

(c) Contracts for construction, etc., in United States

Contracts for construction, alteration, or repair in the United States for or on behalf of any foreign mission (as defined in section 202(a)(4)¹ of title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) may, pursuant to the authority of that title [22 U.S.C. 4301 et seq.], only be awarded to or performed by bidders qualifying under subsection (a) (1) or (2) or by nationals of the country for which the contract is being performed who are granted the right of entry into the United States for that purpose.

(d) Discretionary determinations by Secretary of State

Determinations under this section shall be committed to the discretion of the Secretary of State.

(e) Termination of requirements

This section shall cease to be effective when the Secretary of State determines that there are internationally-agree-upon² rules in effect on bidding for construction contracts.

(May 7, 1926, ch. 250, §11, as added Pub. L. 98–164, title I, §136, Nov. 22, 1983, 97 Stat. 1029; amended Pub. L. 107–228, div. A, title II, §206(a), Sept. 30, 2002, 116 Stat. 1364.)

Editorial Notes

REFERENCES IN TEXT

Title II of the State Department Basic Authorities Act of 1956, referred to in subsec. (c), is title II of act Aug. 1, 1956, ch. 841, as added Aug. 24, 1982, Pub. L. 97–241, title II, §202(b), 96 Stat. 283, known as the Foreign Missions Act, which is classified principally to chapter 53 (§4301 et seq.) of this title. Section 202(a)(4) of title II was redesignated section 202(a)(3), and former section 202(a)(5) was redesignated section 202(a)(4), by Pub. L. 103–236, title I, §162(o)(1), Apr. 30, 1994, 108 Stat. 409. For complete classification of title II to the Code, see Short Title note set out under section 4301 of this title and Tables.

AMENDMENTS

2002—Subsec. (b)(4)(A). Pub. L. 107–228 inserted “or at a United States diplomatic or consular establishment abroad” after “United States”.

§ 303. Repealed. Pub. L. 114–323, title VII, § 715(a)(1), Dec. 16, 2016, 130 Stat. 1946

Section, act May 7, 1926, ch. 250, §12, as added Pub. L. 105–277, div. G, subdiv. B, title XXII, §2215, Oct. 21, 1998, 112 Stat. 2681–814, required Secretary of State to submit annual report on overseas surplus properties.

§ 304. Biannual report on overseas capital construction projects

(a) In general

Not later than 180 days after December 27, 2021, and every 180 days thereafter until the date that is 4 years after such date, the Secretary shall submit to the appropriate congressional committees and the Committees on Appropriations of the Senate and the House of Representa-

tives a comprehensive report regarding all ongoing overseas capital construction projects and major embassy security upgrade projects.

(b) Contents

Each report required under subsection (a) shall include the following with respect to each ongoing overseas capital construction project and major embassy security upgrade project:

(1) The initial cost estimate as specified in the proposed allocation of capital construction and maintenance funds required by the Committees on Appropriations for Acts making appropriations for the Department of State, foreign operations, and related programs.

(2) The current cost estimate.

(3) The value of each request for equitable adjustment received by the Department to date.

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

(5) The value of any usage of the project's contingency fund to date and the value of the remainder of the project's contingency fund.

(6) An enumerated list of each request for adjustment and certified claim that remains outstanding or unresolved.

(7) An enumerated list of each request for equitable adjustment and certified claim that has been fully adjudicated or that the Department has settled, and the final dollar amount of each adjudication or settlement.

(8) The date of estimated completion specified in the proposed allocation of capital construction and maintenance funds required by the Committees on Appropriations not later than 45 days after the date of the enactment of an Act making appropriations for the Department of State, foreign operations, and related programs.

(9) The current date of estimated completion.

(c) Initial report

The first report required under subsection (a) shall include an annex regarding all embassy construction projects and major embassy security upgrade projects completed during the 10-year period ending on December 16, 2016, including, for each such project, the following:

(1) The initial cost estimate.

(2) The amount actually expended on the project.

(3) Any additional time required to complete the project beyond the initial timeline.

(4) Any cost overruns incurred by the project.

(Pub. L. 114–323, title I, §118, Dec. 16, 2016, 130 Stat. 1912; Pub. L. 115–94, §2(b), Dec. 18, 2017, 131 Stat. 2038; Pub. L. 117–81, div. E, title LII, §5203(a), Dec. 27, 2021, 135 Stat. 2353.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of State Authorities Act, Fiscal Year 2017, and not as part of the Foreign Service Buildings Act, 1926, which comprises this chapter.

AMENDMENTS

2021—Pub. L. 117–81, §5203(a)(1), substituted “Biannual report on overseas capital construction projects”

¹ See References in Text note below.

² So in original. Probably should be “internationally-agreed-upon”.

for “Annual report on embassy construction costs” in section catchline.

Subsec. (a). Pub. L. 117–81, § 5203(a)(2), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “Not later than 180 days after December 16, 2016, and annually thereafter, the Secretary shall submit to the appropriate congressional committees and the Committees on Appropriations of the Senate and the House of Representatives a comprehensive report regarding all ongoing embassy construction projects and major embassy security upgrade projects.”

Subsec. (b). Pub. L. 117–81, § 5203(a)(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “Each report required under subsection (a) shall include the following with respect to each ongoing embassy construction projects and major embassy security upgrade projects:

- “(1) The initial cost estimate.
- “(2) The amount expended on the project to date.
- “(3) The projected timeline for completing the project.
- “(4) Any cost overruns incurred by the project.”

2017—Subsec. (a). Pub. L. 115–94 inserted “and the Committees on Appropriations of the Senate and the House of Representatives” after “appropriate congressional committees”.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definitions of “Secretary” and “appropriate congressional committees” as used in this section, see section 2 of Pub. L. 114–323, set out as a note under section 2651 of this title.

§ 305. Growth projections for new embassies and consulates

(a) In general

For each new United States embassy compound (NEC) and new consulate compound project (NCC) in or not yet in the design phase as of December 27, 2021, the Department shall project growth over the estimated life of the facility using all available and relevant data, including the following:

- (1) Relevant historical trends for Department personnel and personnel from other agencies represented at the NEC or NCC that is to be constructed.
- (2) An analysis of the tradeoffs between risk and the needs of United States Government policy conducted as part of the most recent Vital Presence Validation Process, if applicable.
- (3) Reasonable assumptions about the strategic importance of the NEC or NCC, as the case may be, over the life of the building at issue.
- (4) Any other data that would be helpful in projecting the future growth of NEC or NCC.

(b) Other Federal agencies

The head of each Federal agency represented at a United States embassy or consulate shall provide to the Secretary, upon request, growth projections for the personnel of each such agency over the estimated life of each embassy or consulate, as the case may be.

(c) Basis for estimates

The Department shall base its growth assumption for all NECs and NCCs on the estimates required under subsections (a) and (b).

(d) Congressional notification

Any congressional notification of site selection for a NEC or NCC submitted after December 27, 2021 shall include the growth assumption used pursuant to subsection (c).

(Pub. L. 117–81, div. E, title LII, § 5205, Dec. 27, 2021, 135 Stat. 2355.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of State Authorization Act of 2021 and also as part of the National Defense Authorization Act for Fiscal Year 2022, and not as part of the Foreign Service Buildings Act, 1926, which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definitions of “Department” and “Secretary” as used in this section, see section 5002 of Pub. L. 117–81, set out as a note under section 263c of this title.

§ 306. Contracting methods in capital construction

(a) Delivery

Unless the Secretary of State notifies the appropriate congressional committees that the use of the design-build project delivery method would not be appropriate, the Secretary shall make use of such method at United States diplomatic posts that have not yet received design or capital construction contracts as of December 27, 2021.

(b) Notification

Before executing a contract for a delivery method other than design-build in accordance with subsection (a), the Secretary of State shall notify the appropriate congressional committees in writing of the decision, including the reasons therefor. The notification required by this subsection may be included in any other report regarding a new United States diplomatic post that is required to be submitted to the appropriate congressional committees.

(c) Performance evaluation

Not later than 180 days after December 27, 2021, the Secretary of State shall report to the appropriate congressional committees regarding performance evaluation measures in accordance with GAO’s “Standards for Internal Control in the Federal Government” that will be applicable to design and construction, lifecycle cost, and building maintenance programs of the Bureau of Overseas Building Operations of the Department.

(Pub. L. 117–81, div. E, title LII, § 5211, Dec. 27, 2021, 135 Stat. 2358.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of State Authorization Act of 2021 and also as part of the National Defense Authorization Act for Fiscal Year 2022, and not as part of the Foreign Service Buildings Act, 1926, which comprises this chapter.