

117TH CONGRESS
1ST SESSION

H. R. 1252

To provide for certain construction-related authorities of the Department of State, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 2021

Mr. McCAUL introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To provide for certain construction-related authorities of the Department of State, 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. STANDARD DESIGN IN CAPITAL CONSTRUCTION.**

7 (a) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that the Department’s Bureau of Overseas Building
9 Operations (OBO) or successor office should give appro-
10 priate consideration to standardization in construction, in

1 which each new United States embassy and consulate
2 starts with a standard design and keeps customization to
3 a minimum.

4 (b) CONSULTATION.—The Secretary of State shall
5 carry out any new United States embassy compound or
6 new consulate compound project that utilizes a non-stand-
7 ard design, including those projects that are in the design
8 or pre-design phase as of the date of the enactment of
9 this Act, only in consultation with the appropriate con-
10 gressional committees. The Secretary shall provide the ap-
11 propriate congressional committees, for each such project,
12 the following documentation:

13 (1) A comparison of the estimated full lifecycle
14 costs of the project to the estimated full lifecycle
15 costs of such project if it were to use a standard de-
16 sign.

17 (2) A comparison of the estimated completion
18 date of such project to the estimated completion
19 date of such project if it were to use a standard de-
20 sign.

21 (3) A comparison of the security of the com-
22 pleted project to the security of such completed
23 project if it were to use a 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 the date that is 4 years after
10 the date of the enactment of this Act.

11 **SEC. 3. CAPITAL CONSTRUCTION TRANSPARENCY.**

12 Section 118 of the Department of State Authorities
13 Act, Fiscal Year 2017 (22 U.S.C. 304) is amended—

14 (1) in the section heading, by striking “**AN-**
15 **NUAL REPORT ON EMBASSY CONSTRUCTION**
16 **COSTS**” and inserting “**BIANNUAL REPORT ON**
17 **OVERSEAS CAPITAL CONSTRUCTION**
18 **PROJECTS**”; and

19 (2) by striking subsections (a) and (b) and in-
20 serting the following new subsections:

21 “(a) IN GENERAL.—Not later than 180 days after
22 the date of the enactment of this subsection and every 180
23 days thereafter until the date that is four years after such
24 date of enactment, the Secretary of State shall submit to
25 the appropriate congressional committees a comprehensive

1 report regarding all ongoing overseas capital construction
2 projects and major embassy security upgrade projects.

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

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

13 “(2) The current cost estimate.

14 “(3) The value of each request for equitable ad-
15 justment received by the Department to date.

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

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

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

24 “(7) An enumerated list of each request for eq-
25 uitable adjustment and certified claim that has been

1 fully adjudicated or that the Department has settled,
2 and the final dollar amount of each adjudication or
3 settlement.

4 “(8) The date of estimated completion specified
5 in the proposed allocation of capital construction
6 and maintenance funds required by the Committees
7 on Appropriations not later than 45 days after the
8 date of the enactment of an Act making appropria-
9 tions for the Department of State, foreign oper-
10 ations, and related programs.

11 “(9) The current date of estimated comple-
12 tion.”.

13 **SEC. 4. CONTRACTOR PERFORMANCE INFORMATION.**

14 (a) DEADLINE FOR COMPLETION.—The Secretary of
15 State shall complete all contractor performance evalua-
16 tions outstanding as of the date of the enactment of this
17 Act required by subpart 42.15 of the Federal Acquisition
18 Regulation for those contractors engaged in construction
19 of new embassy or new consulate compounds by April 1,
20 2022.

21 (b) PRIORITIZATION SYSTEM.—

22 (1) IN GENERAL.—Not later than 90 days after
23 the date of the enactment of this Act, the Secretary
24 of State shall develop a prioritization system for

1 clearing the current backlog of required evaluations
2 referred to in subsection (a).

3 (2) ELEMENTS.—The system required under
4 paragraph (1) should prioritize the evaluations as
5 follows:

6 (A) Project completion evaluations should
7 be prioritized over annual evaluations.

8 (B) Evaluations for relatively large con-
9 tracts should have priority.

10 (C) Evaluations that would be particularly
11 informative for the awarding of government
12 contracts should have priority.

13 (c) BRIEFING.—Not later than 90 days after the date
14 of the enactment of this Act, the Secretary of State shall
15 brief the appropriate congressional committees on the De-
16 partment’s plan for completing all evaluations by October
17 1, 2021, in accordance with subsection (a) and the
18 prioritization system developed pursuant to subsection (b).

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

21 (1) contractors deciding whether to bid on De-
22 partment contracts would benefit from greater un-
23 derstanding of the Department as a client; and

1 (2) the Department should develop a forum
2 where contractors can comment on the Department's
3 project management performance.

4 **SEC. 5. GROWTH PROJECTIONS FOR NEW EMBASSIES AND**
5 **CONSULATES.**

6 (a) IN GENERAL.—For each new United States em-
7 bassy compound (NEC) and new consulate compound
8 project (NCC) in or not yet in the design phase as of the
9 date of the enactment of this Act, the Department of State
10 shall project growth over the estimated life of the facility
11 using all available and relevant data, including the fol-
12 lowing:

13 (1) Relevant historical trends for Department
14 personnel and personnel from other agencies rep-
15 resented at the NEC or NCC that is to be con-
16 structed.

17 (2) An analysis of the tradeoffs between risk
18 and the needs of United States Government policy
19 conducted as part of the most recent Vital Presence
20 Validation Process, if applicable.

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

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

1 (b) OTHER FEDERAL AGENCIES.—The head of each
2 Federal agency represented at a United States embassy
3 or consulate shall provide to the Secretary, upon request,
4 growth projections for the personnel of each such agency
5 over the estimated life of each embassy or consulate, as
6 the case may be.

7 (c) BASIS FOR ESTIMATES.—The Department of
8 State shall base its growth assumption for all NECs and
9 NCCs on the estimates required under subsections (a) and
10 (b).

11 (d) CONGRESSIONAL NOTIFICATION.—Any congres-
12 sional notification of site selection for a NEC or NCC sub-
13 mitted after the date of the enactment of this Act shall
14 include the growth assumption used pursuant to sub-
15 section (c).

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

17 (a) PLANS REQUIRED.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of the enactment of this Act and an-
20 nually thereafter for the next five years as the Sec-
21 retary of State considers appropriate, the Secretary
22 shall develop—

23 (A) a comprehensive 6-year plan docu-
24 menting the Department's overseas building
25 program for the replacement of overseas diplo-

1 matic posts taking into account security factors
2 under the Secure Embassy Construction and
3 Counterterrorism Act of 1999 and other rel-
4 evant statutes and regulations, as well as occu-
5 pational safety and health factors pursuant to
6 the Occupational Safety and Health Act of
7 1970 and other relevant statutes and regula-
8 tions, including environmental factors such as
9 indoor air quality that impact employee health
10 and safety; and

11 (B) a comprehensive 6-year plan detailing
12 the Department's long-term planning for the
13 maintenance and sustainment of completed dip-
14 lomatic posts, which takes into account security
15 factors under the Secure Embassy Construction
16 and Counterterrorism Act of 1999 and other
17 relevant statutes and regulations, as well as oc-
18 cupational safety and health factors pursuant to
19 the Occupational Safety and Health Act of
20 1970 and other relevant statutes and regula-
21 tions, including environmental factors such as
22 indoor air quality that impact employee health
23 and safety.

24 (2) INITIAL REPORT.—The first plan developed
25 pursuant to paragraph (1)(A) shall also include a

1 one-time status report on existing small diplomatic
2 posts and a strategy for establishing a physical dip-
3 lomatic presence in countries in which there is no
4 current physical diplomatic presence and with which
5 the United States maintains diplomatic relations.
6 Such report, which may include a classified annex,
7 shall include the following:

8 (A) A description of the extent to which
9 each small diplomatic post furthers the national
10 interest of the United States.

11 (B) A description of how each small diplo-
12 matic post provides American Citizen Services,
13 including data on specific services provided and
14 the number of Americans receiving services over
15 the previous year.

16 (C) A description of whether each small
17 diplomatic post meets current security require-
18 ments.

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

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

24 (F) A recommendation of whether any
25 small diplomatic posts should be closed.

1 (3) UPDATED INFORMATION.—The annual up-
2 dates of each of the plans developed pursuant to
3 paragraph (1) shall highlight any changes from the
4 previous year’s plan to the ordering of construction
5 and maintenance projects.

6 (b) REPORTING REQUIREMENTS.—

7 (1) SUBMISSION OF PLANS TO CONGRESS.—Not
8 later than 60 days after the completion of each plan
9 required under subsection (a), the Secretary of State
10 shall submit the plans to the appropriate congress-
11 sional committees.

12 (2) REFERENCE IN BUDGET JUSTIFICATION
13 MATERIALS.—In the budget justification materials
14 submitted to the appropriate congressional commit-
15 tees in support of the Department of State’s budget
16 for any fiscal year (as submitted with the budget of
17 the President under section 1105(a) of title 31,
18 United States Code), the plans required under sub-
19 section (a) shall be referenced to justify funding re-
20 quested for building and maintenance projects over-
21 seas.

22 (3) FORM OF REPORT.—Each report required
23 under paragraph (1) shall be submitted in unclassi-
24 fied form but may include a classified annex.

1 (c) SMALL DIPLOMATIC POST DEFINED.—In this
2 section, the term “small diplomatic post” means any
3 United States embassy or consulate that has employed five
4 or fewer United States Government employees or contrac-
5 tors on average over the 36 months prior to the date of
6 the enactment of this Act.

7 **SEC. 7. VALUE ENGINEERING AND RISK ASSESSMENT.**

8 (a) FINDINGS.—Congress makes the following find-
9 ings:

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

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

19 (b) NOTIFICATION REQUIREMENTS.—

20 (1) SUBMISSION TO AUTHORIZING COMMIT-
21 TEES.—Any operating plan that includes the alloca-
22 tion of capital construction and maintenance funds
23 shall be submitted to the Committee on Foreign Re-
24 lations of the Senate and the Committee on Foreign
25 Affairs of the House of Representatives.

1 (2) REQUIREMENT TO CONFIRM COMPLETION
2 OF VALUE ENGINEERING AND RISK ASSESSMENT
3 STUDIES.—The notifications required under para-
4 graph (1) shall include confirmation that the De-
5 partment has completed the requisite VE and risk
6 management process described in subsection (a), or
7 applicable successor process.

8 (c) REPORTING AND BRIEFING REQUIREMENTS.—
9 The Secretary of State shall provide to the appropriate
10 congressional committees upon request—

11 (1) a description of each risk management
12 study referred to in subsection (a)(2) and a table de-
13 tailing which recommendations related to each such
14 study were accepted and which were rejected; and

15 (2) a report or briefing detailing the rationale
16 for not implementing any such recommendations
17 that may otherwise yield significant cost savings to
18 the Department if implemented.

19 **SEC. 8. BUSINESS VOLUME.**

20 Section 402(c)(2)(E) of the Omnibus Diplomatic Se-
21 curity and Antiterrorism Act of 1986 (22 U.S.C.
22 4852(c)(2)(E)) is amended by striking “in 3 years” and
23 inserting “cumulatively over 3 years”.

1 **SEC. 9. EMBASSY SECURITY REQUESTS AND DEFICIENCIES.**

2 The Secretary of State shall provide to the appro-
3 priate congressional committees, the Committee on Armed
4 Services of the House of Representatives, and the Com-
5 mittee on Armed Services of the Senate upon request in-
6 formation on physical security deficiencies at United
7 States diplomatic posts, including relating to the fol-
8 lowing:

9 (1) Requests made over the previous year by
10 United States diplomatic posts for security up-
11 grades.

12 (2) Significant security deficiencies at United
13 States diplomatic posts that are not operating out of
14 a new embassy compound or new consulate com-
15 pound.

16 **SEC. 10. OVERSEAS SECURITY BRIEFINGS.**

17 Not later than one year after the date of the enact-
18 ment of this Act, the Secretary of State shall revise the
19 Foreign Affairs Manual to stipulate that information on
20 the current threat environment shall be provided to all
21 United States Government employees under chief of mis-
22 sion authority traveling to a foreign country on official
23 business. To the extent practicable, such material shall be
24 provided to such employees prior to their arrival at a
25 United States diplomatic post or as soon as possible there-
26 after.

1 **SEC. 11. CONTRACTING METHODS IN CAPITAL CONSTRUCTION.**
2 **TION.**

3 (a) **DELIVERY.**—Unless the Secretary of State noti-
4 fies the appropriate congressional committees that the use
5 of the design-build project delivery method would not be
6 appropriate, the Secretary shall make use of such method
7 at United States diplomatic posts that have not yet re-
8 ceived design or capital construction contracts as of the
9 date of the enactment of this Act.

10 (b) **NOTIFICATION.**—Before executing a contract for
11 a delivery method other than design-build in accordance
12 with subsection (a), the Secretary of State shall notify the
13 appropriate congressional committees in writing of the de-
14 cision, including the reasons therefor. The notification re-
15 quired by this subsection may be included in any other
16 report regarding a new United States diplomatic post that
17 is required to be submitted to the appropriate congres-
18 sional committees.

19 (c) **PERFORMANCE EVALUATION.**—Not later than
20 180 days after the date of the enactment of this Act, the
21 Secretary of State shall report to the appropriate congres-
22 sional committees regarding performance evaluation meas-
23 ures in accordance with GAO’s “Standards for Internal
24 Control in the Federal Government” that will be applica-
25 ble to design and construction, lifecycle cost, and building

1 maintenance programs of the Bureau of Overseas Build-
2 ing Operations of the Department.

3 **SEC. 12. COMPETITION IN EMBASSY CONSTRUCTION.**

4 Not later than 45 days after the date of the enact-
5 ment of this Act, the Secretary of State shall submit to
6 the appropriate congressional committee a report detailing
7 steps the Department of State is taking to expand the em-
8 bassy construction contractor base in order to increase
9 competition and maximize value.

10 **SEC. 13. STATEMENT OF POLICY.**

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

19 **SEC. 14. DEFINITIONS.**

20 In this Act:

21 (1) DESIGN-BUILD.—The term “design-build”
22 means a method of project delivery in which one en-
23 tity works under a single contract with the Depart-
24 ment to provide design and construction services.

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

○