

United States Senate
WASHINGTON, DC 20510

March 14, 2024

VIA ELECTRONIC TRANSMISSIONS

The Honorable Robin Carnahan
Administrator
General Services Administration

Dear Administrator Carnahan:

Congress enacted the Trade Agreements Act of 1979 (TAA) “to foster fair and open international trade” and to ensure the federal government “only purchase[s] goods that are manufactured in the United States or a TAA-designated country, with limited exceptions.”¹ The United States General Services Administration (GSA) Office of Inspector General (OIG) found GSA violated the law and the Federal Acquisition Regulation.²

Specifically, the OIG released a report on January 23, 2024, titled *GSA Purchased Chinese-Manufactured Videoconference Cameras and Justified It Using Misleading Market Research*.³ The report made two key findings.⁴ First, “[GSA Office of Digital Infrastructure Technologies (IDT)] employees misled a contracting officer with egregiously flawed information to acquire 150 Chinese-made, TAA-noncompliant video cameras.”⁵ Second, “[t]he TAA-noncompliant cameras have known security vulnerabilities that need to be addressed with a software update. However, a substantial number of these cameras were not updated and remained susceptible to these security vulnerabilities.”⁶

Concerning the first finding, in March 2022, GSA’s IDT requested that GSA’s Federal Systems Integration and Management System (FEDSIM)⁷ purchase 150 cameras from “Company A.”⁸ Though headquartered in the United States, Company A manufactured the cameras in China.⁹ FEDSIM then purchased 70 of the TAA-noncompliant cameras that same month.¹⁰ The GSA OIG

¹ Gen. Serv.’s Admin. Office of Inspector General, OIG A220070/A/6/F24002 *GSA Purchased Chinese-Manufactured Videoconference Cameras and Justified it Using Misleading Market Research* (Jan. 23, 2024), at 1-2, [*A220070-2 Final Report.pdf \(gsaig.gov\)](#).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at iii, 2. The People’s Republic of China (PRC) is among the list of “TAA-noncompliant” nations.

⁷ FEDSIM is currently responsible for handling \$8.5 billion in annual contract obligations. *About FedSim*, GEN. SERV.’S ADMIN., fedsim.gsa.gov/aboutus/.

⁸ GSA OIG’s report referred to the company as “Company A” for privacy. *Supra* note 1 at 1.

⁹ Before completing the purchase, the contracting officer requested information from GSA IDT to justify its request for the TAA-noncompliant cameras, including the existence of TAA-compliant alternatives and the reason for needing this specific brand. In response, GSA IDT provided misleading market research in support of the TAA-noncompliant cameras and failed to disclose that comparable, TAA-compliant alternatives were available. *Id.*

¹⁰ *Id.* at 1.

began an investigation in June 2022 into whether the March 2022 purchase complied with federal law, regulation, and internal guidance.¹¹ However, this did not stop GSA from purchasing 80 additional TAA-noncompliant cameras in October 2022.¹²

According to the OIG report, not only were these cameras purchased contrary to existing laws and regulations, but both tranches were also purchased based on inaccurate and misleading information. Specifically, according to the OIG report, these cameras were purchased as a result of four inaccurate and misleading statements made by IDT.¹³ As one example, the IDT claimed that “there was no data transmission or storage while using the TAA-noncompliant cameras,” which was false because, according to the OIG report, the cameras possess Bluetooth and Wi-Fi antennas and storage capacity.¹⁴ As a second example, according to the OIG report, the IDT claimed “that there were no TAA-compliant cameras that met the technical specifications to fulfill the procurement requirements,” which was false because alternatives apparently did exist in March 2022.¹⁵ According to the OIG report, this false and misleading information led the GSA FEDSIM contracting officer and Chief Information Officer (CIO) to approve the purchase of these cameras.¹⁶

Concerning the second OIG report finding, a private information technology (IT) security company’s publicly issued report identified five security vulnerabilities with the TAA-noncompliant cameras purchased by FEDSIM.¹⁷ According to that IT report, these cameras “can be turned into rogue wireless network gateways” that can be abused to act as a backdoor to the owner’s network.¹⁸ The United States Department of Homeland Security (DHS) Cybersecurity and Infrastructure Security Agency (CISA) issued a public alert encouraging users and administrators to update these cameras to avoid the exploitation of sensitive information.¹⁹ The GSA OIG report concluded that a substantial number of these cameras have not been updated and remain susceptible to security vulnerabilities.²⁰

¹¹ *Id.* at 1.

¹² *Id.*

¹³ The OIG report listed the four inaccurate and misleading statements by explaining “GSA IDT claimed that there was no data transmission or storage while using the TAA-noncompliant cameras[;]...claimed that there were no TAA-noncompliant cameras that met the technical specifications to fulfill the procurement requirements[;]...claimed that one of the TAA-compliant alternatives cannot be easily relocated and must be permanently mounted[; and]...included a table comparing cameras to the procurement requirements. This table indicated whether the cameras did or did not meet each requirement. However, for both the March and October 2022 purchases, GSA IDT only fully completed this table for the TAA-noncompliant camera it wanted to buy. It did not complete the table for the alternative cameras, leaving the contracting officer with an incomplete picture of the capabilities of the alternative cameras.” *Id.* at 5.

¹⁴ *Id.*

¹⁵ *Id.*; see also Alyssa Aquino, *Staff Duped GSA to Buy Banned Chinese Cameras, IG Finds*, LAW360 (Jan. 24, 2024, 8:13 PM), <https://www.law360.com/articles/1789246>.

¹⁶ OIG Report. *Id.* at 5-6.

¹⁷ *Id.* at 2.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 6.

The GSA OIG made six recommendations in its report that GSA agreed with.²¹ However, GSA did not fully agree with one recommendation.²² That recommendation is, “[t]he GSA Administrator return, or otherwise dispose of, previously purchased TAA-noncompliant cameras.”²³ GSA OIG gave GSA a deadline of March 25, 2024, to develop a comprehensive plan to address all recommendations.²⁴

Recently, Mr. David Shive, the GSA CIO, testified at a hearing before the House Oversight Subcommittee on Cybersecurity, Information Technology, and Government Innovation, and stated that GSA did not violate the TAA when it purchased Chinese-manufactured videoconference cameras because those purchases did not meet the \$183,000 threshold for TAA to apply.²⁵

However, Mr. Robert Erickson, Jr., Deputy GSA OIG, testified at this same hearing that Mr. Shive’s assertion fails for three reasons. First, “...in determining whether the TAA threshold has been met, the contracting officer should use the total estimated value of the projected recurring awards for the same type of product.”²⁶ Second, according to GSA’s own policy, “for the purpose of determining the applicability of the TAA, the total value of the acquisition is the estimated dollar amount of the entire contract.”²⁷ Finally, the U.S. District Court for the District of Columbia has recognized “the value of the acquisition refers to the overall annual value of the contract and not the value of each transaction under that contract.”²⁸

According to what the OIG told my office and testified before the subcommittee, the cost-threshold for TAA does not apply to single purchases, but rather to the overall annual value of a contract.²⁹ According to the OIG, while the single purchase of these cameras did not meet the threshold, \$64,552.02 for the March 2022 acquisition and \$78,776.55 for the October 2022 acquisition, they were part of a pilot program to outfit the entire GSA with these cameras costing the taxpayer much more than \$183,000.³⁰

Lastly, the timing of the inaccurate and misleading statements by IDT is particularly troubling. Specifically, the OIG report details that inaccurate and misleading statements led to both the 70-camera purchase on March 21, 2022, and the 80-camera purchase on October 14, 2022.³¹ More precisely, according to the OIG report, the inaccurate and misleading statements made for the 80-camera purchase were made after the IT company reported on the security risks

²¹ *Id.* at B-1, B-2

²² *Id.*

²³ *Id.* at B-2.

²⁴ Emails on file with Comm. staff.

²⁵ *Made in China: Is GSA Complying with Purchasing Restrictions?: Hearing before the Subcommittee on Cybersecurity, Information Technology, and Government Innovation, of the House Committee on Oversight*, 118th Cong. (2024) (testimony of David Shive, Chief Information Officer, U.S. General Services Administration).

²⁶ *Id.* at 33:45.

²⁷ *Id.*

²⁸ *Id.*; *U.S. ex rel. Folliard v. CDW Technology Services, Inc.*, 722 F.Supp.2d 20, 26 n.4 (2010) (internal quotations omitted).

²⁹ Hearing Testimony. *Id.*

³⁰ Notes on file with Comm. staff from Meeting with GSA OIG.

³¹ *Supra* note 1 at 3-4.

of the cameras and after the OIG announced its review of these purchases.³² The GSA owes an explanation of this timeline of events to the American taxpayer.

So that Congress may conduct oversight of GSA's purchase of the China made, TAA-noncompliant cameras and implementation of all GSA OIG recommendations, please answer the following questions no later than March 28, 2024:

1. What steps has GSA taken to close each recommendation made by the GSA OIG in its report? Provide all records.³³
2. Please provide a copy of the market research documents that were provided to the FEDSIM contracting officer, and Justification and Approval documents related to the purchase of these cameras, and any other documents relied on in the purchase of these cameras.
3. Was due diligence done by GSA IDT employees to determine if there were comparable, TAA-compliant cameras available for purchase? If so, provide all records. If not, why not?
4. Does GSA continue to take the position, as Mr. Shive testified, that these cameras do not violate the TAA?³⁴ Why or why not?
5. Provide all GSA memoranda to file and related records from January 2022 to March 2024 regarding the cameras.
6. Provide all communications from January 2022 to March 2024 that GSA had with GSA OIG relating to the cameras.
7. Provide a detailed procurement and audit timeline from January 2022 to January 2024 relating to the cameras.
8. Provide all Determination and Findings (D&F) records authorizing the purchase of Chinese-origin commerce information technology products relating to the cameras.
9. Provide all Purchase Orders from January 2022 to March 2024 relating to the purchase of the cameras.
10. Mr. Shive stated that the personnel involved were interviewed and corresponding training was given to the involved personnel and other staff regarding TAA-compliance

³² *Id.*; *Supra* note 30.

³³ "Records" include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (emails, email attachments, and any other electronically created or stored information), calendar entries, inter-office communications, meeting minutes, phone/voice mail or recordings/records of verbal communications, and drafts (whether they resulted in final documents).

³⁴ Testimony of David Shive. *Supra* note 2.

- and research documentation.³⁵ What specifically does this training entail? What staff at GSA has completed the training? How often is the training provided? Is the training required? Provide all records.
11. Did the GSA IDT employees who made the inaccurate statements and provided misleading market research data know the cameras were manufactured in China prior to providing this information?
 12. Does GSA plan to complete the software updates needed to address the security vulnerabilities of the cameras? If not, why not? If so, when?
 13. Why did the GSA move forward with purchasing 80 additional cameras even though GSA knew the GSA OIG was investigating whether the cameras were non-compliant with federal law and regulation?
 14. GSA references sufficient security protocols as the reason for not concurring with GSA OIG Recommendation 2.³⁶ Besides discontinuing the use of these cameras, what other security protocols does GSA have to ensure the security of the technology? Provide all records.
 15. Have any of the cameras in question been subject to a cyberattack? Have any attacks resulted in access to GSA systems? Provide all records.
 16. Has GSA performed an investigation into the inaccurate and misleading statements made by IDT employees for the 70-camera purchase and the 80-camera purchase? If so, what was found? If not, why not? Were any employees disciplined? If so, what discipline was employed? If not, why not? Provide all records and the names of the employees that engaged in the wrongdoing. In your response, specifically address why the inaccurate and misleading statements were made.

Thank you for your cooperation on this important matter. If you have any questions, please contact Tucker Akin of my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget

³⁵ *Id.*

³⁶ *Supra* note 1 at B-1-B-2.