

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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July 29, 2024

Elizabeth Rogan
Chief Executive Officer
Optica
2010 Massachusetts Ave. N.W.
Washington, D.C. 20036

Dear Ms. Rogan:

We have reviewed Optica's June 13 letter responding to the Committee's May 16th letter and request for documents. Upon review of the letter and the documents provided, we do not believe they are fully responsive to our questions and oversight efforts.¹ Compounding our concerns, Bloomberg recently reported new information that does not appear to be consistent with Optica's portrayal of Huawei's involvement in the Optica Foundation Challenge ("the Challenge").² Accordingly, we are renewing our previous questions and document requests as well as broadening our inquiry to encompass additional concerns.

Optica's Inadequate Response

On June 6, Optica's attorney informed the Committee that, following receipt of the initial letter, Optica decided to return the entirety of Huawei's funding for the Challenge, including funds from previous years.³ While this does not relieve the Committee's concerns about Huawei's influence on the Challenge, we believe that this is a positive development, and we appreciate Optica's action in response to the Committee's concern.

Despite formally replying to the Committee's letter on June 13, Optica did not address question 3a in our letter, which asked whether Optica had disclosed to awardees that their grants were funded by Huawei. This information is critically important. Awardees who apply for federal grants must be able to account for the sources of their research funding, and accepting foreign

¹ Letter from Elizabeth Rogan, Chief Exec. Officer, Optica, to Frank Lucas, Chair, H. Comm. on Sci., Space, and Tech. and Zoe Lofgren, Ranking Member, H. Comm. on Sci., Space, and Tech. (June 13, 2024) (on file with the Committee).

² Kate O'Keefe, *Huawei's Secret Ally in the U.S.-China Tech War: A Science Nonprofit Based in DC*, BLOOMBERG (June 25, 2024), <https://www.bloomberg.com/news/articles/2024-06-25/huawei-s-secret-ally-in-the-us-china-tech-war-a-science-nonprofit-based-in-dc>.

³ See *supra* note 1.

money may run afoul of their institutions' own policies. It is therefore imperative that Optica inform the Committee about whether they were transparent with the prize winners.⁴

Accompanying Optica's letter was a copy of Optica's Open Fund Agreement with Huawei.⁵ The signed agreement set the Challenge funding level at \$1.5 million annually for 10 years, with 90% of the annual funding (\$1.35 million) dedicated to research awards and 10% dedicated to operational expenses (\$150,000). However, the Challenge funded ten \$100,000 prizes annually in 2022 and 2023, creating a seeming discrepancy of \$350,000 annually between the signed agreement and Optica's execution of the agreement in practice. We are requesting that Optica explain this discrepancy.

We are also concerned with the state of the contract Optica entered into with Huawei. We found the contract's language to be at best imperfect and at worst incoherent.⁶ Examples of the contract's lack of clarity include: "[t]he Foundation is willing to invite experts from Huawei contribute to call for proposals, award review under term and conditions set forth herein" and "[s]election [c]ommittee shall mean the key body who perform decision-making upon the applicants who will be awarded based on scientific and technical perspective of the proposal." The Committee has concerns regarding the design and intent behind this contract. Answers to these questions are necessary to determine the influence Huawei exerted over the terms of the agreement, what their anticipated involvement was expected to be, and what actually occurred during the course of implementing the Challenge.

Bloomberg Article

In its letter to the Committee, Optica asserted, "while Huawei provided funds for the prizes and for the costs associated with the [Challenge] program... the Foundation was responsible for developing, managing, and administering the Challenge." While this may be technically accurate, it dramatically underplays the extensive role Huawei played throughout the Challenge award cycle, as described in a June 25 Bloomberg article. The article makes clear that the extent of Huawei's involvement in – and the scope of its influence over – the Challenge was far reaching and encompassed much more than mere funding.

The article indicates that Huawei continued to influence the program by recommending candidates for the Challenge selection committee (including a Huawei executive); receiving progress updates from award recipients through its presence on the selection committee;⁷ and including a Huawei-backed conference in China as a potential venue for award recipients to present their findings, with up to five winners' expenses budgeted by Optica. These terms strongly suggest that Huawei had influence over – and benefitted directly from – the agreement that awardees

⁴ Optica also did not respond to question 9, which requested documentation to account for Huawei's donations in 2022, 2023, and 2024.

⁵ Open Fund Agreement Between Huawei Technologies Co. and Optica Foundation (Dec. 23, 2021) (on file with the Committee).

⁶ *See id.* ("[p]rogram [c]ommittee shall contribute the selection process and scoring rubric in joint with the Optica Foundation as well ... [t]he quality of science and engineering shall be novelty and scientific impact of the proposed project ... [t]he payment date shall be paid with 15 days ... [t]he deliverable of first stage is Optica Foundation establish a working group.")

⁷ In its letter, Optica disclosed the progress update schedule and the Huawei executive's role on the selection committee. However, Optica did not disclose that Huawei recommended other selection committee members, nor was the Committee made aware of the agreement signed by recipients.

signed (which the Committee has not had an opportunity to review). Given the alleged continued contact between awardees and Huawei, as well as its input on the composition of the selection committee, we do not believe Optica properly acknowledged the full extent of Huawei's influence in its response to the Committee. Our ability to fully assess the implications of Optica's relationship with Huawei in terms of research security policymaking is undermined by our incomplete understanding of its scope.

The Bloomberg article notes that Optica's relationship with Huawei goes back "decades." The Committee has been deeply involved in research security since 2018, so we are well aware that the threat environment and risk awareness with respect to collaboration with China has changed drastically over the years. Since 2018, federal research agencies have bolstered their transparency requirements in order to make wise risk assessment decisions.⁸ The nation's academic, intelligence, and law enforcement communities have likewise increased their understanding of one another's perspectives and needs.⁹ Researchers have become educated about how to protect sensitive research while engaging in international cooperation.¹⁰ As the research ecosystem at large has adapted, it seems that Optica has remained locked in an outdated posture, deepening its relationship with Huawei as the company is slapped with sanctions by multiple government agencies.¹¹

The only demonstrable risk awareness Optica has displayed is the secrecy required to protect its own reputation. Your decision to quietly visit Huawei headquarters last November, as described in the Bloomberg article, mirrors your organization's masking of the source of the Challenge funding. While this secrecy allowed Optica to accept Huawei funding for the Challenge and escape scrutiny for three years, it also compromised the ability of Challenge award winners to heed the requirements of their own institutions and of government agencies from which they seek funding. Furthermore, as detailed in the Bloomberg article, Optica has played a key role in fostering relationships between Huawei – a sanctioned Chinese company – and optics researchers around the world. As publicized on the Challenge webpages, 2022 and 2023 Challenge winners spanned 13 nations.¹² While facilitating such relationships is not a violation of the letter of the law, it is deeply strange that a U.S.-based scientific society would put so much effort into connecting a sanctioned company to scientists conducting sensitive, cutting-edge research.

⁸ See, e.g., National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, § 1123, 137 Stat. 136, 453 (2024); CHIPS and Science Act of 2022, Pub. L. No. 116-283, § 10339B, 136 Stat. 1366, 1556 (2022).

⁹ See *National Science, Technology, and Security Roundtable*, NAT'L ACADS. OF SCIS., ENG'G, AND MED., <https://www.nationalacademies.org/our-work/national-science-technology-and-security-roundtable> (last visited July 17, 2024).

¹⁰ See *Research Security Training*, NAT'L SCI. FOUND., <https://new.nsf.gov/research-security/training> (last visited July 17, 2024).

¹¹ See, e.g., Press Release, U.S. Dep't of Comm., Commerce Department Further Restricts Huawei Access to U.S. Technology (Aug. 17, 2020), <https://2017-2021.commerce.gov/news/press-releases/2020/08/commerce-department-further-restricts-huawei-access-us-technology-and.html>; Diane Bartz & Alexandra Alper, *U.S. bans new Huawei, ZTE equipment sales, citing national security risk*, REUTERS (Nov. 30, 2022), <https://www.reuters.com/business/media-telecom/us-fcc-bans-equipment-sales-imports-zte-huawei-over-national-security-risk-2022-11-25/> (reporting on FCC ban); Karen Freifeld et al., *U.S. stops granting export licenses for China's Huawei*, REUTERS (Jan. 31, 2023), <https://www.reuters.com/technology/us-stops-provision-licences-export-chinas-huawei-ft-2023-01-30/>.

¹² *Optica Foundation Challenge*, OPTICA, https://www.optica.org/foundation/opportunities/competitions_prizes/challenge/#CURRENT (last visited July 17, 2024) (listing 2023 Challenge prize recipients); *Early Career Prizes & Fellowships*, OPTICA, https://www.optica.org/foundation/opportunities/competitions_prizes/challenge/2022_winners-45bf3e2306822bb176b7e3b222136911/ (last visited July 17, 2024) (listing 2022 Challenge prize recipients).

Given the shortcomings in Optica's first response, the new information contained in your June letter, the contract with Huawei that you provided, and the recent Bloomberg article, the Committee reiterates certain requests below and asks that you respond to our additional requests and questions by August 12, 2024.

1. Did the Optica Foundation disclose to recipients of Huawei money that all or a portion of the funds, grants, or awards received was supported by funds from Huawei? If so, please provide copies of this communication.
2. Please provide documentation of any donation and grant funding provided by Huawei in 2022, 2023, and 2024. In addition, given Optica's disclosure that it first received money from Huawei in 2019, please provide documentation of any donation and grant funding provided by Huawei dating back to January 1, 2019.
3. In its letter response, Optica described two Huawei donations in 2019 unrelated to the Challenge. According to Optica, one of these donations supported "programs focused on international optics and photonics," including the Global Environmental Measurement and Monitoring (GEMM) Initiative. Did the GEMM Initiative or any other program funded by Huawei donations in or after 2019 distribute any Huawei money to researchers?
4. The Challenge funded ten \$100,000 prizes annually (\$1 million), though the contract terms stipulate that 90% of the \$1.5 million donation was to be dedicated to research awards (\$1.35 million). Please explain this discrepancy between \$1 million and \$1.35 million.
 - a. How did Optica spend Huawei's \$1.5 million donation each year of the Challenge?
5. What was the provenance of the Open Fund Agreement? Please explain how the agreement was drafted, including whether and how the document was translated for formal signature.
6. Bloomberg reported that it reviewed documents describing a budget allocated to send five Challenge winners to the Asia Communications and Photonics Conference. Did Optica sponsor Challenge winners to attend this conference?
 - a. If so, did Optica instruct the sponsored attendees on proper cybersecurity procedures to lessen the risk of improper exfiltration of sensitive research?
 - b. What was Optica's involvement in the Asia Communications and Photonics Conference?
7. Please provide all communications (including, but not limited to, comments, notes, emails, letters, telephone logs, text messages, instant messages, and meeting minutes and calendars) among Optica and Optica Foundation employees and board members that mention Huawei.

8. Please provide all communications (including, but not limited to, comments, notes, emails, letters, telephone logs, text messages, instant messages, and meeting minutes and calendars) between Optica – including Optica and Optica Foundation employees and Optica and Optica Foundation board members – and Huawei.
9. Please provide all documents (including, but not limited to, communications, comments, notes, legal and other memoranda, contracts, letters, meeting minutes and calendars, travel records, photographs, slides, and presentations) related to Optica's relationship with Huawei, including but not limited to:
 - a. The agreement that Optica Foundation Challenge recipients are required to sign;
 - b. The budget document describing Challenge winners' option to deliver their final report at the Asia Communications and Photonics Conference;
 - c. Huawei's recommendations and input into the selection committee deliberations;
 - d. Any policies and procedures that govern the selection process for selection committee members; and
 - e. Any policies and procedures that govern the selection process for Challenge award winners.
10. Is Optica currently collaborating with Huawei, or engaged in formal or informal negotiations to collaborate with Huawei, in any capacity? If so, please describe the nature of any collaborations or negotiations with Huawei.
 - a. Is Optica currently receiving any funding from Huawei, or engaged in any discussions to solicit funding from Huawei in the future? If so, please describe the amount and purpose of any ongoing or prospective funding partnerships with Huawei.

Pursuant to Rule X of the U.S. House of Representatives, the Committee on Science, Space, and Technology is delegated oversight jurisdiction over all laws, programs, and Government activities relating to nonmilitary research and development.¹³ Please contact Daniel Boatright with the Majority staff at (202) 225-0222 or Sara Palasits with the Minority staff at (202) 225-6375 with any questions regarding this request. Thank you for your attention to this important matter.

Sincerely,



Frank Lucas
Chairman
House Committee on Science,
Space, and Technology



Zoe Lofgren
Ranking Member
House Committee on Science,
Space, and Technology

¹³ H.R. Doc. No. 117-161, at 459, 499 (2023) (Rule X, Organization of Committees).