

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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May 26, 2022

The Honorable Carolyn B. Maloney  
Chairwoman  
Committee on Oversight and Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairwoman Maloney:

We are in receipt of your April 14, 2022 letter to Mr. Kevin Stein, Chief Executive Officer, TransDigm Group, Inc. (TransDigm).<sup>1</sup> Your letter demands that TransDigm repay the Department of Defense (DoD) \$20.8 million in alleged “excess profits” and commit to not “overcharge” DoD in the future or there will be consequences from the Committee on Oversight and Reform.<sup>2</sup> Specifically, you state, “[i]f [TransDigm] choose[s] not to repay the funds, please produce the following documents and information...”<sup>3</sup> This appears to be an attempt to interfere in the defense procurement and legal processes. Further, you baselessly claim TransDigm’s actions negatively impacted Ukraine in its fight against Russia.<sup>4</sup>

Using the Oversight Committee’s gavel, you continue to attack the private sector rather than conduct government oversight. In this matter, you allege a private company did not act in good faith and should return “excessive profits.” This allegation is further troubling because these issues were addressed and dispelled at a January 19th Committee hearing earlier this year.

1. In your letter, you claim that TransDigm received “excess profits...on spare parts contracts that ‘were not obtained at fair and reasonable prices.’”<sup>5</sup> However, you failed to acknowledge that this allegation is based on an arbitrary DoD Office of Inspector General (OIG) profit calculation—that anything above 15 percent profit is unreasonable—a position the OIG does not support applying to contracts generally. This was explained by the DoD Inspector General (IG) during the January 19, 2022, hearing regarding TransDigm [hereinafter TransDigm Hearing]:

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<sup>1</sup> Letter from Hon. Carolyn B. Maloney, Chairwoman, H. Comm. on Oversight & Reform, to Mr. Kevin Stein, Pres., Chief Exec. Officer, & Dir., TransDigm Group, Inc. (Apr. 14, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Letter from Hon. Carolyn B. Maloney, *supra* note 1 (there is no citation establishing that any of the Chairwoman’s allegations had any negative effect on the War in Ukraine).

<sup>5</sup> *Id.* (quoting U.S. DEP’T OF DEFENSE OFFICE OF INSPECTOR GEN., DODIG-2022-043, AUDIT OF THE BUSINESS MODEL FOR TRANSDIGM GROUP, INC. AND ITS IMPACT ON DEPARTMENT OF DEFENSE SPARE PARTS PRICING (Dec. 13, 2021).)

Q. In your report, you state that a 15-percent cap did not apply by law or regulation to any of the contracts examined. Is that correct?

DoD OIG: It is not defined as a specific 15-percent benchmark by law, no.

Q. ...So, you also state that a 15-percent cap should not be the benchmark for negotiating firm-fixed price contracts. Is that correct?

DoD OIG: Correct. It is not the standard.

Q. Finally, you state that a 15-percent cap is not the formal position of the Inspector General, and this report should not be interrupted to mean that. Is that correct?

DoD OIG: Correct...<sup>6</sup>

2. Your letter claims that TransDigm “failed to demonstrate good faith” in the procurement process.<sup>7</sup> However, you refused to acknowledge that the contract quantity and frequency are determined by DoD and that DoD admitted to agreeing to the prices offered by TransDigm at the time the contracts were executed. During the TransDigm Hearing, Mr. Stein explained that TransDigm has no control over the quantity or frequency of DoD contracts:

Q. ...Does DoD instigate those negotiations, meaning is it DoD who comes to you and says what they need to order, correct?

Mr. Stein: That is correct.

Q. Does DoD determine how much of each part they need?

Mr. Stein. Yes.

Q. Does DoD determine when they request the parts?

Mr. Stein. Yes.

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<sup>6</sup> *Price Gouging in Military Contracts: New Inspector General Report Exposes Excess Profit Obtained by TransDigm Group: Hearing Before H. Comm. on Oversight & Reform, 117<sup>th</sup> Cong. at 43 (Jan. 19, 2022).*

<sup>7</sup> Letter from Hon. Carolyn B. Maloney, *supra* note 1.

Q. Does this haphazard kind of contracting put you in a more difficult position?

Mr. Stein. Absolutely.

Q. Generally, would purchasing more parts at once and in a more regular manner drive down cost?

Mr. Stein. Yes, it will drive down price and it will drive down cost, and we have offered these to the government, to the DoD, and they have not taken us up on a single offer to lower the price to buy more parts.<sup>8</sup>

Then, DoD clarified that they did, in fact, agree to the pricing and terms of all their contracts with TransDigm:

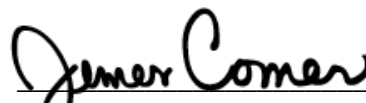
Q. ...[D]id DoD agree to and sign all the contracts that were analyzed by the IG?

DoD. Yes, it is my understanding [we] did.<sup>9</sup>

You are misusing the Committee's oversight authority to interfere in an ongoing legal process between the Executive Branch and an American company. This is unprecedented. As we have stated previously, we agree that the government needs to be good stewards of taxpayer dollars, but we disagree with attacking a company that followed all applicable laws and regulations.

We request that you withdraw your threat of using the investigative tools of the Committee to interfere in the defense procurement process and urge you to focus your efforts on conducting oversight of underlying and systemic issues at DoD, such as just-in-time inventory management, poor information technology systems, and a slow and burdensome procurement process.

Sincerely,



James Comer  
Ranking Member  
Committee on Oversight and Reform

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<sup>8</sup> Price Gouging in Military Contracts: New Inspector General Report Exposes Excess Profit Obtained by TransDigm Group, *supra* note 6.

<sup>9</sup> *Id.*