

***In the Senate of the United States,***

*December 22, 2018.*

*Resolved*, That the bill from the House of Representatives (H.R. 4969) entitled “An Act to improve the design and construction of diplomatic posts, and for other purposes.”, do pass with the following

**AMENDMENT:**

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE.***

2       *This Act may be cited as the “Improving Embassy De-*  
3 *sign and Security Act of 2018”.*

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

5       *(a) SENSE OF CONGRESS.—It is the sense of Congress*  
6 *that the Department of State’s Bureau of Overseas Building*  
7 *Operations (OBO) or successor office should prioritize the*  
8 *standardization of embassy design and keep customization*  
9 *to a minimum.*

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

9           (1) *A comparison of the estimated full lifecycle*  
10 *costs of the project at issue to the estimated full*  
11 *lifecycle costs of such project if such project were to*  
12 *use a standard design.*

13          (2) *A comparison of the estimated completion*  
14 *date of such project to the estimated completion date*  
15 *of such project if such project were to use a standard*  
16 *design.*

17          (3) *A comparison of the security of such com-*  
18 *pleted project to the security of such completed project*  
19 *if such completed project were to use a standard de-*  
20 *sign.*

21          (4) *A justification for the Secretary's selection of*  
22 *a non-standard design over a standard design for*  
23 *such project.*

24          (5) *A written explanation if any of the docu-*  
25 *mentation necessary to support the comparisons and*

1       *justification, as the case may be, described in para-*  
 2       *graphs (1) through (4) cannot be provided.*

3       (c) *SUNSET.*—*The consultation requirement under*  
 4       *subsection (b) shall expire on September 30, 2022.*

5       **SEC. 3. STATEMENT OF POLICY.**

6       *It is the policy of the United States that the Bureau*  
 7       *of Overseas Building Operations of the Department of State*  
 8       *or its successor office shall continue to balance functionality*  
 9       *and security with accessibility as defined by guidelines es-*  
 10       *tablished by the United States Access Board in constructing*  
 11       *embassies and consulates and shall ensure compliance with*  
 12       *the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et*  
 13       *seq.) to the fullest extent possible.*

14       **SEC. 4. CAPITAL CONSTRUCTION TRANSPARENCY.**

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

18               (1) *in the section heading, by striking “ANNUAL*  
 19       *REPORT ON EMBASSY CONSTRUCTION COSTS”*  
 20       *and inserting “QUARTERLY REPORT ON OVER-*  
 21       *SEAS CAPITAL CONSTRUCTION PROJECTS”;* *and*

22               (2) *by amending subsections (a) and (b) to read*  
 23       *as follows:*

24       “(a) *IN GENERAL.*—*Not later than 180 days after the*  
 25       *date of the enactment of this subsection, and every 90 days*

1 *thereafter until September 30, 2022, the Secretary shall sub-*  
 2 *mit to the appropriate congressional committees a com-*  
 3 *prehensive report regarding all ongoing overseas capital*  
 4 *construction projects and major embassy security upgrade*  
 5 *projects.*

6 “(b) *CONTENTS.—Each report required under sub-*  
 7 *section (a) shall include the following with respect to each*  
 8 *ongoing overseas capital construction project and major em-*  
 9 *bassy security upgrade project:*

10 “(1) *The initial cost estimate as specified in the*  
 11 *proposed allocation of capital construction and main-*  
 12 *tenance funds required by the Committees on Appro-*  
 13 *priations for Acts making appropriations for the De-*  
 14 *partment of State, foreign operations, and related*  
 15 *programs.*

16 “(2) *The current cost estimate.*

17 “(3) *The value of each request for equitable ad-*  
 18 *justment received by the Department of State to date.*

19 “(4) *The value of each certified claim received by*  
 20 *the Department of State to date.*

21 “(5) *The value of any usage of the project’s con-*  
 22 *tingency fund to date and the value of the remainder*  
 23 *of the project’s contingency fund.*

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

4           “(7) *An enumerated list of each request for equi-*  
5           *table adjustment and certified claim that has been*  
6           *fully adjudicated or that the Department has settled,*  
7           *and the final dollar amount of each adjudication or*  
8           *settlement.*

9           “(8) *The date of estimated completion specified*  
10          *in the proposed allocation of capital construction and*  
11          *maintenance funds required by the Committees on*  
12          *Appropriations not later than 45 days after the date*  
13          *of the enactment of an Act making appropriations for*  
14          *the Department of State, foreign operations, and re-*  
15          *lated programs.*

16          “(9) *The current date of estimated completion.*”.

17          (b) *INITIAL REPORT.*—*The first report required under*  
18          *subsection (a) of section 118 of the Department of State Au-*  
19          *thorities Act, Fiscal Year 2017 (as amended by this section)*  
20          *shall include an annex regarding all overseas capital con-*  
21          *struction projects and major embassy security upgrade*  
22          *projects completed during the 10-year period ending on De-*  
23          *cember 31, 2018, including, for each such project, the ele-*  
24          *ments specified in subsection (b) of such section 118 (as*  
25          *amended by this section).*

1 **SEC. 5. CONTRACTOR PERFORMANCE INFORMATION.**

2 (a) *DEADLINE FOR COMPLETION.*—The Secretary of  
3 State shall complete by October 1, 2020, all contractor per-  
4 formance evaluations required by subpart 42.15 of the Fed-  
5 eral Acquisition Regulation.

6 (b) *PRIORITIZATION SYSTEM.*—

7 (1) *IN GENERAL.*—Not later than 90 days after  
8 the date of the enactment of this Act, the Secretary of  
9 State shall develop a prioritization system for clear-  
10 ing the current backlog of required evaluations re-  
11 ferred to in subsection (a).

12 (2) *ELEMENTS.*—The system required under  
13 paragraph (1) should prioritize such evaluations as  
14 follows:

15 (A) *Project completion evaluations should be*  
16 *prioritized over annual evaluations.*

17 (B) *Evaluations for relatively large con-*  
18 *tracts should have priority.*

19 (C) *Evaluations that would be particularly*  
20 *informative for the awarding of government con-*  
21 *tracts should have priority.*

22 (c) *BRIEFING.*—Not later than 90 days after the date  
23 of the enactment of this Act, the Secretary of State shall  
24 brief the appropriate congressional committees on the De-  
25 partment of State's plan for completing all evaluations by

1 *October 1, 2020, and the prioritization system developed*  
 2 *pursuant to this section.*

3 *(d) SENSE OF CONGRESS.—It is the sense of Congress*  
 4 *that—*

5 *(1) contractors deciding whether to bid on De-*  
 6 *partment of State contracts would benefit from great-*  
 7 *er understanding of the Department as a client; and*

8 *(2) the Department should develop a forum*  
 9 *through which contractors can rate the Department’s*  
 10 *project management performance.*

11 **SEC. 6. GROWTH PROJECTIONS FOR NEW EMBASSIES AND**  
 12 **CONSULATES.**

13 *(a) IN GENERAL.—For each new embassy compound*  
 14 *project (NEC) and new consulate compound project (NCC)*  
 15 *in or not yet in the design phase as of the date of the enact-*  
 16 *ment of this Act, the Office of Management Policy,*  
 17 *Rightsizing, and Innovation of the Department of State*  
 18 *shall project growth over the estimated life of the facility*  
 19 *at issue using all available and relevant data, including*  
 20 *the following:*

21 *(1) Relevant historical trends for Department*  
 22 *personnel and personnel from other agencies rep-*  
 23 *resented at the NEC or NCC that is to be constructed.*

24 *(2) An analysis of the tradeoffs between risk and*  
 25 *the needs of United States Government policy con-*

1        *ducted as part of the most recent Vital Presence Vali-*  
 2        *ation Process, if applicable.*

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

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

8        *(b) OTHER AGENCIES.—Each Federal agency rep-*  
 9        *resented at an embassy or consulate shall provide to the*  
 10       *Department of State, upon request, growth projections for*  
 11       *the personnel of such agency over the estimated life of such*  
 12       *embassy or consulate, as the case may be.*

13       *(c) BASIS FOR ESTIMATES.—The Department of State*  
 14       *shall base growth assumption for all NECs and NCCs on*  
 15       *the estimates required under subsections (a) and (b).*

16       *(d) CONGRESSIONAL NOTIFICATION.—Any congres-*  
 17       *sional notification of site selection for a NEC or NCC sub-*  
 18       *mitted after the date of the enactment of this Act shall in-*  
 19       *clude the growth assumption used pursuant to subsection*  
 20       *(c).*

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

22       *(a) PLANS REQUIRED.—*

23            *(1) IN GENERAL.—Not later than 180 days after*  
 24        *the date of the enactment of this Act and annually*



1       thereafter for five years, the Secretary of State shall  
2       develop—

3               (A) a comprehensive six-year Long-Range  
4       Overseas Buildings Plan (LROBP) documenting  
5       the Department of State’s overseas building pro-  
6       gram for the replacement of overseas diplomatic  
7       facilities taking into account security factors  
8       under the Secure Embassy Construction and  
9       Counterterrorism Act of 1999 (22 U.S.C. 4865  
10      note) and other relevant statutes and regulations,  
11      as well as occupational safety and health factors  
12      pursuant to the Occupational Safety and Health  
13      Act of 1970 (29 U.S.C. 651 et seq.) and other rel-  
14      evant statutes and regulations, including envi-  
15      ronmental factors such as indoor air quality that  
16      impact employee health and safety; and

17              (B) a comprehensive six-year plan detailing  
18      the Department’s long-term planning for the  
19      maintenance and sustainment of completed fa-  
20      cilities, known as a Long-Range Overseas Main-  
21      tenance Plan (LROMP), which takes into ac-  
22      count security factors under the Secure Embassy  
23      Construction and Counterterrorism Act of 1999  
24      and other relevant statutes and regulations, as  
25      well as occupational safety and health factors

1        *pursuant to the Occupational Safety and Health*  
2        *Act of 1970 and other relevant statutes and regu-*  
3        *lations, including environmental factors such as*  
4        *indoor air quality that impact employee health*  
5        *and safety.*

6        (2) *INITIAL REPORT.*—*The first plan developed*  
7        *pursuant to paragraph (1)(A) shall also include a*  
8        *one-time status report on existing small diplomatic*  
9        *posts and a strategy for establishing a physical diplo-*  
10       *matic presence in countries in which there is no cur-*  
11       *rent physical diplomatic presence. The report, which*  
12       *may include a classified annex, shall include the fol-*  
13       *lowing:*

14                (A) *A description of the extent to which*  
15                *each small diplomatic post furthers the national*  
16                *interest of the United States.*

17                (B) *A description of how each small diplo-*  
18                *matic post provides American Citizen Services,*  
19                *including data on specific services provided and*  
20                *the number of Americans receiving services over*  
21                *the previous year.*

22                (C) *A description of whether each small*  
23                *diplomatic post meets current security require-*  
24                *ments.*

1           (D) *A description of the full financial cost*  
2           *of maintaining each small diplomatic post.*

3           (E) *Input from the relevant chiefs of mis-*  
4           *sion on any unique operational or policy value*  
5           *the small diplomatic post provides.*

6           (3) *UPDATED INFORMATION.—The annual up-*  
7           *dates of the plans developed pursuant to paragraph*  
8           *(1) shall highlight any changes from the previous*  
9           *year’s plan to the ordering of construction and main-*  
10          *tenance projects.*

11          (b) *REPORTING REQUIREMENTS.—*

12           (1) *SUBMISSION OF PLANS TO CONGRESS.—Not*  
13           *later than 60 days after the completion of the LROBP*  
14           *and the LROMP, the Secretary of State shall submit*  
15           *such plans to the appropriate congressional commit-*  
16           *tees.*

17           (2) *REFERENCE IN BUDGET JUSTIFICATION MA-*  
18           *TERIALS.—In the budget justification materials sub-*  
19           *mitted to the appropriate congressional committees in*  
20           *support of the Department of State’s budget for any*  
21           *fiscal year (as submitted with the budget of the Presi-*  
22           *dent under section 1105(a) of title 31, United States*  
23           *Code), the plans specified in the LROBP and*  
24           *LROMP shall be referenced to justify funding re-*

1        *quested for building and maintenance projects over-*  
 2        *seas.*

3            (3) *FORM OF REPORT.*—*The plans required to be*  
 4        *submitted under paragraph (1) shall be submitted in*  
 5        *unclassified form but may include classified annexes*

6        (c) *SMALL DIPLOMATIC POST DEFINED.*—*In this sec-*  
 7        *tion, the term “small diplomatic post” means any consulate*  
 8        *that has employed five or fewer United States Government*  
 9        *employees on average over the 36 months before the date*  
 10       *of the enactment of this Act.*

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

12        (a) *FINDINGS.*—*Congress makes the following findings:*

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

18            (2) *OBO has a Policy Directive and Standard*  
 19        *Operation Procedure, dated May 24, 2017, on con-*  
 20        *ducting risk management studies on all international*  
 21        *construction projects.*

22        (b) *NOTIFICATION REQUIREMENTS.*—

23            (1) *SUBMISSION TO AUTHORIZING COMMIT-*  
 24        *TEES.*—*The proposed allocation of capital construc-*  
 25        *tion and maintenance funds that is required by the*

1 *Committees on Appropriations of the House of Rep-*  
 2 *resentatives and the Senate not later than 45 days*  
 3 *after the date of the enactment of an Act making ap-*  
 4 *propriations for the Department of State, foreign op-*  
 5 *erations, and related programs shall also be submitted*  
 6 *to the appropriate congressional committees.*

7 (2) *REQUIREMENT TO CONFIRM COMPLETION OF*  
 8 *VALUE ENGINEERING AND RISK ASSESSMENT STUD-*  
 9 *IES.—The notifications required under paragraph (1)*  
 10 *shall include confirmation that the Department of*  
 11 *State has completed the requisite VE and risk man-*  
 12 *agement studies described in subsection (a).*

13 (c) *REPORTING AND BRIEFING REQUIREMENTS.—The*  
 14 *Secretary of State shall provide to the appropriate congres-*  
 15 *sional committees upon request—*

16 (1) *a description of each recommendation from*  
 17 *each study described in subsection (a) and a table de-*  
 18 *tailing which recommendations were accepted and*  
 19 *which were rejected; and*

20 (2) *a report or briefing detailing the rationale*  
 21 *for not implementing recommendations made by VE*  
 22 *studies that may yield significant cost savings to the*  
 23 *Department of State, if implemented.*

1 **SEC. 9. BUSINESS VOLUME.**

2       *Subparagraph (E) of section 402(c)(2) of the Omnibus*  
3 *Diplomatic Security and Antiterrorism Act of 1986 (22*  
4 *U.S.C. 4852(c)(2)) is amended by striking “in 3 years” and*  
5 *inserting “cumulatively over 3 years”.*

6 **SEC. 10. EMBASSY SECURITY REQUESTS AND DEFICIENCIES.**  
7

8       *The Secretary of State shall provide to the appropriate*  
9 *congressional committees, upon request, information on se-*  
10 *curity deficiencies at United States diplomatic posts, in-*  
11 *cluding—*

12           *(1) requests made over the previous year by*  
13 *United States diplomatic posts for security upgrades;*  
14 *and*

15           *(2) significant security deficiencies at United*  
16 *States diplomatic posts that are not operating out of*  
17 *a new embassy compound or new consulate com-*  
18 *pound.*

19 **SEC. 11. OVERSEAS SECURITY BRIEFINGS.**

20       *Not later than one year after the date of the enactment*  
21 *of this Act, the Secretary of State shall revise the Foreign*  
22 *Affairs Manual to stipulate that information on the current*  
23 *threat environment shall be provided to all United States*  
24 *Government employees under Chief of Mission authority*  
25 *traveling to a foreign country on official business. To the*  
26 *extent practicable, such material shall be provided to em-*

1 *ployees prior to their arrival at a post or as soon as possible*  
2 *thereafter.*

3 **SEC. 12. CONTRACTING METHODS IN CAPITAL CONSTRUC-**  
4 **TION.**

5 (a) *DELIVERY.*—*Unless the Secretary of State notifies*  
6 *the appropriate congressional committees that the use of the*  
7 *design-build project delivery method would not be appro-*  
8 *priate, the Secretary shall make use of such method at dip-*  
9 *lomatic posts that have not yet received design or capital*  
10 *construction contracts as of the date of the enactment of*  
11 *this Act.*

12 (b) *NOTIFICATION.*—*Before executing a contract for a*  
13 *delivery method other than design-build in accordance with*  
14 *subsection (a), the Secretary of State shall notify the appro-*  
15 *priate congressional committees in writing of the decision,*  
16 *including the reasons therefor. The notification required by*  
17 *this subsection may be included in any other report regard-*  
18 *ing a new diplomatic facility that is required to be sub-*  
19 *mitted to the appropriate congressional committees.*

20 (c) *PERFORMANCE EVALUATION.*—*Not later than 180*  
21 *days after the date of the enactment of this Act, the Sec-*  
22 *retary shall report to the appropriate congressional commit-*  
23 *tees regarding performance evaluation measures in line*  
24 *with GAO’s “Standards for Internal Control in the Federal*  
25 *Government” that will be applicable to design and construc-*

1 *tion, lifecycle cost, and building maintenance programs of*  
 2 *the Bureau of Overseas Building Operations of the Depart-*  
 3 *ment of State.*

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

5 *Not later than 45 days after the date of the enactment*  
 6 *of this Act, the Secretary of State shall submit to the appro-*  
 7 *priate congressional committee a report detailing steps the*  
 8 *Department of State is taking to expand the embassy con-*  
 9 *struction contractor base in order to increase competition*  
 10 *and maximize value.*

11 **SEC. 14. DEFINITIONS.**

12 *In this Act:*

13 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*  
 14 *TEES.—The term “appropriate congressional commit-*  
 15 *tees” means—*

16 (B) *the Committee on Foreign Relations*  
 17 *and the Committee on Appropriations of the*  
 18 *Senate; and*

19 (A) *the Committee on Foreign Affairs and*  
 20 *the Committee on Appropriations of the House of*  
 21 *Representatives.*

22 (2) *DESIGN-BUILD.—The term “design-build”*  
 23 *means a method of project delivery in which one enti-*  
 24 *ty works under a single contract with the Department*  
 25 *of State to provide design and construction services.*



1           (3) *NON-STANDARD DESIGN.*—*The term “non-*  
2       *standard design” means— A design for a new em-*  
3       *bassy compound project or new consulate compound*  
4       *project that does not utilize a standardized design for*  
5       *the structural, spatial, or security requirements of*  
6       *such embassy compound or consulate compound, as*  
7       *the case may be.*

Attest:

*Secretary.*

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H.R. 4969**

---

---

**AMENDMENT**