

116TH CONGRESS  
1ST SESSION

# H. R. 193

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

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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

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## 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 congress-  
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.

○