conflicts-of-interest>

²⁶ Testimony of Dan Mathews, GSA Public Buildings Service Commissioner, Hearing titled “Landlord and Tenant: The Trump Administration’s Oversight of the Trump International Hotel Lease,” before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S.

-PROBLEMS ON PENNSYLVANIA AVENUE-

1. Executive Summary

refused to provide legal memos and key financial records. As a result, Chair DeFazio issued a subpoena to GSA for production of those records on October 24, 2019.²⁷ The agency refused to fully comply with that subpoena. The committee also held two oversight hearings related to the OPO lease during the 116th Congress, in September 2019 and January 2020.²⁸

In March 2021, at the start of the 117th Congress, Chair DeFazio and Subcommittee Chair Titus sent a renewed records request to GSA again requesting production of the legal memos and financial records that had not been previously produced to the committee, and other information related to the lease.²⁹ In response, GSA provided more than 14,000 pages of new records related to this request, including the previously unreleased Trump International Hotel financial records.³⁰

These records have revealed disturbing information about GSA's management of the OPO lease and the agency's cooperation with Congress—and specifically with this committee.

Key Findings

The bulk of this report focuses on GSA's management of the OPO lease and the key constitutional issues and ethical conflicts surrounding the lease of the OPO Building to the Trump International Hotel. As GSA's Office of Inspector General (OIG) determined in January 2019, GSA ignored the emoluments clauses of the U.S. Constitution when evaluating the potential conflicts that emerged when Donald J. Trump became President of the United States and maintained his ownership stake in the Trump International Hotel.³¹ The OIG's review also included an examination of the lease's "Interested Parties" clause, which declared that no Member of Congress or "elected official of the Government of the United States" shall be a party to the lease.³²

House of Representatives, 116th Congress, First Session, September 25, 2019, p. 13, accessed here:

<https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>

²⁷ "Chair DeFazio Issues Subpoena to GSA for Key Documents Related to Old Post Office Lease," press release, Committee on Transportation and Infrastructure, October 24, 2019, accessed here:

<https://transportation.house.gov/news/press-releases/chair-defazio-issues-subpoena-to-gsa-for-key-documents-related-to-old-post-office-lease>; See also text of subpoena here: <https://transportation.house.gov/imo/media/doc/2019-10-24%20GSA%20Subpoena.pdf>

²⁸ Hearing titled "Landlord and Tenant: The Trump Administration's Oversight of the Trump International Hotel Lease," Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>; Hearing titled "GSA Outleases and the Trump Old Post Office Hotel," Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, January 28, 2020, accessed here:

<https://www.govinfo.gov/content/pkg/CHRG-116hhrg42245/pdf/CHRG-116hhrg42245.pdf>

²⁹ Letter from Chair DeFazio and Chair Titus to GSA Acting Administrator Katy Kale, March 16, 2021, accessed here: <https://transportation.house.gov/news/press-releases/chairs-defazio-and-titus-re-submit-records-request-related-to-trump-hotel-lease-at-the-old-post-office-building>

³⁰ Letter from GSA Associate Administrator Gianne Rivera to Chair DeFazio and Chair Titus, May 5, 2021, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

³¹ "Evaluation of GSA's Management and Administration of the Old Post Office Building Lease," Office of Inspector General (OIG), General Services Administration, JE19-002, January 16, 2019, p. 23, accessed here: https://www.gsaig.gov/sites/default/files/ipa-reports/JE19-002%20OIG%20EVALUATION%20REPORT-GSA%27s%20Management%20of%26%20Administration%20of%20OPO%20Building%20Lease_January%2016%202019_Redacted.pdf

³² Ibid.

-PROBLEMS ON PENNSYLVANIA AVENUE-

1. Executive Summary

GSA's continuing refusal to fully address the issues the OIG highlighted indicates that legislative action may be needed to ensure GSA is appropriately managing its outleases and to enhance oversight of these critical ethical and constitutional issues so that they are avoided in the future. Among other things, the records obtained by the committee and the committee's investigation clearly show the following:

- **Stonewalling Congress.** In April 2019, an attorney for the Trump OPO LLC, who had worked as the Deputy White House Counsel to President Trump the previous year, wrote to GSA objecting to the committee's request for key financial records and asking GSA **not** to disclose confidential information to the committee.³³ GSA did not provide all requested unredacted financial records until May 2021, over two years after they were first requested by the committee and only under a new administration.
- **Lack of Foreign and Domestic Government Patronage Review.** GSA essentially washed its hands of any responsibility to examine whether or not the emoluments clauses of the Constitution were being followed by failing to take any steps to identify expenditures at the Trump International Hotel by both foreign and domestic government officials.³⁴
- **GSA Has Removed Its Ethical Guardrails.** After a review of GSA's management of the OPO lease that largely focused on the Interested Parties clause in its outlease program, the GSA OIG recommended "that before continuing to use the language, GSA determine the purpose of the Interested Parties provision, conduct a formal legal review by OGC [the GSA Office of General Counsel] that includes consideration of the Foreign and Presidential Emoluments Clauses, and revise the language to avoid ambiguity."³⁵ GSA did implement "corrective actions" related to the Interested Parties clause in its outleasing program. However, GSA's actions were nonresponsive to the OIG's recommendation, and it never conducted a legal review. Rather than closing the ethical ambiguity that existed in its Interested Parties clause, GSA's "corrective actions" inexplicably expanded the ethical gaps, leaving even fewer guardrails to prevent conflicts of interest among senior federally elected officials, including the President of the United States.³⁶ As of September 2021, the GSA

³³ Letter from Trump Old Post Office LLC attorney Stefan Passantino to GSA Contracting Officer Kevin Terry, April 17, 2019, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

³⁴ "Evaluation of GSA's Management and Administration of the Old Post Office Building Lease," Office of Inspector General, General Services Administration, JE19-002, January 16, 2019, p. 23, accessed here: <https://www.gsaig.gov/content/evaluation-gsas-management-and-administration-old-post-office-building-lease>; Questions for the Record from Chair DeFazio and Chair Titus to GSA Public Buildings Commissioner Dan Mathews, Hearing titled, "Landlord and Tenant: The Trump Administration's Oversight of the Trump International Hotel Lease," before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, p. 124, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>

³⁵ "Evaluation of GSA's Management and Administration of the Old Post Office Building Lease," Office of Inspector General, General Services Administration, JE19-002, January 16, 2019, p. 24, accessed here: https://www.gsaig.gov/sites/default/files/ipa-reports/JE19-002%20OIG%20EVALUATION%20REPORT-GSA%27s%20Management%20%26%20Administration%20of%20OPO%20Building%20Lease_January%2016%202019_Redacted.pdf

³⁶ "Semiannual Report to the Congress," Office of Inspector General, General Services Administration, April 1, 2019 – September 30, 2019, p. 66, accessed here: <https://www.gsaig.gov/sites/default/files/semiannual-reports/GSA-OIG-SAR-11-2019%20508.pdf>

-PROBLEMS ON PENNSYLVANIA AVENUE-

1. Executive Summary

OIG still considers its recommendation open—nearly three years after issuing its report—because GSA has failed to appropriately address these issues.³⁷

Part six of this report highlights the financial information the committee recently obtained from GSA, which shows, among other things, that the Trump International Hotel profited from foreign government patronage, but lost tens of millions of dollars overall. Specifically, the data shows that the hotel lost more than \$71 million since it opened its doors to guests in September 2016.³⁸ Trump and three of his adult children, through the companies created to hold their financial interests in the hotel, loaned the hotel more than \$75 million to keep the business afloat.³⁹ They also forgave approximately \$72 million of those loans.⁴⁰ Trump OPO LLC repaid less than \$3.5 million of those total loans. The single area in which the hotel appeared to consistently show “profit” was from foreign government expenditures at the hotel.⁴¹



³⁷ “Semiannual Report to the Congress,” Office of Inspector General, General Services Administration, April 1, 2021 – September 30, 2021, p. 69, accessed here: <https://www.gsaig.gov/sites/default/files/semiannual-reports/GSA-OIG-SAR-11-2021.pdf>

³⁸ “Trump Old Post Office LLC Financial Statements, August 31, 2017,” prepared by Mazars USA LLP, December 28, 2017; “Trump Old Post Office LLC Financial Statements, August 31, 2018,” prepared by Mazars USA LLP, December 28, 2018; “Trump Old Post Office LLC Financial Statements, August 31, 2019,” prepared by Mazars USA LLP, December 27, 2019; “Trump Old Post Office LLC Financial Statements, August 31, 2020,” prepared by Mazars USA LLP, December 29, 2020 (hereafter referred to as Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, and Trump OPO LLC 2020 financial statements); accessed here: <https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>. The financial statements cover the annual periods from September 1 through August 31. Mazars USA is an international audit, tax, and advisory firm providing services to the Trump Organization and Trump OPO LLC. Mazars was retained by the Trump Organization pursuant to the lease to audit and submit annual financial statements to GSA.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

-PROBLEMS ON PENNSYLVANIA AVENUE-

1. Executive Summary

- **Loans from Family Businesses.** Trump OPO LLC administers and manages the OPO Building lease agreement with GSA and serves as tenant. Members of the Trump OPO LLC, which include companies owned by Donald J. Trump and his children, Donald J. Trump, Jr., Eric Trump, and Ivanka Trump, loaned the Trump OPO LLC more than \$75 million from 2014 to 2020.⁴² These loans raise questions about whether GSA had adequate assurances that it would continue to receive full rental payments if the hotel's business did not improve, whether a more detailed understanding of the origins of the loaned money should have been sought by GSA, and the impact of GSA's failure to examine constitutional issues and their potential implications for the OPO lease agreement.

- **Net Losses.** Financial records provided to GSA from the Mazars accounting firm obtained by the committee show that the Trump OPO LLC registered total losses of more than \$71 million from September 2016 to January 2021.⁴³ The hotel operated at a loss in 33 out of the 53 months during this period.⁴⁴ In 2019, prior to the economic downturn resulting from the COVID-19 pandemic, when the hotel reported net losses for that year of nearly \$18 million, Eric Trump boasted to the media, "People are objecting to us making so much money on the hotel and therefore we may be willing to sell."⁴⁵

⁴² "Trump Old Post Office LLC Financial Statements, August 31, 2014," prepared by WeiserMazars LLP, December 29, 2014; "Trump Old Post Office LLC Financial Statements, August 31, 2015," prepared by WeiserMazars LLP, December 28, 2015; "Trump Old Post Office LLC Financial Statements, August 31, 2016," prepared by WeiserMazars LLP, December 28, 2016 (hereafter referred to as Trump OPO LLC 2014 financial statements, Trump OPO LLC 2015 financial statements, and Trump OPO LLC 2016 financial statements); Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, and Trump OPO LLC 2020 financial statements; accessed here: <https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>. Prior to 2017, Mazars USA was known as WeiserMazars.

⁴³ Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, and Trump OPO LLC 2020 financial statements, accessed here: <https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>. The financial statements cover the annual periods from September 1 through August 31. During this same time period, President Trump's public financial disclosure reports to the U.S. Office of Government Ethics claim he had income of more than \$136 million from the Trump OPO LLC. U.S. Office of Government Ethics Executive Branch Personnel Public Financial Disclosure Report from President Donald J. Trump, May 15, 2018, p. 20, accessed here: [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/3730CE1E7F315D448525828F005E2C76/\\$FILE/Trump,%20Donald%20J.%20%202018Annual278.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/3730CE1E7F315D448525828F005E2C76/$FILE/Trump,%20Donald%20J.%20%202018Annual278.pdf); U.S. Office of Government Ethics Executive Branch Personnel Public Financial Disclosure Report from President Donald J. Trump, May 15, 2019, p. 10, accessed here: [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/4D1913A0ED7C79FC852583FD0027DDBE/\\$FILE/Trump,%20Donald%20J.%20%202019Annual%20278.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/4D1913A0ED7C79FC852583FD0027DDBE/$FILE/Trump,%20Donald%20J.%20%202019Annual%20278.pdf); U.S. Office of Government Ethics Executive Branch Personnel Public Financial Disclosure Report from President Donald J. Trump, July 31, 2020, p. 9, accessed here: [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/181BAF52E298FD70852585B70027E054/\\$FILE/Trump,%20Donald%20J.%202020Annual%20278.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/181BAF52E298FD70852585B70027E054/$FILE/Trump,%20Donald%20J.%202020Annual%20278.pdf); and U.S. Office of Government Ethics Executive Branch Personnel Public Financial Disclosure Report from President Donald J. Trump, January 15, 2021, p. 8, accessed here: [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/6E78B163F816EF6A852586630075291D/\\$FILE/Trump,%20Donald%20J.%202021Termination%20278.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/6E78B163F816EF6A852586630075291D/$FILE/Trump,%20Donald%20J.%202021Termination%20278.pdf)

⁴⁴ Trump International Hotel Monthly Statements, prepared by Trump OPO LLC, September 2016 – January 2021, accessed here: <https://transportation.house.gov/download/trump-international-hotel-monthly-statements>

⁴⁵ Jonathan O'Connell and David A. Fahrenthold, "Trump's Washington hotel has fallen behind competitors, with rooms running nearly half empty, marketing materials show," *The Washington Post*, November 14, 2019, accessed here: https://www.washingtonpost.com/business/economy/trumps-washington-hotel-has-fallen-behind-competitors-with-rooms-running-nearly-half-empty-marketing-materials-show/2019/11/14/c1a9fc40-070f-11ea-b17d-8b867891d39d_story.html

-PROBLEMS ON PENNSYLVANIA AVENUE-

1. Executive Summary

- **Loan Forgiveness.** President Trump and three of his adult children—through the companies created to hold their financial interest in the hotel—made more than \$75 million in loans and contributions to the hotel from 2014 to 2020. Trump OPO LLC, however, repaid less than \$3.5 million of this total amount, which was less than five percent of all the funds loaned to the company.⁴⁶
- **Foreign Profits.** The Trump OPO LLC reported a total of \$355,687 in profits on “foreign government patronage” in 2017, 2018, and 2019.⁴⁷ This was the only category the hotel has consistently profited from since its opening and some analyses found the hotel received millions in revenue from foreign governments.⁴⁸
- **Faulty Projections.** From 2017 to 2020, the hotel regularly overestimated its projected monthly profits. During this period, the hotel’s net income—a measure of profit that includes all of a business’s expenses—met their projected target levels in only eight out of 48 months. The hotel’s net income fell short of what the company projected in 40 out of 48 months.⁴⁹
- **Poor Occupancy Rates.** The occupancy rates for the Trump International Hotel were also consistently lower than its competitors, according to reports required by the GSA lease agreement. In November 2016, the month after the hotel’s grand opening, records show its occupancy rate was just 26.7 percent, compared to 66.5 percent for its competitors.⁵⁰ The hotel’s occupancy rates remained below 36 percent for the next three months, while the occupancy rate of its competitors hovered between 54.5 percent to 64.6 percent.⁵¹ In January 2020, just prior to the economic downturn felt across the industry due to the COVID-19 pandemic, the hotel was already struggling, with an occupancy rate of 32.4 percent compared to 60.4 percent for its competitors.⁵²

⁴⁶ Trump OPO LLC 2014 financial statements, Trump OPO LLC 2015 financial statements, Trump OPO LLC 2016 financial statements, Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, and Trump OPO LLC 2020 financial statements, accessed here:

<https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>

⁴⁷ Ibid.

⁴⁸ The House Committee on Oversight and Reform conducted an analysis that found from 2017 to 2020 the hotel received an estimated \$3.7 million in payments from foreign governments. “Committee Uncovers Evidence that Trump Concealed Millions in Losses, Hid Debts, and Received Millions from Foreign Governments at Trump Hotel,” House Committee on Oversight and Reform, October 8, 2021, accessed here: <https://oversight.house.gov/news/press-releases/committee-uncovers-evidence-that-trump-concealed-millions-in-losses-hid-debts>. However, in this report we have focused on the reported profit, not revenue, that the Trump International Hotel made from foreign government patronage.

⁴⁹ Trump International Hotel Monthly Statements, Trump OPO LLC, September 2016 – January 2021, accessed here: <https://transportation.house.gov/download/trump-international-hotel-monthly-statements>

⁵⁰ Trump International Hotel Monthly Statement, Trump OPO LLC, November 2016, accessed here: <https://transportation.house.gov/download/trump-international-hotel-monthly-statements>

⁵¹ Trump International Hotel Monthly Statements, Trump OPO LLC, December 2016, January 2017, and February 2017, accessed here: <https://transportation.house.gov/download/trump-international-hotel-monthly-statements>

⁵² Trump International Hotel Monthly Statement, Trump OPO LLC, January 2020, accessed here: <https://transportation.house.gov/download/trump-international-hotel-monthly-statements>

2. GSA's Management of the OPO Building Lease

**-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease**

Complex Ownership Structure and Conflicts of Interest

Under the terms of the OPO lease, the federal government is entitled to a monthly rental payment as well as the “Percentage Rent Difference,” if positive, between the percentage rent for the lease year and the annual base rent paid for such lease year.⁵³ As landlord of the Trump International Hotel, GSA’s focus on receiving its rent in full and on time was reasonable. However, as a federal agency required to abide by the U.S. Constitution, the agency’s lack of interest in potential constitutional breaches as a result of the lease and President Trump’s refusal to divest his financial interest in the hotel was problematic.⁵⁴

Further, as officers of the federal government, each GSA employee takes the oath of office to uphold the U.S. Constitution. For example, on December 12, 2017, former GSA Administrator Emily Murphy took her oath of office as required under law.⁵⁵ That oath states in relevant parts:

... I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.⁵⁶

Those clashing priorities, between obtaining rent payments for GSA and upholding the U.S. Constitution, were very apparent. During the committee’s January 2020 hearing on the OPO lease, GSA Administrator Murphy told the committee:

What I am concerned with is that GSA is receiving its rent each month, that the property is being properly maintained, and that GSA is listed appropriately on the insurance certificate.⁵⁷

The potential conflicts of interest concerning the then President of the United States and his ongoing financial interests in the Trump International Hotel did not appear to be of much concern

⁵³ Ground Lease by & between the U.S. (as “Landlord”) & Trump Old Post Office LLC (as “Tenant”), Lease No.: GS-LS-11-1307, Articles 5.1 and 1.1, August 5, 2013, accessed here:

https://www.gsa.gov/cdnstatic/Part_One_of_Segment_001_of_OPO_Ground_Lease_%282013%29_RA.pdf

⁵⁴ “Evaluation of GSA’s Management and Administration of the Old Post Office Building Lease,” Office of Inspector General, General Services Administration, JE19-002, January 16, 2019, pp. 23 - 24, accessed here:

<https://www.gsaig.gov/content/evaluation-gsas-management-and-administration-old-post-office-building-lease>

⁵⁵ “Emily Murphy sworn in as Administrator of GSA,” General Services Administration, December 12, 2017, accessed here: <https://www.gsa.gov/about-us/newsroom/news-releases/emily-murphy-sworn-in-as-administrator-of-gsa>

⁵⁶ 5 U.S.C. § 3331 –“Oath of office,” accessed here: <https://www.govinfo.gov/app/details/USCODE-2011-title5/USCODE-2011-title5-partIII-subpartB-chap33-subchapII-sec3331>

⁵⁷ Hearing titled, “GSA Outleases and the Trump Old Post Office Hotel,” Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, Second Session, January 28, 2020, p. 28, accessed here:

<https://www.govinfo.gov/content/pkg/CHRG-116hhrg42245/pdf/CHRG-116hhrg42245.pdf>

-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease

to GSA despite the clarity of these ethical complications. Donald J. Trump's ownership stake in the hotel was complex, but clear, as was the parade of hotel customers from foreign governments.⁵⁸

President Trump's Refusal to Divest

The redevelopment of the OPO Building had long been a high priority for Congress and Members of the committee.⁵⁹ None of that was controversial. However, on Tuesday, November 8, 2016, less than two weeks after the grand opening of the Trump International Hotel, Donald J. Trump was elected President of the United States.⁶⁰

President Trump's inauguration as the 45th President of the United States occurred on January 20, 2017,⁶¹ and immediately created conflicts of interest and potential violations of the emoluments clauses of the U.S. Constitution since he was now both the landlord of the Trump International Hotel as the ultimate executive over GSA, and tenant, as owner of the hotel via his financial position in the Trump OPO LLC. Despite vocal concerns from a wide range of ethics experts, President Trump refused to divest from his private commercial enterprises, including the Trump International Hotel, while holding the federally elected position of president.⁶²

Trump Old Post Office LLC Business Structure Changes

A web of President Trump and Trump family businesses have financial stakes in the Trump International Hotel, as shown in the table on page 16 below. Although Donald J. Trump made some changes to the ownership structure of the hotel shortly before he was inaugurated as president, his financial interests remained intact.⁶³ They simply shifted from one entity to another.⁶⁴ After Donald J. Trump's inauguration as president, Trump OPO LLC sent a letter to GSA confirming that

⁵⁸ Zach Everson, "Trump's D.C. Hotel Hosted Officials From These 33 Countries After He Won The 2016 Election," *Forbes*, October 10, 2021, accessed here: <https://www.forbes.com/sites/zacheverson/2021/10/10/trumps-dc-hotel-hosted-foreign-officials-from-these-33-countries-while-he-was-in-office/?sh=7ca034e66303>

⁵⁹ Hearing titled, "Sitting On Our Assets: Cutting Spending and Private Redevelopment of Underperforming Buildings," Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 112th Congress, First Session, February 10, 2011, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-112hhrg65445/pdf/CHRG-112hhrg65445.pdf>; 110th Congress, H.R. 5001 Old Post Office Building Redevelopment Act of 2008, accessed here: <https://www.congress.gov/bill/110th-congress/house-bill/5001>

⁶⁰ Ben Schreckinger, "Trump beats Clinton," *Politico*, November 9, 2016, accessed here: <https://www.politico.eu/article/us-election-2016-result-donald-trump/>

⁶¹ Louis Nelson, Madeline Conway, and Eli Stokols, "Trump sworn in as 45th president," *Politico*, January 20, 2017, accessed here: <https://www.politico.com/story/2017/01/trump-inauguration-five-things-to-watch-233885>

⁶² Testimonies of Liz Hempowicz and Walter Shaub at hearing titled, "Landlord and Tenant: The Trump Administration's Oversight of the Trump International Hotel Lease," before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, pp. 83 - 106, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>; Peter Overby, "Ethics Experts Find Holes In Trump's Firewall Against Conflicts," *NPR*, February 8, 2017, accessed here: <https://www.npr.org/2017/02/08/513904816/ethics-experts-find-holes-in-trumps-firewall-against-conflicts>

⁶³ Testimony of Walter Shaub at Hearing titled, "Landlord and Tenant: The Trump Administration's Oversight of the Trump International Hotel Lease," before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, pp. 98 - 100, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>

⁶⁴ *Ibid*, p. 99.

**-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease**

President Trump had transferred his interests in the company to DJT Holdings Managing Member LLC, which is held by the Donald J. Trump Revocable Trust.⁶⁵ The figure on the following page shows the ownership structure chart that Trump OPO LLC sent to GSA reflecting these changes. This structural change did not prevent DJT Holdings LLC from financially supporting the Trump International Hotel. On April 20, 2017, for instance, DJT Holdings LLC lent Trump OPO LLC \$2,050,069 for four days.⁶⁶ Trump OPO LLC repaid DJT Holdings LLC \$2,052,000 on April 24, 2017.⁶⁷ It is unclear to the committee why this transfer of funds was necessary.

In addition, as Walter Shaub, the former chief government ethics official and director of the U.S. Office of Government Ethics from 2013 to 2017, said in prepared testimony at a hearing the committee held in September 2019, titled *Landlord and Tenant: The Trump Administration's Oversight of the Trump International Hotel Lease*, "Critically, the President has not divested his 77.5% interest in Trump-OPO [LLC]; he merely placed it in his revocable trust, the DJT Revocable Trust."⁶⁸

President Trump's refusal to fully divest from his commercial interests in the Trump International Hotel created multiple conflicts of interest during his presidency that both he and GSA refused to properly address. Political appointees at GSA "serve at the pleasure of the President,"⁶⁹ and include the GSA Administrator and the GSA Public Buildings Service Commissioner.⁷⁰ These officials, who ultimately report to the President of the United States, were responsible for making federal real estate decisions that impacted the president's personal properties as well as that of his competitors; all the while President Trump maintained a financial interest in the Trump International Hotel's Old Post Office Building lease.

⁶⁵ Letter from GSA Contracting Officer Kevin Terry to Donald J. Trump, Jr. at Trump Old Post Office LLC, March 23, 2017, Exhibit 10, p. 89, accessed here:

https://www.gsa.gov/cdnstatic/Contracting_Officer_Letter_March_23_2017_Redacted_Version.pdf

⁶⁶ "Trump Old Post Office LLC Financial Statements, August 31, 2017," prepared by Mazars USA LLP, December 28, 2017, accessed here: <https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>

⁶⁷ Ibid.

⁶⁸ Hearing titled, "Landlord and Tenant: The Trump Administration's Oversight of the Trump International Hotel Lease," Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, p. 98, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>.

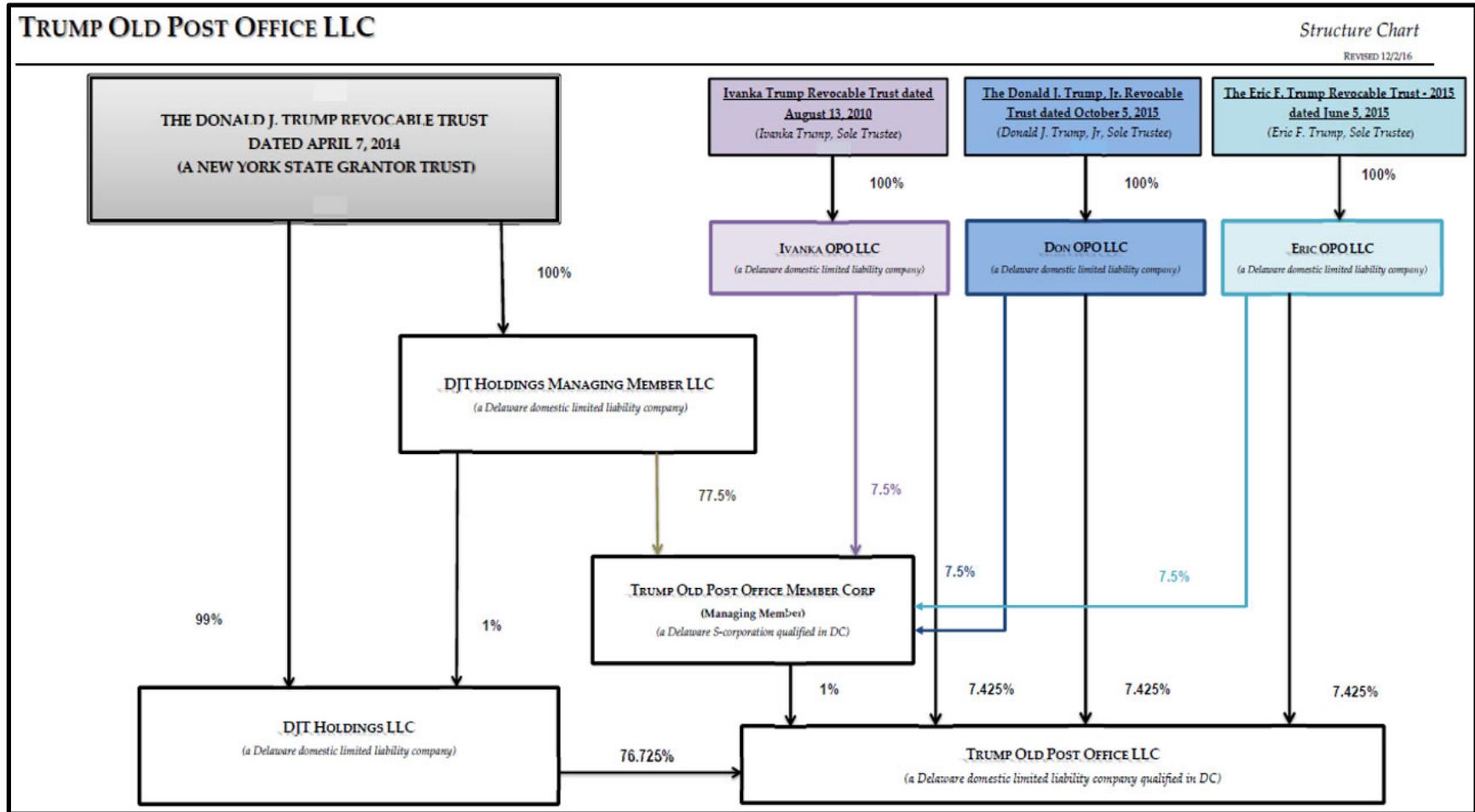
Walter Shaub was the director of the United States Office of Government Ethics from January 9, 2013, to July 19, 2017. Peter Overby and Marilyn Geewax, "Ethics Office Director Walter Shaub Resigns, Saying Rules Need To Be Tougher," *NPR*, July 6, 2017, accessed here: <https://www.npr.org/2017/07/06/535781749/ethics-office-director-walter-shaub-resigns-saying-rules-need-to-be-tougher>

⁶⁹ "Presidential Transitions: Executive Branch Political Appointment Status," Congressional Research Service, November 24, 2020, accessed here: <https://crsreports.congress.gov/product/pdf/IN/IN11541>; "Serving at the Pleasure of the President The Nomination Papers of the United States Senate, 1789-1946," *Prologue Magazine*, The U.S. National Archives and Records Administration, Winter 2005, accessed here: <https://www.archives.gov/publications/prologue/2005/winter/senate-nominations.html>

⁷⁰ "Policy and Supporting Positions," Committee on Homeland Security and Government Affairs, U.S. Senate, 114th Congress, Second Session, December 1, 2016, p. 169, accessed here: <https://www.govinfo.gov/content/pkg/GPO-PLUMBOOK-2016/pdf/GPO-PLUMBOOK-2016.pdf>

**-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease**

Ownership Structure of Trump Old Post Office LLC Following Trump's Election as President⁷¹



⁷¹ Trump Old Post Office LLC Structure Chart, December 2, 2016, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

**-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease**

Trump Companies with a Financial Interest in the Trump International Hotel

Trump entity	Description and ownership structure
Trump Old Post Office (OPO) LLC	Trump OPO LLC is a Delaware limited liability company (LLC) principally owned by President Trump and three of his adult children, Ivanka Trump, Donald Trump Jr., and Eric Trump. The company was originally formed on June 30, 2011, for the purpose of developing the Old Post Office Building. ⁷² Prior to Donald J. Trump's inauguration as president, Trump OPO LLC was comprised of five owners. DJT Holdings LLC maintained a 76.725 percent interest in the entity, Ivanka OPO LLC, Don OPO LLC and Eric OPO LLC each maintained a 7.425 percent stake in the business, and the Trump Old Post Office Member Corp. held a 1.0 percent interest in the company. ⁷³
Trump Old Post Office (OPO) Member Corp.	Trump OPO Member Corp. is owned by Donald J. Trump, Ivanka Trump, Donald Trump Jr., and Eric Trump. Donald J. Trump maintains a 77.5 percent interest in the company and each of his three children maintain a 7.5 percent share in the company under their respective businesses, Ivanka OPO LLC, Don OPO LLC, and Eric OPO LLC. ⁷⁴
DJT Holdings Managing Member LLC	After President Trump's inauguration, Trump OPO LLC sent a letter to GSA stating that President Trump transferred his interests in the company to DJT Holdings Managing Member LLC, which is held by the Donald J. Trump Revocable Trust. ⁷⁵
Donald J. Trump Revocable Trust	Despite the movement of President Trump's ownership stake in the Trump International Hotel from one legal entity to another, President Trump never actually divested his interest in the hotel. In fact, the sole purpose of the Donald J. Trump Revocable Trust, established in 2014 and amended in 2017, was to "hold assets for the benefit of Donald J. Trump." ⁷⁶ In addition, as of January 19, 2017, President Trump's son, Donald J. Trump, Jr. and Allen Weisselberg, the longtime Chief Financial Officer (CFO) of the Trump Organization are the two sole Trustees, while his other son, Eric Trump is the Chairman of the Advisory Board of the Trust. ⁷⁷

⁷² Trump OPO LLC 2020 financial statements, p. 5, accessed here:

<https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>

⁷³ Letter from GSA Contracting Officer Kevin Terry to Donald J. Trump, Jr. at Trump Old Post Office LLC, March 23, 2017, Exhibit A of Exhibit 9, p. 84, accessed here:

https://www.gsa.gov/cdnstatic/Contracting_Officer_Letter_March_23_2017_Redacted_Version.pdf

⁷⁴ Ibid.

⁷⁵ Ibid, pp. 86, 89.

⁷⁶ Ibid, p. 161.

⁷⁷ Ibid.

**-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease**

Constitutional (Emoluments) Issues

President Trump's ownership interest in the Trump International Hotel has also raised questions about compliance with two emoluments clauses in the U.S. Constitution. Merriam Webster dictionary defines an emolument as, "the returns arising from office or employment usually in the form of compensation or perquisites."⁷⁸ Courts have taken a broad definition of "emolument" as "any benefit, gain, or advantage of more than de minimis value..."⁷⁹

Foreign Emoluments

The Foreign Emoluments Clause—Article I, Section 9, Clause 8—of the U.S. Constitution states:

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.⁸⁰

According to the Congressional Research Service (CRS):

The purpose of the Foreign Emoluments Clause is to prevent corruption and limit foreign influence on federal officers. The Clause grew out of the Framers' experience with the European custom of gift-giving to foreign diplomats, which the Articles of Confederation prohibited. Following that precedent, the Foreign Emoluments Clause prohibits federal officers from accepting foreign emoluments without congressional consent.⁸¹

The Department of Justice's (DOJ) Office of Legal Counsel (OLC), which often determines legal positions for federal government agencies, has issued several determinations related to the president and emoluments.⁸² A 1981 OLC determination as to whether President Ronald Reagan could accept his California gubernatorial retirement benefits looked to dictionary definitions and explained an emolument to be a "profit or gain arising from station, office, or employment: reward, remuneration, salary."⁸³ A 1986 OLC memorandum, authored by then-DOJ attorney Samuel Alito, reviewing the Constitutional Convention and past DOJ positions, considered the foreign emoluments clause and explained it this way:

⁷⁸ "Emolument," Merriam-Webster Dictionary, accessed here: <https://www.merriam-webster.com/dictionary/emolument>

⁷⁹ "The Emoluments Clauses and the Presidency: Background and Recent Developments," Congressional Research Service, November 5, 2019, accessed here: <https://crsreports.congress.gov/product/pdf/R/R45992>

⁸⁰ U.S. Constitution, Article I, Section 9, Clause 8.

⁸¹ "The Emoluments Clauses of the U.S. Constitution," Congressional Research Service, August 23, 2019, accessed here: <https://www.crs.gov/Reports/IF11086?source=search&guid=61af81367c46466f9556fffa783136f&index=0>

⁸² See, e.g., Applicability of the Emoluments Clause and the Foreign Gifts and Decorations Act to the President's Receipt of the Nobel Peace Prize, 33 Op. O.L.C. 370, 2009 WL 6365082, December 7, 2009; President Reagan's Ability to Receive Retirement Benefits from the State of California, 5 Op. O.L.C. 187, 1981 WL 30896, June 23, 1981.

⁸³ President Reagan's Ability to Receive Retirement Benefits from the State of California, 5 Op. O.L.C. 187, 1981 WL 30896, June 23, 1981.

**-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease**

Its purpose ... is to exclude corruption and foreign influence by prohibiting *any one in office* from receiving or holding any emolument from foreign states. Thus the Emoluments Clause is *directed against every kind of influence* by foreign governments upon Officers of the United States, unless the payment has been expressly consented to by Congress.⁸⁴ (Emphasis added, internal citations and punctuations omitted).

Presidential Profits from the Trump International Hotel Lease

Following President Trump's election in November 2016, concerns arose regarding potential conflicts of interest with a sitting president benefiting from patronage at his business and the possibility that foreign governments would frequent the Trump International Hotel in Washington, D.C. as a way to curry favor with the Trump administration.⁸⁵

Before President Trump took office, his attorney, Sheri Dillon, announced that as president, Donald J. Trump would donate foreign government profits from the Trump International Hotel to the U.S. Treasury.⁸⁶ In January 2017, following up on the previous announcement the Trump Organization commenced its voluntary initiative to annually donate to the U.S. Treasury all profits from foreign governments' expenditures at its hotels during Donald J. Trump's presidential term.⁸⁷

However, the efforts by the Trump International Hotel in Washington, D.C. to identify and calculate these profits was not transparent, and GSA made no attempt whatsoever to oversee these efforts, verify them, or otherwise ensure that profits from foreign governments did not benefit the president.⁸⁸

During the Trump administration, many representatives of foreign governments and domestic government officials did indeed frequent the president's hotel. Reporting on the Trump International Hotel in Washington D.C. has revealed that, between January 20, 2017, and January 20, 2021, numerous representatives of foreign governments patronized the hotel, including members of

⁸⁴Memorandum from Samuel Alito, Jr., Dep. Assistant Attorney Gen., Office of Legal Counsel, to H. Gerald Straub, Office of Legal Counsel, National Aeronautics and Space Administration, Re: Emoluments Clause Questions Raised by NASA Scientist's Proposed Consulting Arrangement with the University of New South Wales, p. 2, May 23, 1986, accessed here: <https://www.politico.com/f/?id=00000158-b547-db1e-a1f9-ff7f60920001>

⁸⁵ Eric Lipton and Adam Liptak, "Foreign Payments to Trump Firms Violate Constitution, Suit Will Claim," *New York Times*, January 22, 2017, accessed here: <https://www.nytimes.com/2017/01/22/us/politics/trump-foreign-payments-constitution-lawsuit.html>

⁸⁶ Jacob Pramuk, "Trump lawyer says he will give foreign government profits at his hotels to Treasury," *CNBC*, January 11, 2017, accessed here: <https://www.cnn.com/2017/01/11/trump-lawyer-says-he-will-give-foreign-government-profits-at-his-hotels-to-treasury.html>

⁸⁷ Ibid; Christina Alesci and Sophie Tatum, "Trump Organization says it donated \$151,470 to US Treasury," *CNN*, March 9, 2018, accessed here: <https://www.cnn.com/2018/03/09/politics/trump-organization-treasury-department/index.html>

⁸⁸ Written questions to and answers from Commissioner Dan Mathews, Public Building Service, GSA, for hearing titled, "Landlord and Tenant: The Trump Administration's Oversight of the Trump International Hotel Lease," Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, p. 124, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>

**-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease**

parliament, foreign ministers, and ambassadors.⁸⁹ These individuals dined at the hotel, stayed in rooms there, and held large-scale events. Kuwait's annual gala and Turkey's annual U.S.-Turkey Relations Conference are just two of the many events that were hosted by international leaders at the Trump International Hotel.⁹⁰ Senior government officials—both foreign and domestic—regularly attended such parties and events, utilizing services offered by the hotel.⁹¹ According to media reports, representatives of dozens of countries visited the hotel during this period, many of whom conducted official government business.⁹² Foreign government officials often paid significant sums to stay and dine at the Trump International Hotel. Examples range from Saudi-funded lobbyists spending more than \$270,000 over a one-year period to Indian diplomats spending \$18,650 over the course of a few weeks.⁹³

There are other reported examples of foreign government patronage at the Trump International Hotel in Washington, D.C.:

- On April 6, 2017, the Ambassador and Permanent Representative of Georgia to the United Nations tweeted, “Trump International Hotel Washington DC @TrumpDC – great #hotel and so far the best service I’ve seen in the United States! Keep it up! #travel.”⁹⁴
- In 2017 and again in 2018, the Embassy of Kuwait booked its large National Day celebrations at the Trump International Hotel in Washington, D.C.⁹⁵ Prior to President Trump’s election, the annual event had been held at the Four Seasons hotel in

⁸⁹ Zach Everson, “Trump’s D.C. Hotel Hosted Officials From These 33 Countries After He Won The 2016 Election,” *Forbes*, October 10, 2021, accessed here: <https://www.forbes.com/sites/zacheverson/2021/10/10/trumps-dc-hotel-hosted-foreign-officials-from-these-33-countries-while-he-was-in-office/?sh=7ca034e66303>

⁹⁰ Jackie Northam, “Kuwait Celebration At Trump Hotel Raises Conflict Of Interest Questions,” *NPR*, February 25, 2017, accessed here: <https://www.npr.org/sections/parallels/2017/02/25/517039323/kuwait-celebration-at-trump-hotel-raises-conflict-of-interest-questions>; Marilyn Geewax and Jackie Northam, “At Trump’s D.C. Hotel, A U.S.-Turkey Relations Conference Stirs Up Ethics Questions,” *NPR*, March 21, 2017, accessed here: <https://www.npr.org/sections/parallels/2017/03/21/520183360/at-trumps-d-c-hotel-a-u-s-turkey-relations-conference-stirs-up-ethics-questions>

⁹¹ Alan Zibel, “Catering to Conflicts: Influence and Self-Dealing at Trump’s Businesses,” *Public Citizen*, November 11, 2019, accessed here: <https://www.citizen.org/article/catering-to-conflicts-influence-and-self-dealing-at-trumps-businesses>; Zach Everson, “Trump’s D.C. Hotel Hosted Officials From These 33 Countries After He Won The 2016 Election,” *Forbes*, October 10, 2021, accessed here: <https://www.forbes.com/sites/zacheverson/2021/10/10/trumps-dc-hotel-hosted-foreign-officials-from-these-33-countries-while-he-was-in-office/?sh=7ca034e66303>

⁹² Ibid.

⁹³ David A. Fahrenthold and Jonathan O’Connell, “Saudi-funded lobbyist paid for 500 rooms at Trump’s hotel after 2016 election,” *The Washington Post*, December 5, 2018, accessed here: https://www.washingtonpost.com/politics/saudi-funded-lobbyist-paid-for-500-rooms-at-trumps-hotel-after-2016-election/2018/12/05/29603a64-f417-11e8-bc79-68604ed88993_story.html; Alan Zibel, “Catering to Conflicts: Influence and Self-Dealing at Trump’s Businesses,” *Public Citizen*, November 11, 2019, accessed here: <https://www.citizen.org/article/catering-to-conflicts-influence-and-self-dealing-at-trumps-businesses>

⁹⁴ @kahaimnadze (Kaha Imnadze), *Twitter*, April 6, 2017, 11:49 a.m., accessed here: <https://twitter.com/kahaimnadze/status/850012655347789824>.

⁹⁵ David A. Fahrenthold and Jonathan O’Connell, “Kuwaiti embassy returns to Trump hotel in D.C. for its national celebration,” *The Washington Post*, January 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.

-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease

Georgetown.⁹⁶ *Reuters* reported that similar celebrations at the Trump International Hotel for a crowd of several hundred could cost between \$40,000 and \$60,000.⁹⁷

- In 2018, the Philippine Embassy sent out 300 invitations for a Philippine Independence Day celebration at the Trump International Hotel in Washington, D.C.⁹⁸ Philippine Ambassador to the United States Jose Manuel Romualdez reportedly said, “The Trump hotel may have some political undertones because it is associated with the U.S. president . . . But since several other embassies have also held their national day celebrations at the Trump hotel which were well attended—I decided—why not do it there, too.”⁹⁹

In response to an April 21, 2017, bipartisan request from the House Committee on Oversight and Government Reform, the Trump Organization produced a document titled “TRUMP: Donation of Profits from Foreign Government Patronage,” to describe its method for identifying foreign customers and calculating profit from these customers.¹⁰⁰ See an excerpt of the document on the following page below.

Definition of Foreign Government Entity

According to the document provided by the Trump Organization, its policy defines “**foreign government entity**” to mean a (i) department or agency of a foreign government, (ii) a foreign embassy, (iii) a foreign political party, (iv) members of royal family, or (v) a sovereign wealth fund.”¹⁰¹ The policy recognizes that foreign governments may operate through “state-owned and state-controlled entities in industries such as aerospace and defense, banking, finance, healthcare, energy and others, which may not be reasonably identifiable as foreign government entities, and therefore may not be included in our calculation of profit to be donated.”¹⁰²

⁹⁶ Ibid.

⁹⁷ Julia Harte, “Kuwait could pay up to \$60,000 for party at Trump Hotel in Washington,” *Reuters*, February 25, 2017, accessed here: <https://www.reuters.com/article/us-usa-trump-hotel-idUSKBN1640LE>

⁹⁸ Bernard Condon and Stephen Braun, “Philippines Latest Foreign Country to Book the Trump International Hotel,” *NBC Washington*, April 28, 2018, accessed here: <https://www.nbcwashington.com/news/local/Philippines-Latest-Foreign-Country-to-Book-Rooms-at-the-Trump-International-Hotel-481144831.html>.

⁹⁹ Ibid.

¹⁰⁰ “Cummings Raises Grave Concerns About President’s Refusal to Comply with Emoluments Clause of Constitution,” press release, House Committee on Oversight and Reform, May 17, 2017, accessed here: <https://edit-democrats-oversight.house.gov/news/press-releases/cummings-raises-grave-concerns-about-president-s-refusal-to-comply-with-trump-donation-of-profits-from-foreign-government-patronage>,” The Trump Organization, produced to the House Committee on Oversight and Government Reform on May 11, 2017, accessed here: <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Trump%20Org%20Pamphlet%20n%20Foreign%20Profits.pdf>

¹⁰¹ Ibid, p. 5.

¹⁰² Ibid. According to the Trump Organization policy, “...our most relevant measure of Profit is the Revenue received by the Property [hotel] less the costs required to provide such Revenue.” Ibid, p. 6. As explained in the Trump Organization pamphlet, “...the most reasonable and effective way to measure Profit from a particular customer base [such as foreign government entities] is to apply an overall Property Profit calculation on a pro-rata basis to the revenue generated from that customer base. It is our policy therefore to calculate Profit from foreign governments’ patronage in this manner.” Ibid, p. 7.

-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease

Trump Organization Pamphlet on Donation of Profits
from Foreign Government Patronage¹⁰³



“To fully and completely identify all patronage at our Properties by customer type is **impractical** in the service industry and putting forth a policy that requires all guests to identify themselves would impede upon personal privacy and **diminish the guest experience of our brand**. It is not the intention nor design of this policy for our Properties to attempt to identify individual travelers who have not specifically identified themselves as being a representative of a foreign government entity on foreign government business.” [Emphasis added].

Identification of Revenue from Foreign Government Entities

The document states that seeking to fully and completely identify all patronage at the hotel would be “impractical” and “diminish the guest experience of our brand.”¹⁰⁴ Instead, properties are

¹⁰³ “TRUMP: Donation of Profits from Foreign Government Patronage,” The Trump Organization, produced to the House Committee on Oversight and Government Reform on May 11, 2017, accessed here: <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Trump%20Org%20Pamphlet%20on%20Foreign%20Profits.pdf>

¹⁰⁴ Ibid, p. 4.

**-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA’s Management of the OPO Building Lease**

expected to make “commercially reasonable efforts” to identify revenue from foreign government entities or foreign government businesses, using the following sources:

- Direct billings from the hotel to a foreign government;
- Contracted group, catering, and banquet business with the hotel from a foreign government;
- Payments received by the hotel via check or electronic payment from a reasonably identifiable foreign government entity.¹⁰⁵

Although foreign government payments to the hotel represented tremendously important constitutional issues involving a sitting President of the United States, there were zero checks and balances by GSA during the Trump Presidency to determine if Trump OPO LLC’s calculations were fair, complete, and accurate.¹⁰⁶ The hotel was certainly not transparent about these foreign payments. In addition to direct transactions at the D.C. hotel, as mentioned above, Trump OPO LLC received more than \$75 million in loans from Trump family businesses and less than \$3.5 million of those loans were ultimately repaid. Though these loans came from the companies created to hold Donald J. Trump and his children’s financial interests in the hotel, GSA never made any effort to identify the origin of these loans and whether the ultimate source of the financing posed any constitutional concerns. This raises a question of whether GSA should have looked more closely into these loans as part of a constitutional analysis since President Trump maintained his financial interest in the hotel during his presidency.¹⁰⁷ Shortly after Donald J. Trump’s election, but before he was inaugurated, one foreign diplomat put it this way:

Why wouldn’t I stay at his hotel blocks from the White House, so I can tell the new president, ‘I love your new hotel!’ Isn’t it rude to come to his city and say, ‘I am staying at your competitor?’¹⁰⁸

Domestic Emoluments

In addition to foreign emoluments, there is another emoluments clause in the U.S. Constitution that applies directly to the President of the United States. The Domestic Emoluments Clause (also sometimes known as the “Presidential Emoluments Clause”)—Article II, Section 1, Clause 7:

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during

¹⁰⁵ Ibid, p. 5.

¹⁰⁶ Hearing titled, “Landlord and Tenant: The Trump Administration’s Oversight of the Trump International Hotel Lease,” Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, p. 124, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>

¹⁰⁷ GSA does not include in its list of responsibilities for outlease administration that funds used to pay rent originate from constitutionally permissible sources. See “GSA Outlease Contract Administration,” May 2020, pp. 6 - 8, 26 - 31, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹⁰⁸ Jonathan O’Connell and Mary Jordan, “For foreign diplomats, Trump hotel is place to be,” *The Washington Post*, November 18, 2016, accessed here: https://www.washingtonpost.com/business/capitalbusiness/2016/11/18/9da9c572-ad18-11e6-977a-1030f822fc35_story.html

**-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease**

the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.¹⁰⁹

According to the Congressional Research Service:

The Domestic Emoluments Clause's purpose is to preserve the President's independence from Congress and state governments. To accomplish this end, the Clause contains two key provisions. First, it provides that the President shall receive a compensation for his services, which cannot be increased or decreased during his term, thus preventing Congress from using its control over the President's salary to exert influence over him. To preserve presidential independence further, the Clause provides that, apart from this fixed salary, the President shall not receive "any other Emolument" from the United States or any state government. In light of its purpose, the Domestic Emoluments Clause—unlike the Foreign Emoluments Clause—does not permit Congress to assent to the receipt of otherwise prohibited emoluments from the state or federal governments."¹¹⁰

Questions about President Trump's compliance with the Domestic Emoluments Clause have also been raised given his continual ownership stake in the Trump International Hotel and state government patronage of the hotel during his presidency. For example, then-Maine Governor Paul LePage and his staff reportedly spent more than \$22,000 in taxpayer money on rooms and meals at the Trump International Hotel in Washington, D.C. over the course of two years.¹¹¹

Interested Parties Provision in OPO Building Lease

The OPO Building lease to the Trump International Hotel explicitly prohibits any elected official of the U.S. Government from serving as a lessee or from obtaining any benefit that may arise from the lease. Article 37.2 of the ground lease also says it "shall be governed by the federal laws of the United States of America, and if such laws are not applicable to the issue in question, then the issue shall be governed by the laws of the District of Columbia."¹¹² Thus, GSA had a clear obligation to evaluate the laws of the United States and the U.S. Constitution and its emoluments clauses in its evaluation of the lease. However, it never did. Article 37.19 of the ground lease, known as the Interested Parties clause, states:

No member or delegate to Congress, **or elected official of the Government of the United States** or the Government of the District

¹⁰⁹ U.S. Constitution, Article II, Section 1, Clause 7.

¹¹⁰ "The Emoluments Clauses and the Presidency: Background and Recent Developments," Congressional Research Service, November 5, 2019, p. 3, accessed here: <https://crsreports.congress.gov/product/pdf/R/R45992>

¹¹¹ Ellen Cranley, "The former governor of Maine reportedly spent at least \$22,000 in taxpayer money at Trump's DC hotel," *Business Insider*, February 17, 2019, accessed here: <https://www.businessinsider.in/the-former-governor-of-maine-reportedly-spent-at-least-22000-in-taxpayer-money-at-trumps-dc-hotel/articleshow/68039790.cms>

¹¹² Ground Lease by & between the U.S. (as "Landlord") & Trump Old Post Office LLC (as "Tenant"), Lease No.: GS-LS-11-1307, section 37.2, August 5, 2013, accessed here: [https://www.gsa.gov/cdnstatic/Part Two of Segment 001 of OPO Ground Lease %282013%29 RA.pdf](https://www.gsa.gov/cdnstatic/Part%20Two%20of%20Segment%20001%20of%20OPO%20Ground%20Lease%20-%20RA.pdf)

-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease

of Columbia, shall be admitted to any share or part of this Lease, or to any benefit that may arise therefrom; provided, however, that this provision shall not be construed as extended to any Person who may be a shareholder or other beneficial owner of any publicly held corporation or other entity, if this Lease is for the general benefit of such corporation or other entity.¹¹³ [Emphasis added].

The federal government's outlease of the Tariff Building in Washington, D.C., now the Hotel Monaco, includes an identical provision.¹¹⁴ Other large GSA outleases, defined as an outlease of at least 20 percent of rentable square feet, have previously included similar provisions.¹¹⁵

According to the GSA OIG:

Following the 2016 election, it was necessary for GSA to consider whether President-elect Trump's business interest in Tenant might cause a breach of the lease under Section 37.19, Interested Parties provision, upon his becoming President.

GSA's analysis should have considered whether the Foreign Emoluments Clause or the Presidential Emoluments Clause of the U.S. Constitution barred the President's business interest in Tenant. We [OIG] found that GSA, through its OGC [Office of General Counsel] and PBS [Public Buildings Service], recognized that the President's business interest in the OPO lease raised issues under the Constitution's Emoluments Clauses that might cause a breach of the lease, but decided not to address those issues in connection with the management of the lease. We also found that OGC improperly ignored these Emoluments Clauses, even though the lease itself requires compliance with the laws of the United States, including the Constitution. In addition, we found that GSA's unwillingness to address the constitutional issues affected by its analysis of Section 37.19 and the decision to grant Tenant an Estoppel Certificate . . .

We recommend that before continuing to use the language, GSA determine the purpose of the Interested Parties provision, conduct a formal legal review by OGC that includes consideration of the Foreign and Presidential Emoluments Clauses, and revise the language to avoid ambiguity.¹¹⁶

¹¹³ Ibid, section 37.19.

¹¹⁴ "Federal Real Property: GSA Outleasing and Restrictions on Participation of Elected Officials," Government Accountability Office (GAO), GAO-18-603R, July 25, 2018, p 5, accessed here: <https://www.gao.gov/assets/700/693396.pdf>

¹¹⁵ Ibid, pp. 1-3, 5-6.

¹¹⁶ "Evaluation of GSA's Management and Administration of the Old Post Office Building Lease," Office of Inspector General, General Services Administration, January 16, 2019, pp. 23-24 accessed here: https://www.gsaig.gov/sites/default/files/ipa-reports/IE19-002%20OIG%20EVALUATION%20REPORT-GSA%27s%20Management%20of%20Administration%20of%20OPO%20Building%20Lease_January%2016%202019_Redacted.pdf

-PROBLEMS ON PENNSYLVANIA AVENUE-
2. GSA's Management of the OPO Building Lease

In response to the OIG recommendation, GSA put together a "Corrective Action Plan," however, the GSA OIG determined that the GSA's plan was unresponsive.¹¹⁷ It merely called for updating GSA's outleasing forms, its outleasing program guide, and its outleasing training material.¹¹⁸ Instead of adhering to the GSA OIG's recommendation, GSA inexplicably removed some of the most critical language in these outlease agreements regarding "elected official of the Government of the United States..." According to GSA, this phrase will no longer be included in any future outleases by the agency. This opens the door to the emergence of constitutional conflicts and ethical controversies in the future and fails to comply with the OIG's recommendation.¹¹⁹

¹¹⁷ "Semiannual Report to the Congress," Office of Inspector General, General Services Administration, April 1, 2019 - September 30, 2019, p. 66, accessed here: <https://www.gsaig.gov/sites/default/files/semiannual-reports/GSA-OIG-SAR-11-2019%20508.pdf>

¹¹⁸ "Corrective Action Plan: Evaluation of GSA's Management and Administration of the Old Post Office Building Lease (JE19-002)," Office of Portfolio Management and Customer Engagement, General Services Administration, March 29, 2019, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹¹⁹ "The Outlease Program Guide," Office of Portfolio Management and Customer Engagement, Public Buildings Service, General Services Administration, August 2020, pp. 65 - 66, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

3. Congressional Oversight

-PROBLEMS ON PENNSYLVANIA AVENUE-

3. Congressional Oversight

Teapot Dome Scandal and Lessons from History

History has shown that Congress plays a crucial role in holding federal officials accountable to the public. Most famously, the Teapot Dome scandal is a case some have compared to President Trump's ownership interest in the Trump International Hotel lease of the Old Post Office Building, a building owned by the federal government.¹²⁰ In 1922, the Secretary of Interior, Albert Fall, a former U.S. Senator, secretly leased drilling rights to what was known as the Teapot Dome oil field in Wyoming to the Mammoth Oil Company, which was owned by Fall's longtime friend Harry Sinclair.¹²¹ He also secretly leased two other national strategic oil reserves to another friend, Edward Doheny, founder of the Pan-American Petroleum Company.¹²² When news of this case emerged publicly, and after a lengthy congressional investigation by Senator Edward Walsh and eventual court cases, it was revealed that in exchange for these secret leases of federal land, Fall received a \$100,000 "loan" from Doheny that was never repaid.¹²³ Fall, after federal indictments for conspiracy to defraud the United States and receiving a bribe, was tried in federal court in the District of Columbia, and a jury convicted him of receiving a bribe.¹²⁴ The conspiracy charge resulted in a mistrial.¹²⁵ In the end, Fall was fined \$100,000 and served nine months of a one-year prison sentence, becoming the first U.S. cabinet member to be imprisoned for a felony.¹²⁶

Congress's Oversight Authority

The Teapot Dome scandal helped solidify Congress's broad authority to investigate subjects on which it could potentially legislate.¹²⁷ In 1927, in *McGrain v. Daugherty*, the Supreme Court found the "potential" for legislation was sufficient to warrant a congressional investigation.¹²⁸ In 1975 the Supreme Court appeared to go further in *Eastland v. United States Servicemen's Fund* declaring, "To be a valid legislative inquiry there need be no predictable end result."¹²⁹ And in 2020, ruling against

¹²⁰ See, e.g., "Fundraiser at Trump Hotel 'worse' than the Teapot Dome Scandal," *MSNBC*, June 28, 2017, accessed here: <https://www.msnbc.com/brian-williams/watch/fundraiser-at-trump-hotel-worse-than-the-teapot-dome-scandal-978634307824>.

¹²¹ Jake Kobrick, "United States v. Albert B. Fall: The Teapot Dome Scandal," Federal Judicial Center, 2020, pp. 4 - 10, accessed here: <https://www.fjc.gov/history/cases/famous-federal-trials/us-v-albert-b-fall-teapot-dome-scandal>; "Teapot Dome Scandal," History.com, June 10, 2019, accessed here: <https://www.history.com/topics/roaring-twenties/teapot-dome-scandal>

¹²² Kobrick, "United States v. Albert B. Fall: The Teapot Dome Scandal," pp. 6-8.

¹²³ Ibid, pp. 10-15.

¹²⁴ "Albert Bacon Fall," *Encyclopedia Britannica*, November 26, 2021, accessed here:

<https://www.britannica.com/biography/Albert-Bacon-Fall>; Kobrick, "United States v. Albert B. Fall: The Teapot Dome Scandal," p. 52 (Explaining, "the judge instructed the jury that the case was brought 'under a law which makes it a crime for any officer of the United States to ask, accept or receive any money or anything of value with intent to have his action or decision influenced thereby upon any question which may be at any time pending before him or which might by law be brought before him.').

¹²⁵ Ibid, pp. 23-26 (Explaining that Fall was deemed too ill to stand trial when the case was retried).

¹²⁶ "Teapot Dome Scandal," History.com, June 10, 2019, accessed here: <https://www.history.com/topics/roaring-twenties/teapot-dome-scandal>; "Teapot Dome Scandal," *Encyclopedia Britannica*, November 25, 2019, accessed here: <https://www.britannica.com/event/Teapot-Dome-Scandal>; "Albert Bacon Fall," *Encyclopedia Britannica*, November 26, 2021, accessed here: <https://www.britannica.com/biography/Albert-Bacon-Fall>; and Kobrick, "United States v. Albert B. Fall: The Teapot Dome Scandal," p. 52.

¹²⁷ "Congressional Oversight Manual," Congressional Research Service, March 31, 2021, p. 8, accessed here: <https://www.crs.gov/reports/pdf/RL30240>

¹²⁸ *McGrain v. Daugherty*, 273 U.S. 135, 177-182 (1927).

¹²⁹ *Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 509 (1975).

-PROBLEMS ON PENNSYLVANIA AVENUE-

3. Congressional Oversight

President Trump, the Supreme Court reaffirmed its past rulings in this area, finding congressional subpoenas were valid when, amongst other things, the subpoenas advanced a valid legislative purpose.¹³⁰

In *McGrain*, a unanimous Supreme Court observed that Congress, while investigating the administration of the DOJ during the Teapot Dome scandal, was considering a subject “on which legislation could be had or would be materially aided by the information which the investigation was calculated to elicit.”¹³¹ The Court declared that “the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function.”¹³²

In *Eastland*, a Senate subcommittee set out to examine the operations of the Internal Security Act of 1950, beginning with an inquiry into activities of the United States Servicemen’s Fund and a subpoena for the Fund’s bank records, to which the Fund objected.¹³³ In upholding the subpoena, the Supreme Court stated that the “scope of [Congress’s] power of inquiry . . . is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution.”¹³⁴

And last year, in *Trump v. Mazars*, the Supreme Court reiterated the importance and breadth of Congress’s investigatory power.¹³⁵ The Court observed that “[w]ithout information, Congress would be shooting in the dark, unable to legislate ‘wisely or effectively.’”¹³⁶ Therefore Congress’s investigatory powers must logically include “inquiries into the administration of existing laws, studies of proposed laws, and ‘surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them.’”¹³⁷

Efforts to Hinder the Committee’s Investigation

During the committee’s investigation of the OPO lease to the Trump International Hotel, GSA delayed fully responding to the committee’s request for production of key records by more than two years. GSA even sent the committee a copy of a letter from Trump Old Post Office LLC’s attorney, which asserted that the committee’s request for confidential financial information, “...lacks any legitimate legislative purpose.”¹³⁸ The letter requested that GSA decline to disclose any confidential information to the committee.¹³⁹

On October 24, 2019, frustrated with GSA’s continued delay, and recognizing that there were serious constitutional questions about GSA’s handling of the lease, including, but not limited to GSA allowing foreign government patronage of the hotel, Chair DeFazio issued a subpoena to

¹³⁰ *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2038-39 (2020).

¹³¹ *McGrain*, 273 U.S. at 177.

¹³² *Ibid* at 174.

¹³³ *Eastland*, 421 U.S. at 493-97.

¹³⁴ *Ibid* at 504, n. 15 (internal citation omitted).

¹³⁵ *Mazars*, 140 S. Ct. at 2031.

¹³⁶ *Mazars*, 140 S. Ct. at 2031 (citing *McGrain*, 273 U.S. at 175).

¹³⁷ *Ibid* (citing *McGrain*, 273 U.S. at 161, 174-75).

¹³⁸ Letter from Trump Old Post Office LLC attorney Stefan Passantino to GSA Contracting Officer Kevin Terry, April 17, 2019, p. 1, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹³⁹ *Ibid*, p. 2.

-PROBLEMS ON PENNSYLVANIA AVENUE-

3. Congressional Oversight

GSA for all documents included in the committee's January 22, 2019, request letter.¹⁴⁰ These documents included financial records as well as legal memos related to GSA's evaluation of the OPO lease to the Trump Organization. However, GSA refused to fully comply with this subpoena and only offered an in-camera review of certain records and a complete prohibition on public disclosure of any information in these records without GSA's explicit consent.¹⁴¹ GSA did not produce unredacted financial records to the committee until May 5, 2021, after President Trump was out of office, and a new administration was in charge of GSA.¹⁴²

GSA's refusal to fully produce these records to Congress during the Trump administration kept critical information from Congress as well as from the public. Most notably, as outlined in part six of this report, the records reveal that the Trump International Hotel in Washington, DC, lost tens of millions of dollars, while simultaneously profiting from foreign government patronage. In other words, the records confirmed what the committee suspected, that it may need to consider legislative action to ensure that GSA manages outleases in a constitutional manner.

¹⁴⁰ "Chair DeFazio Issues Subpoena to GSA for Key Documents Related to Old Post Office Lease," press release, Committee on Transportation and Infrastructure, October 24, 2019, accessed here: <https://transportation.house.gov/news/press-releases/chair-defazio-issues-subpoena-to-gsa-for-key-documents-related-to-old-post-office-lease>

¹⁴¹ Letter from GSA General Counsel Jack St. John to Chair DeFazio, November 12, 2019, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹⁴² Letter from GSA Associate Administrator Gianelle Rivera to Chair DeFazio and Chair Titus, May 5, 2021, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

4. Investigating GSA's Oversight of the OPO Building Lease

-PROBLEMS ON PENNSYLVANIA AVENUE-
4. Investigating GSA's Oversight of the OPO Building Lease

Estoppel Certificate

An Estoppel Certificate is a legal document that certifies that the signee agrees that certain facts are true and the lease is valid and in full force and effect.¹⁴³ On March 20, 2017, Trump OPO LLC requested a certificate stating that Trump OPO LLC was in full compliance with Section 37.19 of the lease and that the lease was valid.¹⁴⁴ On March 23, 2017, GSA's contracting officer for the lease issued an Estoppel Certificate and a letter stating that Trump OPO LLC was "in full compliance with Section 37.19 and, accordingly, the Lease is valid and in full force and effect."¹⁴⁵ However, in 2019, the GSA OIG found that GSA failed to consider the emoluments clauses of the U.S. Constitution before issuing the Estoppel Certificate and that they should have contemplated the impact of those issues on the OPO lease.¹⁴⁶

GSA OIG's Investigation of the OPO Building Lease

The GSA OIG's report issued in January 2019, was titled: *"Evaluation of GSA's Management and Administration of the Old Post Office Building Lease."*¹⁴⁷ The OIG investigation focused on GSA's decision-making process in determining whether a breach of lease existed as a result of the election and inauguration of President Trump. The OIG reviewed actions taken by GSA officials in both the Obama administration and the Trump administration.¹⁴⁸

GSA OIG Findings and Recommendation

The OIG report made three findings:

1. GSA failed to address issues related to the Constitution's emoluments clauses "in connection with the management of the lease[,]"¹⁴⁹
2. "[T]he decision to exclude the emoluments issues from GSA's consideration of the lease was improper because GSA, like all government agencies, has an obligation to uphold and enforce the Constitution; and because the lease, itself, requires that consideration[,]"¹⁵⁰ and
3. "GSA's unwillingness to address the constitutional issues affected its analysis of Section 37.19 of the lease that led to GSA's conclusion that Tenant's business structure satisfied

¹⁴³ "Estoppel Certificate definition," *Law Insider*, accessed here: <https://www.lawinsider.com/dictionary/estoppel-certificate>

¹⁴⁴ Letter from GSA Contracting Officer Kevin Terry to Donald J. Trump, Jr. at Trump Old Post Office LLC, March 23, 2017, Exhibit 1.C, p. 35, accessed here:

https://www.gsa.gov/cdnstatic/Contracting_Officer_Letter_March_23_2017_Redacted_Version.pdf

¹⁴⁵ *Ibid*, p. 1.

¹⁴⁶ "Evaluation of GSA's Management and Administration of the Old Post Office Building Lease," Office of Inspector General, General Services Administration, January 16, 2019, accessed here:

https://www.gsaig.gov/sites/default/files/ipa-reports/JE19-002%20OIG%20EVALUATION%20REPORT-GSA%27s%20Management%20of%26%20Administration%20of%20OPO%20Building%20Lease_January%2016%202019_Redacted.pdf

¹⁴⁷ *Ibid*.

¹⁴⁸ *Ibid*.

¹⁴⁹ *Ibid*, p. 23.

¹⁵⁰ *Ibid*, p. 1.

-PROBLEMS ON PENNSYLVANIA AVENUE-
4. Investigating GSA’s Oversight of the OPO Building Lease

the terms and conditions of the lease. As a result, GSA foreclosed an early resolution of these issues, including a possible solution satisfactory to all parties; and the uncertainty over the lease remains unresolved.”¹⁵¹

As noted above, the OIG report made one recommendation to GSA: “before continuing to use the [Section 37.19] language, GSA determine the purpose of the Interested Parties provision, conduct a formal legal review by [GSA Office of General Counsel] OGC that includes consideration of the Foreign and Presidential Emoluments Clauses, and revise the language to avoid ambiguity.”¹⁵² This recommendation remains unimplemented by GSA today.¹⁵³ This failure to properly address the GSA OIG’s recommendation continues to threaten the agency’s ability to fully rectify their position on these matters and to confront these critically important constitutional issues.

Failure of GSA to Implement OIG Recommendation

Although GSA formally agreed with the OIG’s recommendation and prepared a Corrective Action Plan, the OIG rejected that plan as nonresponsive.¹⁵⁴ Nearly three years later GSA has still failed to properly address these issues. GSA did not conduct the OIG’s recommended legal review, and, as of October 2021, the OIG still considers GSA’s actions to address its recommendations as “unimplemented.”¹⁵⁵

Most problematically, rather than clarifying the conflict-of-interest language in the Interested Parties clause of the OPO lease, GSA simply **removed** the language referring to elected officials of the U.S. Government from future leases while leaving in language referring to Members of Congress.¹⁵⁶ It also failed to prospectively address the issues in the OPO lease as the OIG intended. In 2019, the OIG found GSA failed to conduct the recommended legal review of the Interested Parties provision.¹⁵⁷ That recommendation remains unimplemented today.¹⁵⁸

During one of two oversight hearings the committee held last Congress on the OPO lease to the Trump International Hotel, Chair of the Subcommittee on Economic Development, Public Buildings, and Emergency Management Dina Titus tried to clarify GSA’s seemingly odd choice of

¹⁵¹ Ibid, p. 1.

¹⁵² Ibid, p. 24.

¹⁵³ “Semiannual Report to the Congress,” Office of Inspector General, General Services Administration, April 1, 2021 - September 30, 2021, p. 69, accessed here: <https://www.gsaig.gov/sites/default/files/semiannual-reports/GSA-OIG-SAR-11-2021.pdf>

¹⁵⁴ “Semiannual Report to the Congress,” Office of Inspector General, General Services Administration, April 1, 2019 - September 30, 2019, p. 66, accessed here: <https://www.gsaig.gov/sites/default/files/semiannual-reports/GSA-OIG-SAR-11-2019%20508.pdf>

¹⁵⁵ “Semiannual Report to the Congress,” Office of Inspector General, General Services Administration, April 1, 2021 - September 30, 2021, p. 69, accessed here: <https://www.gsaig.gov/sites/default/files/semiannual-reports/GSA-OIG-SAR-11-2021.pdf>

¹⁵⁶ “The Outlease Program Guide,” Office of Portfolio Management and Customer Engagement, Public Buildings Service, General Services Administration, August 2020, pp. 65-66, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹⁵⁷ “Semiannual Report to the Congress,” Office of Inspector General, General Services Administration, April 1, 2019 - September 30, 2019, p. 66, accessed here: <https://www.gsaig.gov/sites/default/files/semiannual-reports/GSA-OIG-SAR-11-2019%20508.pdf>

¹⁵⁸ “Semiannual Report to the Congress,” Office of Inspector General, General Services Administration, April 1, 2021 - September 30, 2021, p. 69, accessed here: <https://www.gsaig.gov/sites/default/files/semiannual-reports/GSA-OIG-SAR-11-2021.pdf>

-PROBLEMS ON PENNSYLVANIA AVENUE-
4. Investigating GSA's Oversight of the OPO Building Lease

actions in its revision to the Interested Parties clause in GSA's outleases with then-GSA Administrator Emily Murphy:

Ms. TITUS: So you just relied on one statute that mentioned Members of Congress, as opposed to expanding it to say other members of Government.

Ms. MURPHY: Correct, ma'am.

Ms. TITUS: Well, that is—I think that is something this committee better clear up so that you won't have any doubt about that, going forward.¹⁵⁹

¹⁵⁹ Hearing titled, "GSA Outleases and the Trump Old Post Office Hotel," Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives, 116th Congress, Second Session, January 28, 2020, p. 32, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hrg42245/pdf/CHRG-116hrg42245.pdf>

5. GSA's Failure to Act and Need for Legislative Action

-PROBLEMS ON PENNSYLVANIA AVENUE-
5. GSA's Failure to Act and Need for Legislative Action

Removing Ethical Guardrails

In a series of email exchanges between committee staff and GSA officials in early 2021 regarding the agency's failure to implement the OIG's recommendation, GSA staff responded with the same Corrective Action Plan that the OIG formally rejected.¹⁶⁰ One of the items in GSA's Corrective Action Plan, for instance, was updating the GSA Outlease Program Guide, which it completed last year.¹⁶¹ However, the newly updated GSA Outlease Program Guide essentially now teaches GSA contracting officers to ignore conflicts of interest related to federal officials other than Members of Congress, since it has removed any reference to "elected official of the Government of the United States" as originally included in the Interested Parties provision.¹⁶²

This is an affront to federal ethics guidelines and practices, and the American public. There are federal ethics statutes and regulation that address conflicts of interest and the "use of public office for private gain."¹⁶³ However, any reference to these statutes and regulations is absent from the GSA's Outlease Program Guide.¹⁶⁴ Instead, GSA's revised Interested Parties clause to be included in all future out leases now simply says:

The provisions of 18 U.S.C. § 431 (Contracts by Member of Congress) and 41 U.S.C. § 6306 (Prohibition on Members of Congress making contracts with the Federal Government), as such provisions may be revised from time to time, are hereby incorporated in this Lease by this reference, as if set forth in full.¹⁶⁵

Furthermore, the guide says, "GSA outlease Contracting Officers must familiarize themselves with this requirement and include this provision in all GSA outlease agreements. Any contract in violation of these statutory provisions will be considered null and void. Consultation

¹⁶⁰ Email exchange between General Services Administration and Committee on Transportation and Infrastructure staff, April-May 2021, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>; "Corrective Action Plan: Evaluation of GSA's Management and Administration of the Old Post Office Building Lease (JE19-002)," Office of Portfolio Management and Customer Engagement, Public Buildings Service, GSA, March 29, 2019, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>; and Letter from GSA Assistant Inspector General for Inspections to GSA Public Buildings Service Commissioner, "Response to GSA's Corrective Action Plan – Evaluation of GSA's Management and Administration of the Old Post Office Building Lease," May 8, 2019, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹⁶¹ "The Outlease Program Guide," Office of Portfolio Management and Customer Engagement, Public Buildings Service, General Services Administration, August 2020, accessed here:

<https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹⁶² Ibid, pp. 65-66; see also Ground Lease by & between the U.S. (as "Landlord") & Trump Old Post Office LLC (as "Tenant"), Lease No.: GS-LS-11-1307, section 37.19, August 5, 2013, p. 103, accessed here:

https://www.gsa.gov/cdnstatic/Part_Two_of_Segment_001_of_OPO_Ground_Lease_%282013%29_RA.pdf

¹⁶³ 5 C.F.R. § 2635.702 - Use of public office for private gain, accessed here: https://www.ecfr.gov/cgi-bin/text-idx?SID=8329a61e81a3149203e1f8e5e8e65335&mc=true&node=se5.3.2635_1702&rgn=div8; and see also, 18 U.S.C. § 208 – Acts affecting a personal financial interest, accessed here:

<https://www.oge.gov/Web/oge.nsf/Resources/18+U.S.C.+%C2%A7+208:+Acts+affecting+a+personal+financial+interest>

¹⁶⁴ "The Outlease Program Guide," Office of Portfolio Management and Customer Engagement, Public Buildings Service, General Services Administration, August 2020, accessed here:

<https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹⁶⁵ Ibid, p. 66.

-PROBLEMS ON PENNSYLVANIA AVENUE-
5. GSA's Failure to Act and Need for Legislative Action

with the Office of Regional Counsel is advised, if there are any questions regarding this clause during the contract drafting and negotiation process.”¹⁶⁶

In its revision to the Outlease Program Guide, which was completed on October 31, 2020, GSA failed again to effectively and fully respond to the OIG's original recommendation issued 21 months earlier in January 2019 to address both the Interested Parties clause of the OPO lease and the emoluments clauses to the U.S. Constitution.¹⁶⁷

Simply ignoring potential conflicts of interest will not make them disappear. Informing GSA contracting officials about ethical issues that they should be aware of can help prevent unethical conduct from occurring in the first place and help alert GSA officials to potential inappropriate behavior or actions of federal officials and others. Instead, GSA now ignores these important ethical considerations and without corrective actions may repeat the same mistakes in the future that they made regarding the Trump International Hotel lease.¹⁶⁸

By failing to take reasonable measures to address the issues identified by the GSA OIG, GSA has left a gaping ethical loophole in its outleasing provisions and has set itself up for potential controversies regarding conflicts of interest for future administrations. These potential conflicts could easily be avoided if appropriate actions were taken today to close these ethical gaps. However, GSA's responses and “corrective actions” have essentially eviscerated the purpose of the OIG's intended recommendation.

Past scandals have shown that senior government officials, not just federally elected officials, such as Presidents or Members of Congress, may take advantage of their political positions to obtain private profits at the public's expense. The emoluments clauses to the U.S. Constitution and other federal rules were written to help avoid these sorts of issues in the first place. By refusing to fully address these issues GSA is abdicating its responsibility to be a good steward of federal assets.

With a new GSA Administrator in place today, the agency has an opportunity to revisit its past decisions and instead adequately revise the Interested Parties clause to meet the GSA OIG's recommendation and to revisit their analysis of the emoluments clauses to the U.S. Constitution.

Mistakes & Missteps

GSA's actions, and lack of actions, on several fronts concerning the Old Post Office Building lease to the Trump International Hotel raise real concerns for Members of Congress, the committee, and the American public.

- By failing to consider the emoluments clauses encompassed in the U.S. Constitution GSA became an accessory to constitutional conflicts that mired the agency in controversy during

¹⁶⁶ Ibid.

¹⁶⁷ Email exchange between General Services Administration and Committee on Transportation and Infrastructure staff, April-May 2021, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹⁶⁸ Testimonies of Liz Hempowicz and Walter Shaub, Hearing titled, “Landlord and Tenant: The Trump Administration's Oversight of the Trump International Hotel Lease,” before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, pp. 83-101, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>

-PROBLEMS ON PENNSYLVANIA AVENUE-
5. GSA's Failure to Act and Need for Legislative Action

the Trump administration. Had GSA done so, it may have avoided political controversies that undermined the integrity of both the agency itself and the U.S. Presidency.

- GSA has failed to take appropriate actions to correct these mistakes despite a/ recommendation from the GSA's OIG.
- The “corrective actions” GSA did take had the effect of significantly weakening the ethical guardrails the agency had in place and widened the ethical gap regarding the advice it provides to contracting officers to identify and prevent conflicts of interest in GSA's outleasing activities. As a result, there are no longer important barriers to preventing similar ethical missteps by the agency from occurring in the future.
- GSA failed to take any actions whatsoever to track foreign or domestic government expenditures at the Trump International Hotel in Washington, D.C. which may have violated the foreign and domestic emoluments clauses of the U.S. Constitution. In questions for the record from a September 2019 committee hearing, Chair DeFazio and Subcommittee Chair Titus asked Dan Mathews, then GSA Commissioner of the Public Buildings Service, four related questions about whether or not the Trump International Hotel had taken any steps to track foreign or domestic government expenditures or if GSA had asked the hotel to take any steps to do so. Mr. Mathews' response to all four questions was identical: “No. GSA is not involved in the day-to-day operations of the Trump International Hotel.”¹⁶⁹ This mirrored comments from the GSA Administrator at the time, Emily Murphy, that GSA's primary concern was the rent payments from the Trump International Hotel, and related issues of constitutional fidelity did not appear to be a concern to the agency.¹⁷⁰
- Trump OPO LLC received \$72 million in loans that were ultimately forgiven,¹⁷¹ raising a question of whether GSA should have sought more detail about the origins of these funds as part of a broader constitutional analysis due to President Trump's continuing financial interest in the hotel during his presidency.
- Although GSA provided the committee with more than 10,000 pages of records last Congress, it withheld critical financial records.¹⁷² Even after the committee issued a

¹⁶⁹ Hearing titled, “Landlord and Tenant: The Trump Administration's Oversight of the Trump International Hotel Lease,” Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, p. 124, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>

¹⁷⁰ Hearing titled, “GSA Outleases and the Trump Old Post Office Hotel,” Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, Second Session, January 28, 2020, p. 28, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg42245/pdf/CHRG-116hhrg42245.pdf>

¹⁷¹ Trump OPO LLC 2014 financial statements, Trump OPO LLC 2015 financial statements, Trump OPO LLC 2016 financial statements, Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, and Trump OPO LLC 2020 financial statements, accessed here: <https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>

¹⁷² Testimony of GSA Public Buildings Service Commissioner Dan Mathews at hearing titled “Landlord and Tenant: The Trump Administration's Oversight of the Trump International Hotel Lease,” before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, p. 13, accessed here:

**-PROBLEMS ON PENNSYLVANIA AVENUE-
5. GSA's Failure to Act and Need for Legislative Action**

subpoena, GSA did not fully produce these records until after the Trump administration left office, more than two years after they were originally requested.¹⁷³

In February 2020, when rumors were circulating about an imminent sale of the Trump International Hotel, Chair DeFazio and Subcommittee Chair Titus wrote to GSA to ascertain the steps they were planning to take to protect against the unique ethical challenges posed to the agency of a sale of a hotel under federal lease and owned by the then current President of the United States. The response from the former GSA General Counsel was surprising, disturbing, glib, and appeared simply not to understand the concerns or the potential conflicts such a sale could create. "This lease is no different in this respect than the rest of the leases we administer," wrote the General Counsel.¹⁷⁴ Rumors of an impending sale have been swirling around the hotel for years. Despite GSA's lackadaisical attitude as landlord of the Trump International Hotel, and the lessons GSA should have learned from the OIG's review of GSA's initial lease agreement, the GSA took an equally hands off approach to rumors of the potential sale of the Trump International Hotel.

Last month, however, it was disclosed that the CGI Merchant Group had reached a deal to purchase the OPO lease to the hotel for \$375 million and to rebrand it a Waldorf Astoria hotel.¹⁷⁵ At a hearing of the Subcommittee on Economic Development, Public Buildings, and Emergency Management on November 2, 2021, the new GSA Administrator Robin Carnahan was asked about the potential sale of the hotel and said, "I cannot turn back the clock on things that have happened in the past, but I can commit that going forward I am very interested in making sure we have the right procedures in place for these kinds of outleases and that Congress' role in that is one that is appropriate."¹⁷⁶ The new GSA Administrator has indicated that GSA will review any potential buyer of the lease and perform an evaluation pursuant to Article XV of the lease.¹⁷⁷

<https://www.govinfo.gov/content/pkg/CHRG-116hrg41130/pdf/CHRG-116hrg41130.pdf>, "Chair DeFazio Issues Subpoena to GSA for Key Documents Related to Old Post Office Lease," press release, Committee on Transportation and Infrastructure, October 24, 2019, accessed here: <https://transportation.house.gov/news/press-releases/chair-defazio-issues-subpoena-to-gsa-for-key-documents-related-to-old-post-office-lease>.

¹⁷³ Letter from GSA Associate Administrator Gianelle Rivera to Chair DeFazio and Chair Titus, May 5, 2021, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹⁷⁴ Letter from GSA General Counsel Jack St. John to Chair DeFazio and Chair Titus, February 28, 2020, accessed here: <https://transportation.house.gov/download/miscellaneous-gsa-trump-hotel-records>

¹⁷⁵ Gillian Tan and Yueqi Yang, "Trump's Washington Hotel to Be Sold, Renamed Waldorf Astoria," *Bloomberg*, November 14, 2021, accessed here: <https://www.bloomberg.com/news/articles/2021-11-14/trump-s-washington-hotel-to-be-sold-renamed-waldorf-astoria>

¹⁷⁶ Hearing titled, "The General Services Administration's Priorities for 2021 and Beyond," Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 117th Congress, First Session, November 2, 2021, video at 40:22 – 40:40, accessed here <https://transportation.house.gov/committee-activity/hearings/the-general-services-administrations-priorities-for-2021-and-beyond>; Courtney Buble, "House Probes of Trump Hotel Continue Amid Report of Sale," *Government Executive*, November 15, 2021, accessed here: <https://www.govexec.com/oversight/2021/11/house-probes-trump-hotel-continue-amid-report-sale/186841/>

¹⁷⁷ "Old Post Office Building (Washington, D.C.) Fact Sheet-November 2021," General Services Administration. (On file with the committee); Ground Lease by & between the U.S. (as "Landlord") & Trump Old Post Office LLC (as "Tenant"), Lease No.: GS-LS-11-1307, Recitals and Article XV, August 5, 2013, accessed here: https://www.gsa.gov/cdnstatic/Part_One_of_Segment_001_of_OPO_Ground_Lease_%282013%29_RA.pdf

-PROBLEMS ON PENNSYLVANIA AVENUE-
5. GSA's Failure to Act and Need for Legislative Action

Potential Legislative Remedies

There are several legislative options that members of the committee may want to consider in order to help resolve the outstanding management issues at GSA that have led to unnecessary ethical disputes and failure to appropriately address the Interested Parties clause and other issues related to outleases. This could include:

- Requiring all outleases to include audit rights for both GSA and the GSA OIG;
- Prohibiting the GSA Administrator or designee from entering into an outlease that does not contain an Interested Parties clause that at a minimum includes a prohibition on any federally elected official or Cabinet member to share, participate in, or benefit from an outlease;
- Requiring congressional notification of outleases of 50 percent or more of usable square feet and sales of outleases of 50 percent or more of usable square feet to congressional committees of jurisdiction verifying the beneficial owner of the lessee or proposed transferee;
- Requiring that GSA request a review by the Committee on Foreign Investment in the United States of a proposed outlease if the facility is in close proximity to a U.S. military installation or other sensitive government location as defined by 31 C.F.R. Part 802.¹⁷⁸

In addition, the committee's investigation has exposed issues related to enforcement of the foreign and domestic emoluments clauses of the U.S. Constitution, enforcement of congressional subpoenas, required divesting of financial interests, and the need for a formal prohibition on the president and vice president from holding federal contracts. At least two House bills currently attempt to address these issues.

- H.R. 1, the For the People Act, would require divestiture of personal financial interests of the president and vice president that pose a potential conflict of interest and prohibit federal contracts by the president and vice president.¹⁷⁹ Chair DeFazio and Subcommittee Chair Titus are both cosponsors of this bill.
- H.R. 5314, the Protecting Our Democracy Act, would address enforcement of the Foreign and Domestic Emoluments clauses of the U.S. Constitution and enforcement of

¹⁷⁸ The Committee on Foreign Investment in the United States (CFIUS) is not a congressional committee. It is "an interagency committee authorized to review certain transactions involving foreign investment in the United States and certain real estate transactions by foreign persons, in order to determine the effect of such transactions on the national security of the United States." The Committee on Foreign Investment in the United States (CFIUS), U.S. Department of the Treasury, accessed here: <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius> and 31 C.F.R. Part 802 – Regulations Pertaining to Certain Transactions by Foreign Person Involving Real Estate in the United States, January 17, 2020, accessed here: <https://www.ecfr.gov/current/title-31/subtitle-B/chapter-VIII/part-802>

¹⁷⁹ H.R. 1, For the People Act §§ 8012, 8014 (2021), accessed here: <https://www.congress.gov/bill/117th-congress/house-bill/1>

-PROBLEMS ON PENNSYLVANIA AVENUE-
5. GSA's Failure to Act and Need for Legislative Action

congressional subpoenas.¹⁸⁰ It would codify the Constitution's Foreign and Domestic Emoluments clauses by prohibiting federal officials from accepting foreign emoluments without Congress's consent and prohibiting the president from accepting domestic emoluments; strengthen the process for civil actions brought by Congress for violations of the foreign emoluments clause; enhance financial disclosure requirements related to emoluments; and provide enhanced enforcement mechanisms for Congress and for entities within the executive branch.¹⁸¹ The bill would also enhance Congress' tools to enforce lawfully-issued subpoenas while preserving the accommodations process and it would codify a cause of action for Congress to enforce its subpoenas, including those issued to government officials.¹⁸² Chair DeFazio and Subcommittee on Economic Development, Public Buildings, and Emergency Management Chair Titus are both cosponsors of this bill.

¹⁸⁰ H.R. 5314, Protecting Our Democracy Act §§ 301-307, 401-405 (2021), accessed here: <https://www.congress.gov/bill/117th-congress/house-bill/5314>

¹⁸¹ Ibid at §§ 301-307.

¹⁸² Ibid at §§ 401-405.

6. By The Numbers – The Finances of The Trump International Hotel

-PROBLEMS ON PENNSYLVANIA AVENUE-

6. By the Numbers – The Finances of the Trump International Hotel

As discussed previously in this report, GSA's treatment of the OPO Building lease to the Trump OPO LLC allowed for conflicts of interest and ignored glaring constitutional issues. As the GSA OIG wrote in 2019:

...GSA's unwillingness to address the constitutional issues affected its analysis of Section 37.19 [the Interested Parties clause] of the lease that led to GSA's conclusion that Tenant's business structure satisfied the terms and conditions of the lease. As a result, GSA foreclosed an early resolution of these issues, including a possible solution satisfactory to all parties; and the uncertainty over the lease remains unresolved.¹⁸³

The numbers in the graphics that follow illustrate the scope of the financial and constitutional issues GSA faced due to its handling of its OPO lease. Most notably, they show how much money the Trump International Hotel was consistently losing while simultaneously profiting from foreign government patronage. This is a situation that GSA could have avoided had it quickly and comprehensively addressed the clear constitutional issues that emerged when Donald J. Trump was inaugurated as President. It did not. And nearly three years after the GSA OIG made a recommendation on how the agency should effectively and appropriately address these issues, GSA has still failed to do so.¹⁸⁴

The numbers also raise questions about whether GSA had adequate assurances that it would continue to receive full rental payments if the hotel's business did not improve, or worse, if the hotel went out of business entirely. The fact that financial records ultimately provided by GSA to the committee show that Trump family businesses transferred more than \$75 million in loans to the hotel's owner, Trump OPO LLC, and less than \$3.5 million of this amount was repaid, essentially resulting in the gifting of approximately \$72 million to the hotel to keep it functioning only deepens the original concerns the committee had about GSA neglecting to review important constitutional issues. It also raises questions about whether GSA should have attempted to understand the origins of the money that was ultimately given to the hotel. However, GSA made no such attempt, putting into question the adequacy of GSA's oversight of the OPO Building lease.

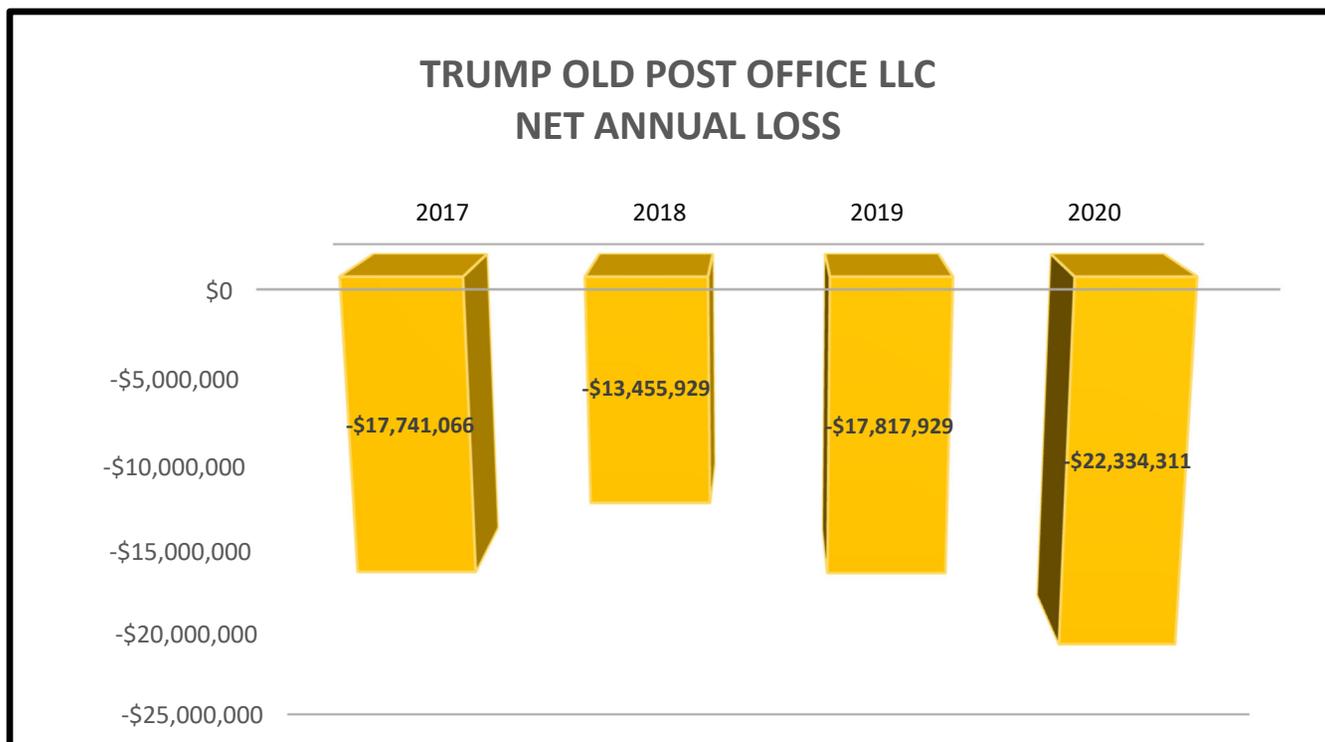
These are just some of the issues the committee may want to consider as it weighs potential legislation to improve GSA's outleasing procedures and its willingness or refusal to consider key constitutional issues before these matters potentially emerge again in the future.

¹⁸³ "Evaluation of GSA's Management and Administration of the Old Post Office Building Lease," Office of Inspector General, General Services Administration, January 16, 2019, p. 1, accessed here: https://www.gsaig.gov/sites/default/files/ipa-reports/JE19-002%20OIG%20EVALUATION%20REPORT-GSA%27s%20Management%20%26%20Administration%20of%20OPO%20Building%20Lease_January%2016%202019_Redacted.pdf

¹⁸⁴ "Semiannual Report to the Congress," Office of Inspector General, General Services Administration, October 1, 2020 – March 31, 2021, p. 66, accessed here: <https://www.gsaig.gov/sites/default/files/semiannual-reports/GSA-OIG-SAR-05-2021.pdf>

GRAPHIC #1: NET LOSSES

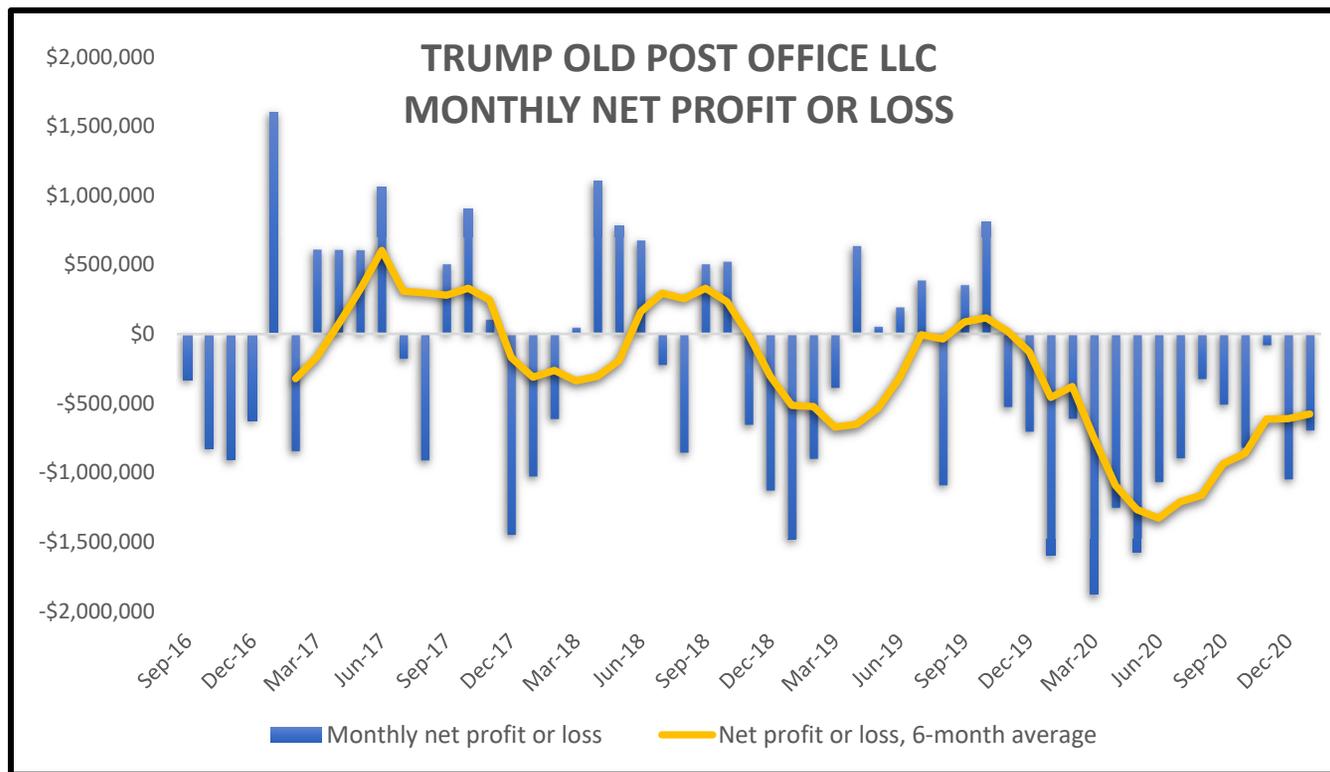
Despite the patina of luxury surrounding the Trump International Hotel, as a business venture it was a bad investment. According to the hotel's audited annual financial statements reviewed by the committee, it lost more than \$71 million from 2017 through 2020. The numbers shown in the figure below were reported as a "Net Loss" on the "Statement of Operations and Changes in Members' Equity" section of the Trump Old Post Office LLC's annual financial statements. These numbers include operating revenues, operating expenses, ground lease rent, depreciation and amortization, and interest expense, among other things.¹⁸⁵



¹⁸⁵ Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, and Trump OPO LLC 2020 financial statements, accessed here: <https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>. The financial statements cover the annual periods from September 1 through August 31.

GRAPHIC #2: MONTHLY PROFITS AND LOSSES

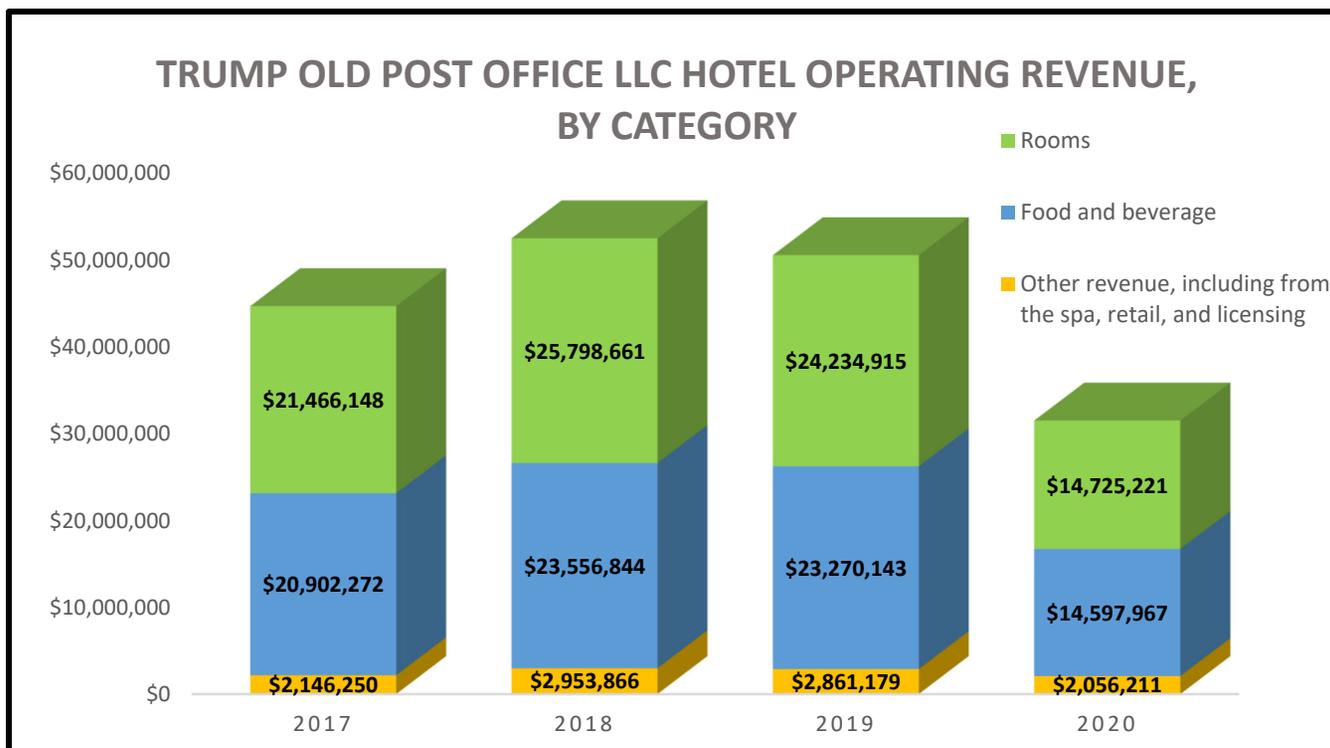
The hotel experienced an uneven but unrelenting decline in operating profits starting from the first year of its operations, as shown by the 6-month rolling average in the graphic below.¹⁸⁶ According to the hotel's monthly financial statements, it operated at a loss in 33 out of the 53 months from September 2016 through January 2021, the most recent monthly statement that the committee received. Net profit or loss, as shown in the monthly statements, includes operating revenue generated from rooms, food and beverage, and parking, among other things; as well as expenses incurred by the company, including operating costs (rooms, food and beverage, sales and marketing, and utilities, for instance) and non-operating costs (insurance and lease expenses, for instance).



¹⁸⁶ Trump International Hotel Monthly Statements, Trump OPO LLC, September 2016 – January 2021, accessed here: <https://transportation.house.gov/download/trump-international-hotel-monthly-statements>.

GRAPHIC #3: REVENUE BY CATEGORY

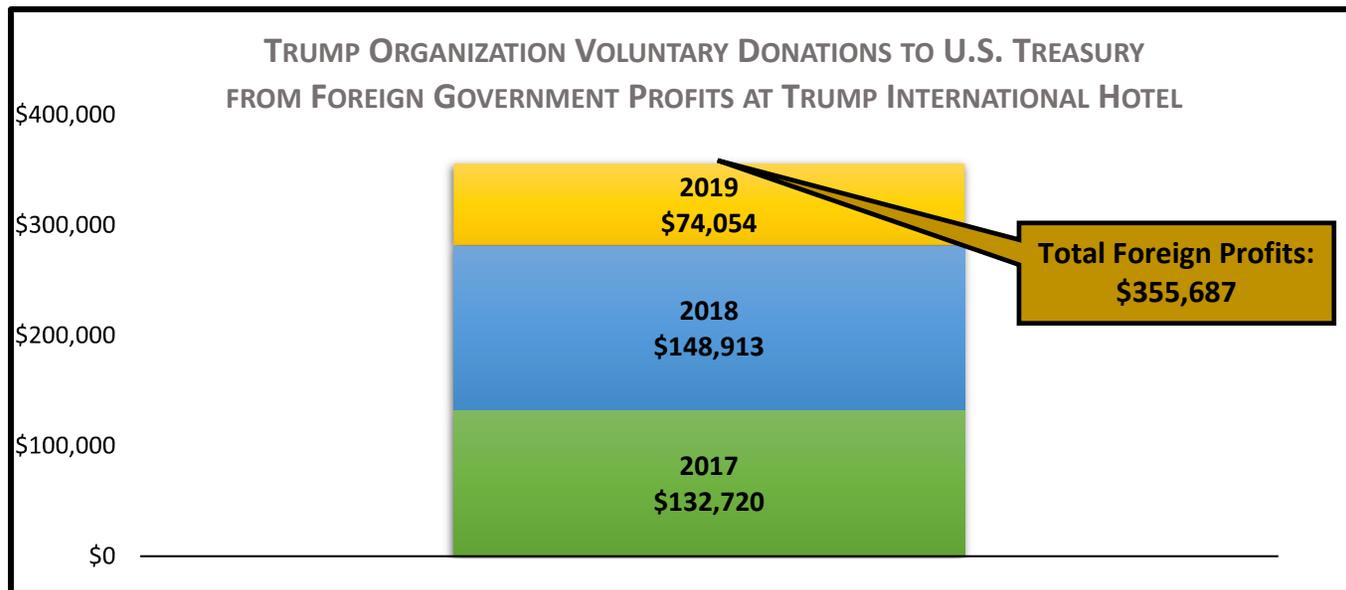
The majority of operating revenue generated by the hotel came from the rental of rooms and sales of food and beverages. As shown in the figure below, in 2017, 2018, and 2019, the hotel had food and beverage sales of around \$21 million to \$24 million each year, and room revenue of around \$21 million to \$26 million each year. The hotel had smaller amounts of revenue from the Spa by Ivanka Trump, parking fees, and retail purchases. The hotel still lost more than \$71 million from 2017-2020, although in 2020, as a result of pandemic travel restrictions, the hotel’s revenue dropped precipitously.¹⁸⁷



¹⁸⁷ Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, and Trump OPO LLC 2020 financial statements, accessed here: <https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>. The financial statements cover the annual periods from September 1 through August 31.

GRAPHIC #4: PROFITS FROM FOREIGN GOVERNMENT PATRONAGE

During President Trump’s presidency, numerous representatives of foreign governments patronized the Trump International Hotel, including members of parliament, foreign ministers, and ambassadors. In response to concerns regarding potential conflicts of interest with a sitting president benefiting from patronage at his business, an attorney who represented Donald J. Trump and the Trump Organization announced that President Trump would “voluntarily” donate to the U.S. Treasury all profits from foreign governments’ expenditures at his hotels and similar businesses during his time in office.¹⁸⁸ From 2017 through 2019, the Trump Organization identified more than \$350,000 in profits from foreign patronage at the Trump International Hotel.¹⁸⁹ However, GSA took no actions to verify or validate this ‘voluntary’ accounting to ensure it was accurate or complete.¹⁹⁰



¹⁸⁸ Jacob Pramuk, “Trump lawyer says he will give foreign government profits at his hotels to Treasury,” *CNBC*, January 11, 2017, accessed here:

<https://www.cnbc.com/2017/01/11/trump-lawyer-says-he-will-give-foreign-government-profits-at-his-hotels-to-treasury.html>

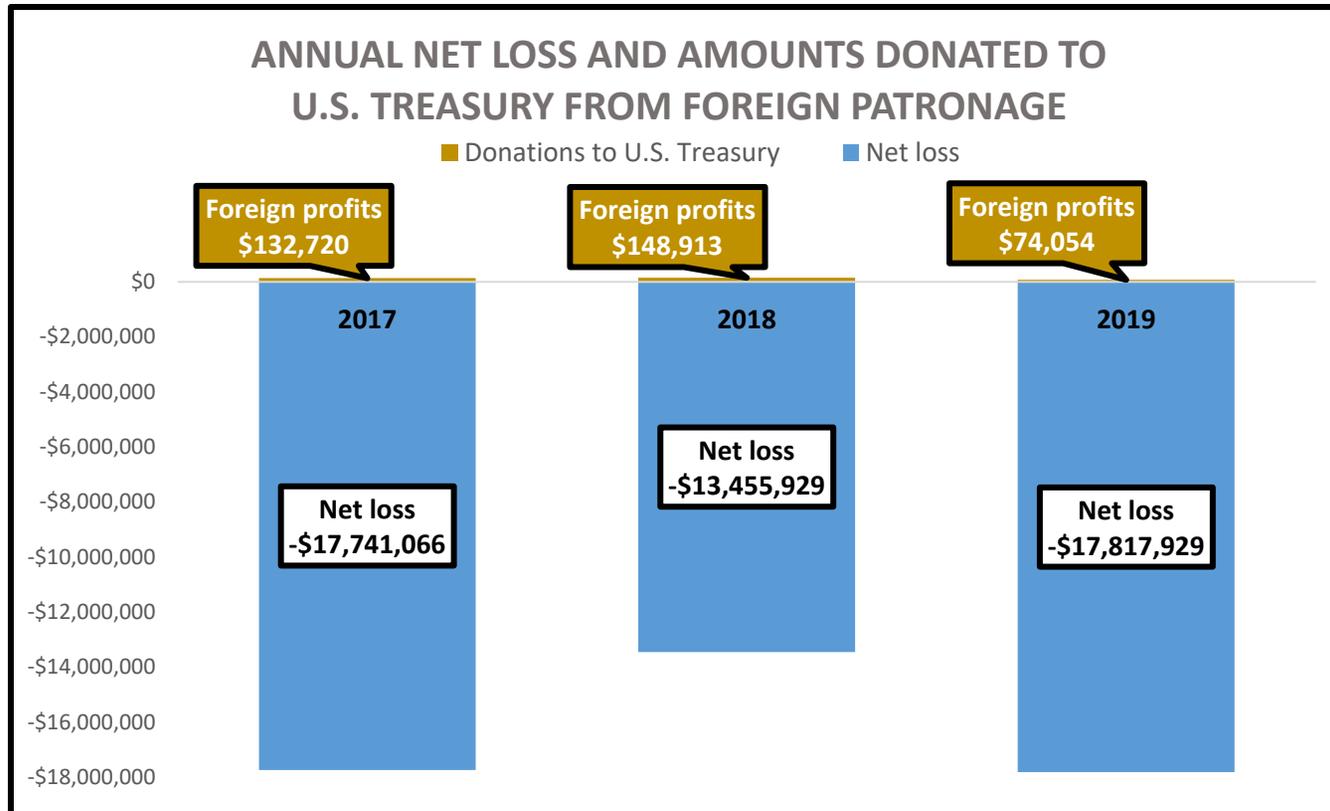
¹⁸⁹ Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, accessed here:

<https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>. The financial statements cover the annual periods from September 1 through August 31. The Trump Organization made payments to U.S. Treasury on a calendar year basis.

¹⁹⁰ Hearing Titled “Landlord and Tenant: The Trump Administration’s Oversight of the Trump International Hotel Lease,” Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, 116th Congress, First Session, September 25, 2019, p. 124, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41130/pdf/CHRG-116hhrg41130.pdf>.

GRAPHIC #5: FOREIGN GOVERNMENT PROFITS VS. TOTAL NET LOSSES

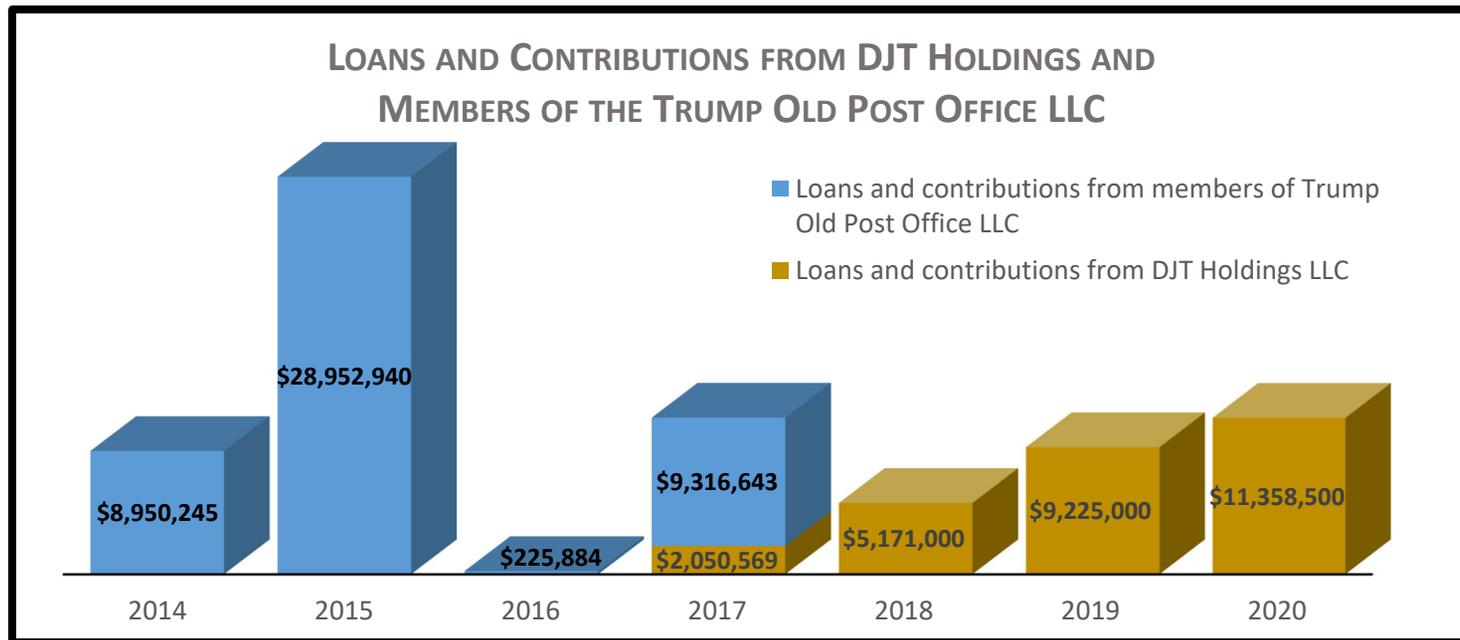
The Trump International Hotel has suffered consistent financial losses since opening in late 2016, with losses totaling more than \$71 million between its opening day and August 2020. At the same time, in 2017, 2018 and 2019, Trump OPO LLC was reporting profits from its foreign government guests, as shown below.¹⁹¹ The hotel reported a total of \$355,687 in foreign government profits in those years.



¹⁹¹ Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, accessed here: <https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>. The financial statements cover the annual periods from September 1 through August 31.

GRAPHIC #6: LOANS FROM FAMILY BUSINESSES

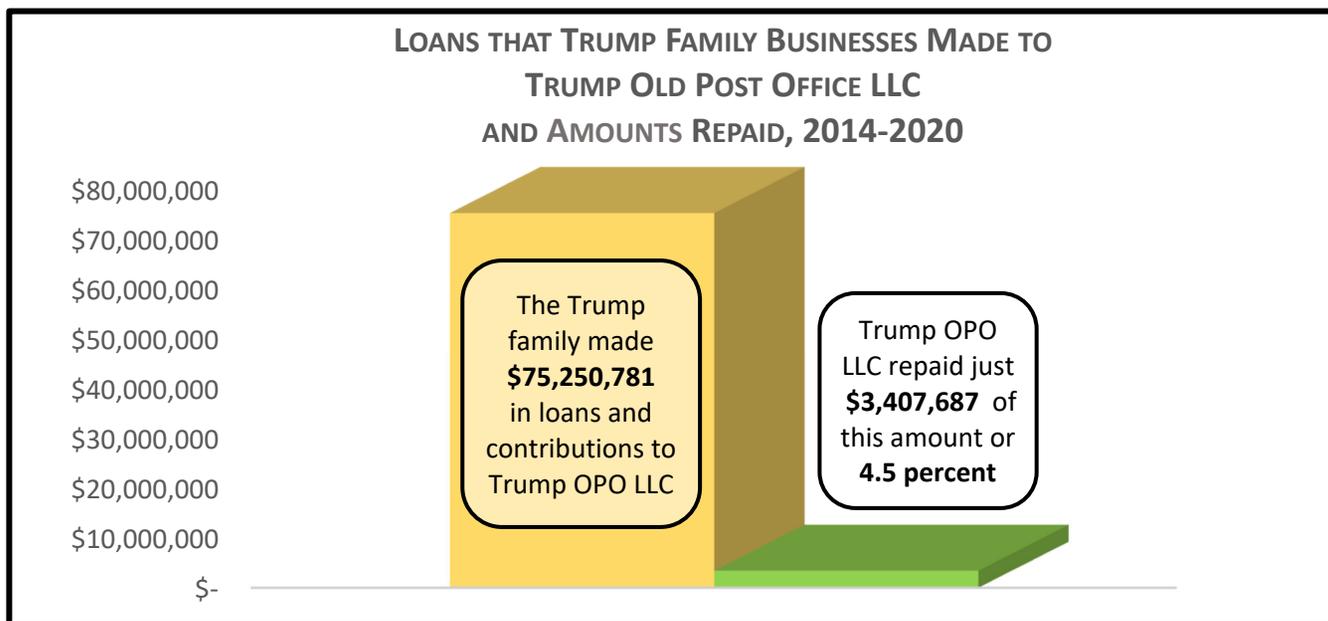
The Trump OPO LLC annual financial statements show several sources of financing the hotel used for its development and operations. These included more than \$75 million in loans and contributions from the members of Trump OPO LLC—specifically LLCs owned by Donald J. Trump and three of his adult children Donald Jr. Trump, Eric Trump, and Ivanka Trump. Just over \$38 million—about half of the contributions—was loaned from 2014 through 2016 as the hotel was being developed. Another \$37 million was loaned to the hotel by DJT Holdings from 2017 through 2020 to help support the hotel’s business as it was experiencing tens of millions of dollars in operating losses during Donald J. Trump’s presidency.¹⁹²



¹⁹² Trump OPO LLC 2014 financial statements, Trump OPO LLC 2015 financial statements, Trump OPO LLC 2016 financial statements, Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, and Trump OPO LLC 2020 financial statements, accessed here: <https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>. The financial statements cover the annual periods from September 1 through August 31. In 2017, DJT Holdings LLC lent the company \$2,050,069 for four days. The company repaid DJT Holdings LLC \$2,052,000.

GRAPHIC #7: LOAN FORGIVENESS

From 2014 through 2020, LLCs owned by Donald J. Trump and his children, Donald J. Trump, Jr., Eric Trump, and Ivanka Trump made more than \$75 million in loans and capital contributions to Trump OPO LLC. As shown in the figure below, Trump OPO LLC repaid less than \$3.5 million of this amount or just 4.5 percent of the total loans.¹⁹³ GSA had knowledge of these financial matters yet it conducted no oversight of these loans or their possible impact on the OPO lease agreement, and it did not examine the origin of these loans or the potential implications that they could have on the emoluments clauses of the U.S. Constitution, if any.¹⁹⁴

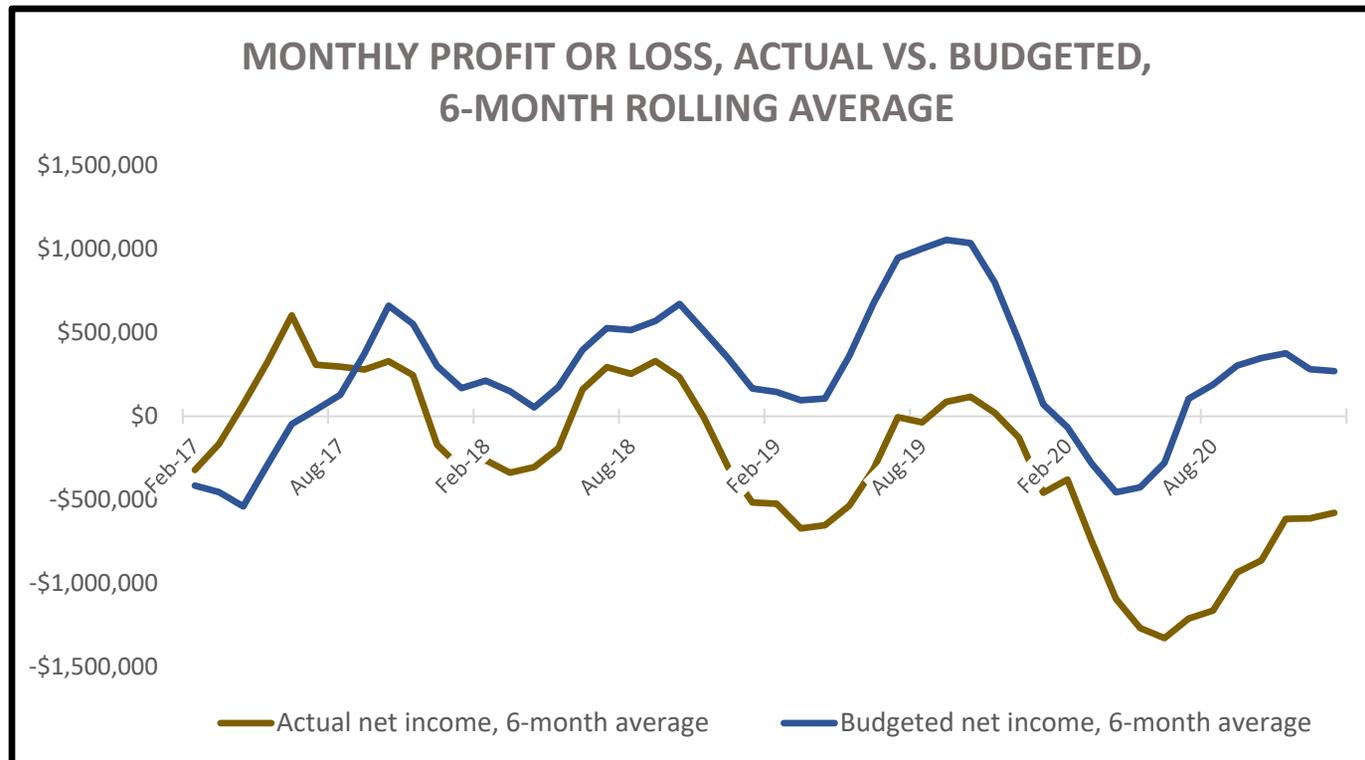


¹⁹³ Trump OPO LLC 2014 financial statements, Trump OPO LLC 2015 financial statements, Trump OPO LLC 2016 financial statements, Trump OPO LLC 2017 financial statements, Trump OPO LLC 2018 financial statements, Trump OPO LLC 2019 financial statements, and Trump OPO LLC 2020 financial statements, accessed here: <https://transportation.house.gov/download/audited-annual-financial-statements-of-trump-opo-llc>. The financial statements cover the annual periods from September 1 through August 31. In 2017, DJT Holdings LLC lent the company \$2,050,069 for four days. The company repaid DJT Holdings LLC \$2,052,000.

¹⁹⁴ Ground Lease by & between the U.S. (as “Landlord”) & Trump Old Post Office LLC (as “Tenant”), Lease No.: GS-LS-11-1307, Article 5.3, August 5, 2013, accessed here: https://www.gsa.gov/cdnstatic/Part_One_of_Segment_001_of_OPO_Ground_Lease_%282013%29_RA.pdf; “Evaluation of GSA’s Management and Administration of the Old Post Office Building Lease,” Office of Inspector General, General Services Administration, JE19-002, January 16, 2019, p. 23, accessed here: https://www.gsaig.gov/sites/default/files/ipa-reports/JE19-002%20OIG%20EVALUATION%20REPORT-GSA%27s%20Management%20%26%20Administration%20of%20OPO%20Building%20Lease_January%2016%202019_Redacted.pdf

GRAPHIC #8: FAULTY PROJECTIONS

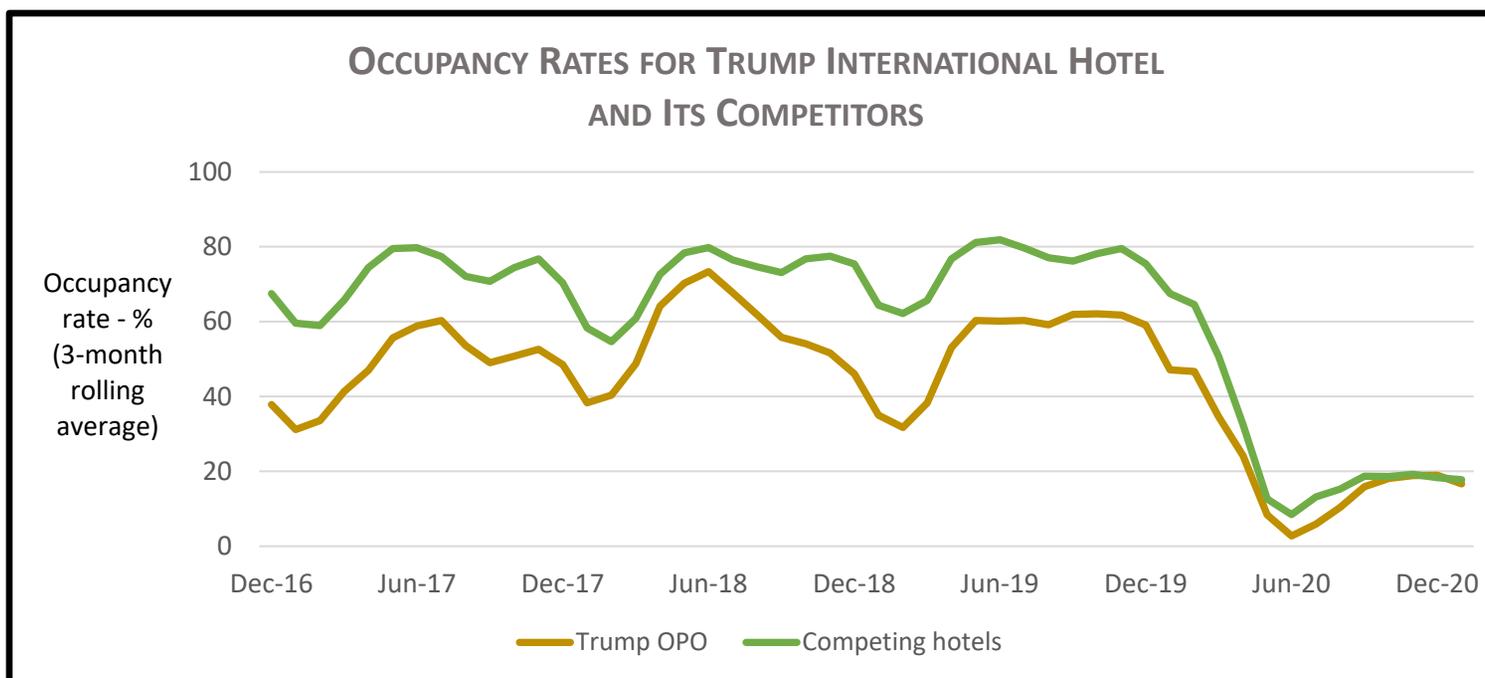
From 2017 through 2020, the Trump International Hotel consistently overestimated its monthly profits, as shown below. During this period, the hotel's actual net income—a measure of profit that includes all of a business's expenses—met targeted levels just eight out of 48 months. According to the Trump OPO LLC's monthly financial reports, the hotel's net income fell short of what the company had projected during the other 40 months.¹⁹⁵



¹⁹⁵ Trump International Hotel Monthly Statements, Trump OPO LLC, September 2016 – January 2021, accessed here: <https://transportation.house.gov/download/trump-international-hotel-monthly-statements>.

GRAPHIC #9: POOR OCCUPANCY RATES

GSA's lease with Trump Old Post Office LLC requires it to submit, as part of its monthly statements, a report showing the hotel's performance on a number of industry measures as compared to the hotel's competitors.¹⁹⁶ The report is prepared by STR Global, Ltd., a hospitality industry data benchmarking firm.¹⁹⁷ A measure included in the report is occupancy rates (i.e., the percentage of rooms that are booked). During the duration of its operation, the occupancy rates at the Trump International Hotel have been consistently lower than its competitors. The following graphic shows a 3-month rolling average of occupancy rates at the Trump International Hotel and at a group of competing hotels in the Washington, D.C., market.¹⁹⁸ This data provided GSA with one metric of how well the hotel was doing, which was helpful in assessing the hotel's financial success and if it would be able to meet its lease obligations to the federal government.



¹⁹⁶ Ground Lease by & between the U.S. (as "Landlord") & Trump Old Post Office LLC (as "Tenant"), Article V, section 5.3(c), Lease No.: GS-LS-11-1307, August 5, 2013, accessed here: https://www.gsa.gov/cdnstatic/Part_One_of_Segment_001_of_OPO_Ground_Lease_%282013%29_RA.pdf.

¹⁹⁷ Ibid; "About Str," STR Global, Ltd., accessed here: <https://str.com/about>.

¹⁹⁸ Trump International Hotel Monthly Statements, Trump OPO LLC, September 2016 – January 2021, accessed here: <https://transportation.house.gov/download/trump-international-hotel-monthly-statements>.