

116TH CONGRESS
1ST SESSION

H. R. 193

To improve the design and construction of diplomatic posts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. McCAUL (for himself and Ms. KELLY of Illinois) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To improve the design and construction of diplomatic posts,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improving Embassy
5 Design and Security Act”.

6 **SEC. 2. STANDARDIZATION IN CAPITAL CONSTRUCTION.**

7 (a) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that the Department of State’s Bureau of Overseas
9 Building Operations (OBO) or successor office should

1 prioritize the standardization of embassy design and keep
2 customization to a minimum.

3 (b) CONSULTATION.—The Secretary of State shall
4 carry out any new embassy compound project or new con-
5 sulate compound project that utilizes a non-standard de-
6 sign, including those projects that are in the design phase
7 or pre-design phase as of the date of the enactment of
8 this Act, only in consultation with the appropriate con-
9 gressional committees. The Secretary shall provide such
10 committees, for each such project, the following docu-
11 mentation:

12 (1) A comparison of the estimated full lifecycle
13 costs of the project at issue to the estimated full
14 lifecycle costs of such project if such project were to
15 use a standard design.

16 (2) A comparison of the estimated completion
17 date of such project to the estimated completion
18 date of such project if such project were to use a
19 standard design.

20 (3) A comparison of the security of such com-
21 pleted project to the security of such completed
22 project if such completed project were to use a
23 standard design.

1 (4) A justification for the Secretary’s selection
2 of a non-standard design over a standard design for
3 such project.

4 (5) A written explanation if any of the docu-
5 mentation necessary to support the comparisons and
6 justification, as the case may be, described in para-
7 graphs (1) through (4) cannot be provided.

8 (c) SUNSET.—The consultation requirement under
9 subsection (b) shall expire on September 30, 2023.

10 **SEC. 3. STATEMENT OF POLICY.**

11 It is the policy of the United States that the Bureau
12 of Overseas Building Operations of the Department of
13 State or its successor office shall continue to balance
14 functionality and security with accessibility as defined by
15 guidelines established by the United States Access Board
16 in constructing embassies and consulates and shall ensure
17 compliance with the Architectural Barriers Act of 1968
18 (42 U.S.C. 4151 et seq.) to the fullest extent possible.

19 **SEC. 4. CAPITAL CONSTRUCTION TRANSPARENCY.**

20 (a) IN GENERAL.—Section 118 of the Department of
21 State Authorities Act, Fiscal Year 2017 (22 U.S.C. 304)
22 is amended—

23 (1) in the section heading, by striking “**AN-**
24 **NUAL REPORT ON EMBASSY CONSTRUCTION**
25 **COSTS**” and inserting “**QUARTERLY REPORT ON**

1 **OVERSEAS CAPITAL CONSTRUCTION**
2 **PROJECTS**”; and

3 (2) by amending subsections (a) and (b) to read
4 as follows:

5 “(a) IN GENERAL.—Not later than 180 days after
6 the date of the enactment of this subsection, and every
7 90 days thereafter until September 30, 2023, the Sec-
8 retary shall submit to the appropriate congressional com-
9 mittees a comprehensive report regarding all ongoing over-
10 seas capital construction projects and major embassy secu-
11 rity upgrade projects.

12 “(b) CONTENTS.—Each report required under sub-
13 section (a) shall include the following with respect to each
14 ongoing overseas capital construction project and major
15 embassy security upgrade project:

16 “(1) The initial cost estimate as specified in the
17 proposed allocation of capital construction and main-
18 tenance funds required by the Committees on Appro-
19 priations for Acts making appropriations for the De-
20 partment of State, foreign operations, and related
21 programs.

22 “(2) The current cost estimate.

23 “(3) The value of each request for equitable ad-
24 justment received by the Department of State to
25 date.

1 “(4) The value of each certified claim received
2 by the Department of State to date.

3 “(5) The value of any usage of the project’s
4 contingency fund to date and the value of the re-
5 mainder of the project’s contingency fund.

6 “(6) An enumerated list of each request for ad-
7 justment and certified claim that remains out-
8 standing or unresolved.

9 “(7) An enumerated list of each request for eq-
10 uitable adjustment and certified claim that has been
11 fully adjudicated or that the Department has settled,
12 and the final dollar amount of each adjudication or
13 settlement.

14 “(8) The date of estimated completion specified
15 in the proposed allocation of capital construction
16 and maintenance funds required by the Committees
17 on Appropriations not later than 45 days after the
18 date of the enactment of an Act making appropria-
19 tions for the Department of State, foreign oper-
20 ations, and related programs.

21 “(9) The current date of estimated comple-
22 tion.”.

23 (b) INITIAL REPORT.—The first report required
24 under subsection (a) of section 118 of the Department of
25 State Authorities Act, Fiscal Year 2017 (as amended by

1 this section) shall include an annex regarding all overseas
2 capital construction projects and major embassy security
3 upgrade projects completed during the 10-year period end-
4 ing on December 31, 2018, including, for each such
5 project, the elements specified in subsection (b) of such
6 section 118 (as amended by this section).

7 **SEC. 5. CONTRACTOR PERFORMANCE INFORMATION.**

8 (a) DEADLINE FOR COMPLETION.—The Secretary of
9 State shall complete by October 1, 2021, all contractor
10 performance evaluations required by subpart 42.15 of the
11 Federal Acquisition Regulation.

12 (b) PRIORITIZATION SYSTEM.—

13 (1) IN GENERAL.—Not later than 90 days after
14 the date of the enactment of this Act, the Secretary
15 of State shall develop a prioritization system for
16 clearing the current backlog of required evaluations
17 referred to in subsection (a).

18 (2) ELEMENTS.—The system required under
19 paragraph (1) should prioritize such evaluations as
20 follows:

21 (A) Project completion evaluations should
22 be prioritized over annual evaluations.

23 (B) Evaluations for relatively large con-
24 tracts should have priority.

1 (C) Evaluations that would be particularly
2 informative for the awarding of government
3 contracts should have priority.

4 (c) BRIEFING.—Not later than 90 days after the date
5 of the enactment of this Act, the Secretary of State shall
6 brief the appropriate congressional committees on the De-
7 partment of State’s plan for completing all evaluations by
8 October 1, 2021, and the prioritization system developed
9 pursuant to this section.

10 (d) SENSE OF CONGRESS.—It is the sense of Con-
11 gress that—

12 (1) contractors deciding whether to bid on De-
13 partment of State contracts would benefit from
14 greater understanding of the Department as a client;
15 and

16 (2) the Department should develop a forum
17 through which contractors can rate the Depart-
18 ment’s project management performance.

19 **SEC. 6. GROWTH PROJECTIONS FOR NEW EMBASSIES AND**
20 **CONSULATES.**

21 (a) IN GENERAL.—For each new embassy compound
22 project (NEC) and new consulate compound project
23 (NCC) in or not yet in the design phase as of the date
24 of the enactment of this Act, the Office of Management
25 Policy, Rightsizing, and Innovation of the Department of

1 State shall project growth over the estimated life of the
2 facility at issue using all available and relevant data, in-
3 cluding the following:

4 (1) Relevant historical trends for Department
5 personnel and personnel from other agencies rep-
6 resented at the NEC or NCC that is to be con-
7 structed.

8 (2) An analysis of the tradeoffs between risk
9 and the needs of United States Government policy
10 conducted as part of the most recent Vital Presence
11 Validation Process, if applicable.

12 (3) Reasonable assumptions about the strategic
13 importance of the NEC or NCC, as the case may be,
14 over the life of the building at issue.

15 (4) Any other data that would be helpful in pro-
16 jecting the future growth of NEC or NCC.

17 (b) OTHER AGENCIES.—Each Federal agency rep-
18 resented at an embassy or consulate shall provide to the
19 Department of State, upon request, growth projections for
20 the personnel of such agency over the estimated life of
21 such embassy or consulate, as the case may be.

22 (c) BASIS FOR ESTIMATES.—The Department of
23 State shall base growth assumption for all NECs and
24 NCCs on the estimates required under subsections (a) and
25 (b).

1 (d) CONGRESSIONAL NOTIFICATION.—Any congres-
2 sional notification of site selection for a NEC or NCC sub-
3 mitted after the date of the enactment of this Act shall
4 include the growth assumption used pursuant to sub-
5 section (c).

6 **SEC. 7. LONG-RANGE PLANNING PROCESS.**

7 (a) PLANS REQUIRED.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of the enactment of this Act and an-
10 nually thereafter for five years, the Secretary of
11 State shall develop—

12 (A) a comprehensive six-year Long-Range
13 Overseas Buildings Plan (LROBP) docu-
14 menting the Department of State’s overseas
15 building program for the replacement of over-
16 seas diplomatic facilities taking into account se-
17 curity factors under the Secure Embassy Con-
18 struction and Counterterrorism Act of 1999 (22
19 U.S.C. 4865 note) and other relevant statutes
20 and regulations, as well as occupational safety
21 and health factors pursuant to the Occupational
22 Safety and Health Act of 1970 (29 U.S.C. 651
23 et seq.) and other relevant statutes and regula-
24 tions, including environmental factors such as

1 indoor air quality that impact employee health
2 and safety; and

3 (B) a comprehensive six-year plan detailing
4 the Department's long-term planning for the
5 maintenance and sustainment of completed fa-
6 cilities, known as a Long-Range Overseas Main-
7 tenance Plan (LROMP), which takes into ac-
8 count security factors under the Secure Em-
9 bassy Construction and Counterterrorism Act of
10 1999 and other relevant statutes and regula-
11 tions, as well as occupational safety and health
12 factors pursuant to the Occupational Safety
13 and Health Act of 1970 and other relevant
14 statutes and regulations, including environ-
15 mental factors such as indoor air quality that
16 impact employee health and safety.

17 (2) INITIAL REPORT.—The first plan developed
18 pursuant to paragraph (1)(A) shall also include a
19 one-time status report on existing small diplomatic
20 posts and a strategy for establishing a physical dip-
21 lomatic presence in countries in which there is no
22 current physical diplomatic presence. The report,
23 which may include a classified annex, shall include
24 the following:

1 (A) A description of the extent to which
2 each small diplomatic post furthers the national
3 interest of the United States.

4 (B) A description of how each small diplo-
5 matic post provides American Citizen Services,
6 including data on specific services provided and
7 the number of Americans receiving services over
8 the previous year.

9 (C) A description of whether each small
10 diplomatic post meets current security require-
11 ments.

12 (D) A description of the full financial cost
13 of maintaining each small diplomatic post.

14 (E) Input from the relevant chiefs of mis-
15 sion on any unique operational or policy value
16 the small diplomatic post provides.

17 (3) UPDATED INFORMATION.—The annual up-
18 dates of the plans developed pursuant to paragraph
19 (1) shall highlight any changes from the previous
20 year’s plan to the ordering of construction and
21 maintenance projects.

22 (b) REPORTING REQUIREMENTS.—

23 (1) SUBMISSION OF PLANS TO CONGRESS.—Not
24 later than 60 days after the completion of the
25 LROBP and the LROMP, the Secretary of State

1 shall submit such plans to the appropriate congres-
2 sional committees.

3 (2) REFERENCE IN BUDGET JUSTIFICATION
4 MATERIALS.—In the budget justification materials
5 submitted to the appropriate congressional commit-
6 tees in support of the Department of State’s budget
7 for any fiscal year (as submitted with the budget of
8 the President under section 1105(a) of title 31,
9 United States Code), the plans specified in the
10 LROBP and LROMP shall be referenced to justify
11 funding requested for building and maintenance
12 projects overseas.

13 (3) FORM OF REPORT.—The plans required to
14 be submitted under paragraph (1) shall be submitted
15 in unclassified form but may include classified an-
16 nexes.

17 (c) SMALL DIPLOMATIC POST DEFINED.—In this
18 section, the term “small diplomatic post” means any con-
19 sulate that has employed five or fewer United States Gov-
20 ernment employees on average over the 36 months before
21 the date of the enactment of this Act.

22 **SEC. 8. VALUE ENGINEERING AND RISK ASSESSMENT.**

23 (a) FINDINGS.—Congress makes the following find-
24 ings:

1 (1) Federal departments and agencies are re-
2 quired to use value engineering (VE) as a manage-
3 ment tool, where appropriate, to reduce program and
4 acquisition costs pursuant to OMB Circular A–131,
5 Value Engineering, dated December 31, 2013.

6 (2) OBO has a Policy Directive and Standard
7 Operation Procedure, dated May 24, 2017, on con-
8 ducting risk management studies on all international
9 construction projects.

10 (b) NOTIFICATION REQUIREMENTS.—

11 (1) SUBMISSION TO AUTHORIZING COMMIT-
12 TEES.—The proposed allocation of capital construc-
13 tion and maintenance funds that is required by the
14 Committees on Appropriations of the House of Rep-
15 resentatives and the Senate not later than 45 days
16 after the date of the enactment of an Act making
17 appropriations for the Department of State, foreign
18 operations, and related programs shall also be sub-
19 mitted to the appropriate congressional committees.

20 (2) REQUIREMENT TO CONFIRM COMPLETION
21 OF VALUE ENGINEERING AND RISK ASSESSMENT
22 STUDIES.—The notifications required under para-
23 graph (1) shall include confirmation that the De-
24 partment of State has completed the requisite VE

1 and risk management studies described in subsection
 2 (a).

3 (c) REPORTING AND BRIEFING REQUIREMENTS.—

4 The Secretary of State shall provide to the appropriate
 5 congressional committees upon request—

6 (1) a description of each recommendation from
 7 each study described in subsection (a) and a table
 8 detailing which recommendations were accepted and
 9 which were rejected; and

10 (2) a report or briefing detailing the rationale
 11 for not implementing recommendations made by VE
 12 studies that may yield significant cost savings to the
 13 Department of State, if implemented.

14 **SEC. 9. BUSINESS VOLUME.**

15 Subparagraph (E) of section 402(c)(2) of the Omni-
 16 bus Diplomatic Security and Antiterrorism Act of 1986
 17 (22 U.S.C. 4852(c)(2)) is amended by striking “in 3
 18 years” and inserting “cumulatively over 3 years”.

19 **SEC. 10. EMBASSY SECURITY REQUESTS AND DEFICIENCIES.**
 20

21 The Secretary of State shall provide to the appro-
 22 priate congressional committees, upon request, informa-
 23 tion on security deficiencies at United States diplomatic
 24 posts, including—

1 (1) requests made over the previous year by
2 United States diplomatic posts for security up-
3 grades; and

4 (2) significant security deficiencies at United
5 States diplomatic posts that are not operating out of
6 a new embassy compound or new consulate com-
7 pound.

8 **SEC. 11. OVERSEAS SECURITY BRIEFINGS.**

9 Not later than one year after the date of the enact-
10 ment of this Act, the Secretary of State shall revise the
11 Foreign Affairs Manual to stipulate that information on
12 the current threat environment shall be provided to all
13 United States Government employees under chief of mis-
14 sion authority traveling to a foreign country on official
15 business. To the extent practicable, such material shall be
16 provided to employees prior to their arrival at a post or
17 as soon as possible thereafter.

18 **SEC. 12. CONTRACTING METHODS IN CAPITAL CONSTRUC-**
19 **TION.**

20 (a) DELIVERY.—Unless the Secretary of State noti-
21 fies the appropriate congressional committees that the use
22 of the design-build project delivery method would not be
23 appropriate, the Secretary shall make use of such method
24 at diplomatic posts that have not yet received design or

1 capital construction contracts as of the date of the enact-
2 ment of this Act.

3 (b) NOTIFICATION.—Before executing a contract for
4 a delivery method other than design-build in accordance
5 with subsection (a), the Secretary of State shall notify the
6 appropriate congressional committees in writing of the de-
7 cision, including the reasons therefor. The notification re-
8 quired by this subsection may be included in any other
9 report regarding a new diplomatic facility that is required
10 to be submitted to the appropriate congressional commit-
11 tees.

12 (c) PERFORMANCE EVALUATION.—Not later than
13 180 days after the date of the enactment of this Act, the
14 Secretary shall report to the appropriate congressional
15 committees regarding performance evaluation measures in
16 line with GAO’s “Standards for Internal Control in the
17 Federal Government” that will be applicable to design and
18 construction, lifecycle cost, and building maintenance pro-
19 grams of the Bureau of Overseas Building Operations of
20 the Department of State.

21 **SEC. 13. COMPETITION IN EMBASSY CONSTRUCTION.**

22 Not later than 45 days after the date of the enact-
23 ment of this Act, the Secretary of State shall submit to
24 the appropriate congressional committee a report detailing
25 steps the Department of State is taking to expand the em-

1 bassy construction contractor base in order to increase
2 competition and maximize value.

3 **SEC. 14. DEFINITIONS.**

4 In this Act:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” means—

8 (A) the Committee on Foreign Relations
9 and the Committee on Appropriations of the
10 Senate; and

11 (B) the Committee on Foreign Affairs and
12 the Committee on Appropriations of the House
13 of Representatives.

14 (2) DESIGN-BUILD.—The term “design-build”
15 means a method of project delivery in which one en-
16 tity works under a single contract with the Depart-
17 ment of State to provide design and construction
18 services.

19 (3) NON-STANDARD DESIGN.—The term “non-
20 standard design” means a design for a new embassy
21 compound project or new consulate compound
22 project that does not utilize a standardized design
23 for the structural, spatial, or security requirements

- 1 of such embassy compound or consulate compound,
- 2 as the case may be.

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