



January 24, 2019

The Honorable Emily W. Murphy
Administrator
General Services Administration
1800 F Street, NW
Washington, DC 20405

Dear Ms. Murphy:

I am writing to express serious concerns with your agency's handling of the recent Office of Inspector General (OIG) report examining the Trump International Hotel lease. Despite the important and critical findings regarding the General Services Administration's (GSA) inadequate review of constitutional and other issues with the high-profile lease of government property to the President, your agency's general counsel gave a surprisingly inadequate response.

The Project On Government Oversight is an independent nonprofit organization dedicated to achieving a more effective, ethical, and accountable federal government that safeguards constitutional principles. A large part of our work involves investigating and exposing, and proposing ways to eliminate, waste and corruption in federal contracting.

Before the 2016 election, GSA selected a business group consisting of Donald Trump and a company owned by Mr. Trump as the tenant for the Old Post Office property in Washington, DC, which became the Trump International Hotel. President Trump's election victory should have raised questions for GSA, including whether the President's business interests might collide with a key provision of the lease that prohibits elected officials from being "admitted to" certain interests in the lease, or with the Foreign and Presidential Emoluments Clauses of the Constitution. The GSA OIG's report, *Evaluation of GSA's Management and Administration of the Old Post Office Building Lease*, examined whether your agency properly reviewed the lease, and, more specifically, if there were improprieties in GSA's decision-making process.¹

The OIG report was quite clear on a central concluding point, that GSA's decision-making process "included serious shortcomings."² For example, the report detailed that after the

¹ Office of Inspections, Office of Inspector General, U.S. General Services Administration, *Evaluation of GSA's Management and Administration of the Old Post Office Building Lease*, January 16, 2019.

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

(Downloaded January 16, 2019) (Hereinafter GSA OIG Report)

² GSA OIG Report, p. 23.

2016 presidential election, “it was necessary for GSA to consider whether President-elect Trump’s business interests in [the property] might cause a breach of the lease” when he became President. GSA’s analysis should have included whether the emoluments clauses barred the President from benefiting from the lease. The OIG found that the GSA did not address those issues, and even decided not to seek guidance from the Justice Department’s Office of Legal Counsel. Of course, questions of constitutionality involving the President should be taken with the most serious consideration.

Worse, the OIG noted that the GSA continues to use problematic language that appears in the Old Post Office lease in other leases. GSA leases are supposed to prohibit elected officials from inappropriately having business interests or benefiting from GSA leases.

The serious nature of the OIG findings demands that GSA take clear action in a timely manner. However, the letter by your general counsel, Jack St. John, in response to the report does not articulate the steps and timelines necessary to address the situation.³

Mr. St. John did respond to the OIG report, and stated his agreement with the report’s recommendation.⁴ He seemed to express that GSA will address OIG’s recommendation to conduct a formal legal review that includes the Foreign and Presidential Emoluments Clauses, and then revise the problematic lease language.⁵ However, he gave no timetable for implementation of the recommendation and did not detail what specific actions GSA would take; nor did he outline additional steps to address the OIG’s findings. His letter simply stated that GSA will take action in the future.

Mr. St. John’s letter also made several odd statements. For example, he said that the OIG found no constitutional violations. However, the report clearly states that the OIG “did not seek to determine whether the President’s interest in the hotel violates either the Emoluments Clauses or Section 37.19 of the lease.”⁶ A report cannot make determinations that are outside the scope of its analysis. Instead, the report focused on whether GSA conducted an adequate review of these questions. Additionally, the absence of a constitutional analysis is not the same thing as a finding that there was no violation.

The report points out numerous missteps showing shortcomings in GSA’s decision-making. These shortcomings (i.e., not conducting an adequate review) create an unacceptably high risk of violation. It is surprising that your general counsel dismissed or ignored the many findings of the OIG.

The GSA should rethink its response to the OIG, especially considering the critical constitutional questions involving the President and his business interests. You should articulate how GSA will address the specific decision-making shortcomings identified by the OIG, and how GSA will change its internal policies to ensure that it properly considers the emoluments clauses and other

³ GSA OIG Report, Appendix B.

⁴ GSA OIG Report, Appendix B.

⁵ GSA OIG Report, p. 24.

⁶ GSA OIG Report, p. 1.

issues. Further, you should communicate a timeline for addressing the report's findings and move quickly to implement the necessary reforms.

Sincerely,

A handwritten signature in blue ink that reads "Danielle Brian". The signature is written in a cursive, flowing style.

Danielle Brian
Executive Director