

**Committee on Oversight and Government Reform  
U.S. House of Representatives  
114th Congress**



---

**OVER-BUDGET OVERSEAS:  
THE STATE DEPARTMENT'S FAILURE TO  
PROTECT OUR DIPLOMATS**

---

**Majority Staff Report**

**Prepared For:**

**Hon. Jason Chaffetz, Chairman  
Committee on Oversight and Government Reform**

**December 6, 2016**

## EXECUTIVE SUMMARY

The Department of State (the Department) operates more than 285 diplomatic facilities across the globe, including in some of the most dangerous countries in the world.<sup>1</sup> Both Congress and the Department have an obligation to ensure American diplomats serving abroad are protected to the best possible extent. For this reason, the House Committee on Oversight and Government Reform (the Committee) undertook a review of how the Department safeguards its personnel serving overseas.<sup>2</sup>

The purpose of the review was to ensure the Department builds our diplomatic facilities abroad with two critical goals in mind: **(i)** protecting diplomats and classified information; and **(ii)** protecting American taxpayers from unwarranted expenditures.

This report will detail several case studies of the Department's risky approach to constructing facilities where architectural significance is favored over secure facilities including in London, Jakarta, Beirut, and others. The Department's favoring of architectural significance comes at the expense of ensuring our diplomats are in safe facilities and saving taxpayer dollars.

The report illustrates what can go wrong when new design concepts are introduced under a compressed construction schedule and how costs skyrocket when aesthetics drive decision-making.

**The Department's current approach to constructing diplomatic facilities abroad costs too much and takes too long, despite Bureau of Overseas Buildings Operations Director Lydia Muniz' testimony to the Committee that, "[a]s I've explained and assured the committee, there's no additional cost under the excellence initiative."**<sup>3</sup> The Department's current approach to constructing diplomatic facilities represents a shift from the Standard Embassy Design (SED) to Design Excellence. SED relied on building templates and greater use of off-the-shelf equipment to provide proven security and faster delivery times. Between 2002 and 2012, OBO completed 88 new overseas diplomatic compounds based on the SED program.<sup>4</sup> Design Excellence,<sup>5</sup> seeks diplomacy through architecture and relies on purpose-

---

<sup>1</sup> U.S. Dep't of State, Bureau of Diplomatic Security, *Frequently Asked Questions*, <http://www.state.gov/m/ds/about/faq/index.htm#13> ("How many U.S. diplomatic missions does [the Bureau of Diplomatic Security] protect overseas? The Bureau of Diplomatic Security is responsible for the protection of more than 285 U.S. diplomatic facilities worldwide.") (last visited Dec. 2, 2016).

<sup>2</sup> Before publication of this report, the Committee provided an opportunity for the Department, the Office of the Director of National Intelligence (ODNI), and the contractor for both the London and Jakarta new embassy compounds to review and comment on the draft report.

<sup>3</sup> *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov't Reform, 113th Cong. (July 10, 2014).

<sup>4</sup> U.S. Dep't of State, Bureau of Overseas Buildings Operations, *Industry Advisory Panel Meeting Minutes* at 25 (Apr. 17, 2012) (on file with Committee staff).

<sup>5</sup> Perhaps recognizing its branding emphasized design over other concerns, such as security, OBO changed the title of the program from "Design Excellence" to "Excellence in Diplomatic Facilities." Compare U.S. Dep't of State, Bureau of Overseas Buildings Operations, *Excellence in Diplomatic Facilities: Message from OBO Director Lydia Muniz*, <http://overseasbuildings.state.gov/excellence/> (last visited Dec. 2, 2016), with *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov't Reform, 113th Cong. (July 10, 2014) (opening statement of Ranking Member Cummings) ("In 2011, the Department launched a new embassy construction effort called Design Excellence.").

built facilities,<sup>6</sup> often with millions of dollars in design costs and months of delay. After implementing Design Excellence in 2010, the Department has not completed a single Design-Excellence only facility, though several facilities using some of the concepts have been completed, including Paramaribo, Suriname and Mbabane, Swaziland. As a result, diplomats remain in outdated facilities and the costs of the buildings often bear little resemblance to the economic environment of the country in which they are located. For example, as of April 2016, the Department planned to spend \$225,194,000—a per-desk cost of \$1,719,038—for a new embassy compound (NEC) in N’Djamena, Chad,<sup>7</sup> a country with a 2015 estimated per capita GDP of \$2,600.<sup>8</sup> The per-desk cost refers to the cost for each space for an employee to conduct the U.S. government’s diplomatic work, as opposed to a local guard, gardener, or the like.

Additional examples provide greater clarity of the cost disparities. A comparison of the Department’s new consulate compound (NCC) facilities in northern Mexico is illustrative. In 2011, the Department completed an NCC in Tijuana under the SED program. The total cost was \$105,377,000 and a per-desk cost of \$671,191.<sup>9</sup> The Department built a hybrid-Design Excellence NCC in Monterrey for a total budget of \$184,993,000, resulting in a per-desk cost of \$929,613.<sup>10</sup> Using Design Excellence, the Department plans to spend \$191,509,000 (\$1,859,310 per desk) in Matamoros<sup>11</sup> and \$154,361,000 (\$1,754,102 per desk) in Nuevo Laredo.<sup>12</sup> Facilities in sub-Saharan Africa tell a similar story. A recently completed NEC in Mbabane, built as a hybrid Design Excellence facility, cost a total of \$161,720,000, with a per-desk cost of \$2,214,342.<sup>13</sup> By way of comparison, the Department built an NEC under the SED template in Dakar, Senegal for a total cost of \$203,638,000 and a per-desk cost of \$486,009.<sup>14</sup>

---

<sup>6</sup> H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of Calvin Shipman at 150-51 (Mar. 31, 2016) (“Q So would you say there is a diplomatic function and purpose in incorporating aesthetics into the design? A A diplomatic function? I think so, yeah. I would agree to that. Q And could you tell me in your opinion what you see as the diplomatic purpose of an embassy in general to be located in a location like Beirut? A Well, an embassy anywhere is the face of America in that location. You know, so it needs to be inviting. It needs to stand for what we stand for. Needs to represent us. So I don’t think you can do that without at least weighing aesthetics into that somewhere.”); *see also id.* at 148 (testifying that aesthetics is not prioritized over security, budget, function, or sustainability) [hereafter Shipman Tr.]; H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of Richard Capone at 132 (Aug. 23, 2016) (discussing the role of aesthetics and noting “[y]ou’re portraying the U.S. You want a nice looking building. So, yes, aesthetics are a concern.”) [hereinafter Capone Tr.].

<sup>7</sup> N’Djamena NEC PPR, Apr. 2016 (CDP-201500016-0002889) (showing a total budget of \$225,194,000 for 131 desks).

<sup>8</sup> Central Intelligence Agency, *The World Fact Book, Africa: Chad* (last visited Dec. 2, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/cd.html>.

<sup>9</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Tijuana NCC (Aug. 13, 2015) (showing a total budget of \$105,377,000 for 157 desks).

<sup>10</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Monterrey NCC (Aug. 13, 2015) (showing a total budget of \$184,993,000 for 199 desks).

<sup>11</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Matamoros NCC (May 22, 2015) (showing a total budget of \$191,509,000 for 103 desks).

<sup>12</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Nuevo Laredo NCC (May 22, 2015) (showing a total budget of \$154,361,000 for 82 desks).

<sup>13</sup> Mbabane NEC PPR, Apr. 2016 (CDP-2016-00016-0003731) (showing a total budget of \$161,720,000 for 73 desks with 100% completion).

<sup>14</sup> Dakar NEC PPR, Mar. 2013 (showing a total budget of \$203,638,000 for 419 desks).

Facility	Type	Total Cost	Desks	Per-Desk	Duration <sup>15</sup>	Year Completed
<b>Mexico</b>						
Tijuana <sup>16</sup>	SED	\$105,377,000	157	\$671,191	46 months	2011
Monterrey <sup>17</sup>	Design Excellence (hybrid)	\$184,993,000	199	\$929,613	57 months	2014
Nuevo Laredo <sup>18</sup>	Design Excellence	\$154,361,000 (current budget)	82	\$1,754,102	37 months (estimated)	2017 (estimated)
Matamoros <sup>19</sup>	Design Excellence	\$191,509,000 (current budget)	103	\$1,859,310	42 months (estimated)	2019 (estimated)
<b>Africa</b>						
Dakar, Senegal <sup>20</sup>	SED	\$203,638,000	419	\$486,009	37 months	2013
Mbabane, Swaziland <sup>21</sup>	Design Excellence (hybrid)	\$161,720,000	73	\$2,214,342	37 months	2016

The Department must also remain vigilant to ensure it is not building facilities that are too big for U.S. government needs overseas. For example, the Department intends to spend more than \$291 million to build an NEC in Zimbabwe,<sup>22</sup> a country in which Department consular

<sup>15</sup> From date of the contract award to contract completion.

<sup>16</sup> U.S. Dep't of State Briefing to H. Comm. on Oversight & Gov't Reform Staff on Tijuana NCC (Aug. 13, 2015) (showing a total budget of \$105,377,000 for 157 desks).

<sup>17</sup> U.S. Dep't of State Briefing to H. Comm. on Oversight & Gov't Reform Staff on Monterrey NCC (Aug. 13, 2015) (showing a total budget of \$184,993,000 for 199 desks).

<sup>18</sup> U.S. Dep't of State Briefing to H. Comm. on Oversight & Gov't Reform Staff on Nuevo Laredo NCC (May 22, 2015) (showing a total budget of \$154,361,000 for 82 desks).

<sup>19</sup> U.S. Dep't of State Briefing to H. Comm. on Oversight & Gov't Reform Staff on Matamoros NCC (May 22, 2015) (showing a total budget of \$191,509,000 for 103 desks).

<sup>20</sup> Dakar NEC PPR, Mar. 2013 (showing a total budget of \$203,638,000 for 419 desks).

<sup>21</sup> Mbabane NEC, Apr. 2016 (CDP-2016-00016-0003731) (showing a total budget of \$161,720,000 for 73 desks with 100% completion).

<sup>22</sup> Harare NEC PPR, Apr. 2016 (CDP-2016-00016-0002868) (showing "Total Project Cost" of \$291,683,000).

staff processed a total of 5,467 visas in 2015.<sup>23</sup> The Department also intends to spend more than \$257 million for an NEC in Mozambique,<sup>24</sup> a country in which the Department processed a total of 2,665 visas in 2015.<sup>25</sup> By way of comparison, the Department spent \$203,638,000 to construct an NEC in Senegal,<sup>26</sup> a country in which the Department processed a total of 5,856 visas in 2015.<sup>27</sup>

A few case studies of ongoing projects illustrate the Department's risky approach to constructing facilities. The new embassy compound in London is an example of what can go wrong when new design concepts are introduced under a compressed construction schedule. In that case, the result is premature certification to Congress and commencement of construction before the Department is even sure whether the building will survive a blast. But the Department's failures in London are manifested at a more elemental level. The site team has, among other things, permitted uncleared foreign nationals to access the site without full screening; obtained construction materials for the embassy's classified space in violation of the rules governing the acquisition of those materials; and failed to secure communications cables during construction. Rather than fix the problem and ensure it will not happen again, the site team—encouraged by the OBO and DS management—have embraced a “nothing to see here” approach. It is even more concerning that the person on the ground in charge of the security of the site was involved in a project where “something . . . was found in the wall.”<sup>28</sup> The Department's failures in London will likely require a delayed delivery of the facility, with the accompanying cost of approximately \$22 million for a six month lease, in addition to any other delay- and personnel-related costs to ensure the facility is ready for move in.<sup>29</sup>

With respect to the embassy under construction in Jakarta, the indecision of OBO's management has potentially cost the Department tens of millions of dollars in change order requests. The reason for the indecision appears to be aesthetics; management wanted a certain look to the curtain wall system. **OBO Director Muniz misled the Committee about costs associated with the Jakarta NEC.** When asked by Chairman Chaffetz about the then-upcoming request by the project's contractor for additional funds, Director Muniz stated she was unaware of such a request,<sup>30</sup> despite a letter to OBO from the contractor approximately one month before the Director's testimony to the Committee advising that a request for additional money was forthcoming. Further, the contractor's request for \$49 million in additional funds

---

<sup>23</sup> U.S. Dep't of State, *Report of the Visa Office 2015*, tbl. IV, available at <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2015AnnualReport/FY15AnnualReport-TableIV.pdf> (showing 179 immigrant visas and 5,228 non-immigrant visas) [hereinafter 2015 Visa Office Rep.].

<sup>24</sup> Maputo NEC PPR, Apr. 2016 (CDP-2016-00016-0002884) (showing “Total Project Cost” of \$257,820,000).

<sup>25</sup> 2015 Visa Office Rep., tbl. IV (showing 0 immigrant visas and 2,665 non-immigrant visas).

<sup>26</sup> Dakar NEC PPR, Mar. 2013 (showing a total budget of \$203,638,000).

<sup>27</sup> 2015 Visa Office Rep., tbl. IV (showing 2,028 immigrant visas and 3,828 non-immigrant visas).

<sup>28</sup> H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Helen Jones at 29 (June 24, 2016) [hereinafter Jones Tr.].

<sup>29</sup> U.S. Dep't of State, Office of Inspector General, *Audit of the Construction Contract Award and Security Evaluation of the New Embassy Compound London 15* (July 2015) available at <https://oig.state.gov/system/files/aud-cgi-15-31.pdf>.

<sup>30</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (July 9, 2015) (“Chairman Chaffetz. No, I'm asking if you have any direct knowledge that they are about to ask you for a lot of additional money. Do you or do you not? Ms. Muniz. I don't.”).

arrived the day after the Director's testimony before the Committee and seeks payment based on the Department's alleged delays with respect to selecting certain design elements of the facility.

The embassy project in Beirut is another example of the Department favoring architectural significance over moving people to safer facilities as quickly as possible. Despite a 2012 recommendation from the Department's Office of Inspector General (OIG) that the post move to a safer facility, the Department has spent at least \$45 million on its ongoing design of the new embassy.<sup>31</sup> According to witnesses who testified to the Committee in transcribed interviews, challenges with the constructability of the design offered by this high-end architect will require our Beirut-based diplomats to remain in outdated and dangerous facilities at least nine months longer than necessary.

In Mexico City in September 2011, the Department purchased a brownfield for the NEC contaminated with diesel fuel. To its credit, the Department recognized the risk and put the onus on the seller to clean up the site. Nearly five years later, however, the Department has yet to break ground, and the site remains vacant. Despite this, the Department has already spent more than \$56 million designing the facility in Mexico City.<sup>32</sup> This is in addition to the \$120 million paid for the site, half of which was paid in advance while the remediation was pending. All the while, our personnel remain in a facility that does not meet current security requirements.

The documents and testimony show that in Kabul, the Department flouted best practices and began construction without undertaking several cost-saving and risk analysis measures. The Government Accountability Office (GAO) reached a similar conclusion. The price tag for the Department's facilities in Kabul will likely exceed \$2 billion.<sup>33</sup> When the Department's OIG pointed out that there were dangerous electrical issues, OBO minimized this risk, as well.

**The Committee's review uncovered the Department's need for legislative guidance related to security features of diplomatic facilities to ensure Marines and Bureau of Diplomatic Security (DS) agents charged with protecting our people and facilities have the tools necessary to protect American personnel.**

The Department is also spending millions to commission new art for its facilities. This is despite access to one of the largest and most impressive art collections in the world through the Smithsonian Institution.<sup>34</sup> Congress should place a cap on the amount of money the Department may spend on artwork in diplomatic facilities. That amount should be limited to the transfer and maintenance of existing art owned by the government or loaned to the embassy. By way of example, the Department currently plans to spend more than \$2.9 million on art at the NEC in

---

<sup>31</sup> Beirut NEC PPR, Apr. 2016 (CDP-201500013-000000016) (showing "Total Project Cost" of \$1,167,067,000 and "Design" as \$45,286,000).

<sup>32</sup> Mexico City NEC PPR, Apr. 2016 (CDP-201500016-0003121) (listing a "Total Project Cost" of \$943,065,000 and a design budget of \$56,465,000).

<sup>33</sup> U.S. Gov't Accountability Office, *Afghanistan: Embassy Construction Cost and Schedule have Increased, and Further Facilities Planning is Needed* at 1 (May 2015) (GAO-15-410) <http://gao.gov/assets/680/670276.pdf>.

<sup>34</sup> The Smithsonian Institution states it is "the world's largest museum and research complex" and "includes 19 museums and galleries" with "the total number of artifacts, works of art and specimens in the Smithsonian's collections [] estimated at 156 million. . . ." Smithsonian Institution, *Fact Sheets, Smithsonian Collections* (Aug. 1, 2016), available at <http://newsdesk.si.edu/factsheets/fact-sheet-smithsonian-collections>.

Islamabad.<sup>35</sup> Pakistan has a 2015 estimated per capita GDP of \$4,900.<sup>36</sup> There is plenty of art available to choose from. The Smithsonian estimates it displays less than two percent of its total collection at one time.<sup>37</sup>

OBO—the component charged with constructing diplomatic facilities abroad—is not positioned for success as currently structured. The report documents how OBO’s current leadership has disregarded portions of the Department’s internal guidance, contained in the *Foreign Affairs Manual*. The director has also made a practice of retaining expensive architects to design facilities, often costing in the tens of millions of dollars.

OBO has a challenging mission, and the findings and recommendations contained herein are in furtherance of our shared goal of keeping our personnel abroad safe while ensuring efficient use of tax dollars.

---

<sup>35</sup> Islamabad NEC and Housing PPR, Apr. 2016 (CDP-201500016-0003071) (showing “Art” budget of \$2,901,000).

<sup>36</sup> Central Intelligence Agency, *The World Fact Book, South Asia: Pakistan* (last visited Dec. 2, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>.

<sup>37</sup> Smithsonian Institution, *Fact Sheets, Smithsonian Collections* (Aug. 1, 2016), available at <http://newsdesk.si.edu/factsheets/fact-sheet-smithsonian-collections>.

## FINDINGS

### Design Excellence Findings:

- OBO's shift away from the Standard Embassy Design to Design Excellence brought about longer planning and construction schedules, which were accompanied by millions of dollars in increased costs for facilities.
- Since the beginning of Design Excellence approximately six years ago, the Department has not yet completed a single Design Excellence facility, although it has completed some hybrid facilities. That compares to an average of just over eight facilities per year under the Standard Embassy Design.
- OBO created and implemented Design Excellence without assessing the costs and benefits.
- As a result of the Department's new system of constructing facilities, our diplomats are forced to remain in outdated and less secure facilities for longer than is necessary.

### London NEC Findings:

- More than three-and-a-half years after beginning construction, security-related issues have jeopardized the on-time delivery of the London NEC, potentially exposing the government to millions of dollars in additional costs above the \$1.023 billion budgeted for the facility, which is one of the most expensive facilities ever constructed by the Department.
- The Department agreed to move out of its current embassy by February 28, 2017. As part of that agreement, the Department agreed to pay rent to the new owner of approximately \$22 million for an additional six-month lease term (or more than \$3.6 million per month). It is unknown when the Department will fully move out of its current embassy in London, but it will not be by the February 2017 deadline.
- The London NEC project director and site security manager's ad hoc approach to security is a vulnerability for the facility as the site team is failing to adhere to even basic elements of site security.
- Time pressures associated with required occupancy of the London NEC are likely driving OBO and DS management's view of the security failures, resulting in cutting corners to build an insecure facility.
- The London NEC site team's significant procurement failures potentially compromise classified spaces in the NEC.
- OBO began construction of the London NEC before DS completed required blast testing, and failed to notify Congress that additional testing was needed. Although the curtain wall ultimately passed blast testing, had the system failed, taxpayers would potentially have been required to pay millions of dollars.

### **Jakarta NEC Findings:**

- The Jakarta NEC is unlikely to be delivered on time—from an expected completion in spring 2017 to the current estimate of the end of 2018—in large part because of OBO management’s inability to decide which version of the curtain wall system should be used.
- Documents contradict OBO Director Lydia Muniz’ testimony to the Committee regarding the project contractor’s request for additional funds associated with curtain wall delays.
- With both the Jakarta and London NECs’ curtain wall systems, the Department failed to account for the maintenance and eventual replacement of the structural silicone holding the curtain wall in place.

### **Beirut NEC Findings:**

- Problems with the ability to construct the design of the Beirut NEC added at least nine months—and perhaps as much as a year—to the construction schedule.
- The delays in project delivery are problematic because, as the Department’s OIG recognized in 2012, the current embassy consists of “deteriorating and dysfunctional facilities,” and there are “compelling security and functional arguments” to move as soon as possible.

### **Mexico City NEC Findings:**

- The site for the Mexico City NEC was so contaminated that, five years after the Department purchased the site for \$120 million, the Department has not yet begun construction of the \$943,065,000 facility.
- Given the delays associated with the remediation, it is unlikely the Department will occupy the new facility by its current projected date of July 2020, and it is not yet known whether the delay will entail additional costs.

### **Kabul NEC Findings:**

- The Department’s failure to complete and use critical planning documents, including a strategic facilities plan, and failures to follow cost containment and risk assessment best practices led to some of the cost overruns and delays at the Kabul NEC site.
- Because of the failure to plan properly, the Kabul NEC will likely be delivered at least two years later than originally planned and will cost at least \$167.5 million, or 27 percent, more than planned, with further cost increases likely.

### **Additional Findings:**

- At certain facilities visited by the Chairman and Committee staff, Marines and others tasked with securing the facility stated they had no ability to see in the dark past the

facility grounds. This could easily be remedied by purchasing night-vision or infrared cameras.

- The Department's Art in Embassies program uses a percentage of the construction contract to purchase art for the facilities, which often results in wildly disproportionate expenditures as related to the economic circumstances of the host country. An example of this is more than \$2.9 million in art for the Islamabad NEC, a country in which the per capita GDP is \$5,000.

## RECOMMENDATIONS

- Congress should require the Department to return to an SED-type template as the default for all new embassy and consulate facilities.
- Congress should exercise greater oversight of the Department’s budget requests for new facilities and consider enacting a cap on the design costs of new facilities.
- Congress should make clear through legislation that the *Foreign Affairs Manual* is binding on the Department.
- Congress should adopt legislation to align with the *Foreign Affairs Manual* that the Department may not award a contract—let alone begin construction— for a new facility until there is a full certification to Congress, including the resolution of any outstanding testing.<sup>38</sup>
- The Department should replace the London NEC project director and site security manager immediately due to the major security lapses on site.
- Congress should require OBO to produce an annual Long-Range Building Plan and Long-Range Maintenance Plan. While these are required under the *Foreign Affairs Manual*, it appears that OBO has not updated them since 2013.
- Infrared cameras, capable of seeing clearly in the dark, should be required at all U.S. embassies and consulates abroad. At minimum, this should include each Marine and DS agent serving as a guard at diplomatic facilities having access to night-vision capabilities.
- Congress should pass legislation requiring the Department to obtain donated or loaned art for facilities capping the per-facility amount for associated costs, such as insurance and transportation of the art.

---

<sup>38</sup> U.S. Dep’t of State, Office of Inspector General, *Audit of the Construction Contract Award and Security Evaluation of the New Embassy Compound London 6* (July 2015) (noting the Department’s practice “does not comply with 12 FAM 361.1, which states that ‘no contract should be awarded or construction undertaken until the proponent of a project has been notified by the Department that the appropriate certification action has been completed,’ or 12 FAM 361.3, which states that ‘[t]he chief of mission is responsible for ensuring that no project subject to...certification...is initiated without certification...approval.’”) *available at* <https://oig.state.gov/system/files/aud-cgi-15-31.pdf>.

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	1
FINDINGS.....	7
RECOMMENDATIONS.....	10
TABLE OF CONTENTS.....	11
TABLE OF ACRONYMS.....	13
HISTORY OF ATTACKS ON DIPLOMATIC FACILITIES WORLDWIDE.....	14
A. Beirut – 1983 and 1984.....	14
B. Kuwait – 1983.....	16
C. Dar es Salaam and Nairobi – 1998 .....	17
D. Benghazi – 2012 .....	21
E. Tunis – 2012 .....	22
F. Ankara – 2013.....	23
G. Other Attacks .....	24
PROGRESSION OF EMBASSY DESIGN AND CONSTRUCTION .....	25
A. The Inman Era.....	25
B. Standard Embassy Design (SED) .....	27
C. Design Excellence.....	36
1. OBO Switches from a System that Works to a System that Takes Longer, Costs More, and Creates Security Vulnerabilities .....	36
2. Design Excellence’s Brownfield Development Leads to Costly Remediation and Years-Long Delays in Moving Personnel in Mexico City.....	47
3. State Department Office of Inspector General Assessments of OBO Embassy Construction.....	49
THE DEPARTMENT DOES A POOR JOB OF MANAGING RISKS OVERSEAS: CASE STUDIES .....	51
A. London .....	51
1. Background of the London NEC .....	52
2. It is Unlikely the Department will Take Delivery of the London NEC by the Time Required in the Contract to Vacate the Current Facility.....	56
3. Security Failures by Onsite Management Have Been Approved by the OBO and DS Front Offices.....	60
4. The Department Began Construction Before the DS-Required Blast-Testing was Complete.....	98

5. The London NEC Contains Unnecessarily Expensive Features that Will Do Little to Keep Employees Safe .....	105
B. Jakarta .....	109
1. The Department Likely Will Not Deliver the Project on Time, Given its Failure to Select Design Elements in a Timely Manner.....	113
2. Department Officials Failed to Testify Truthfully before the Committee .....	116
3. Use of a Curtain Wall System That Has not Been Sufficiently Tested or Planned for Maintenance .....	139
C. Beirut.....	145
1. Our Personnel in Beirut are in Dangerous, Deteriorating, and Dysfunctional Facilities, as Recognized by the Department’s OIG in 2012.....	147
2. The Department Concluded that an Untested Architect and Idiosyncratic Design is Appropriate for the New Embassy in Beirut.....	149
3. The Architect’s Design Requires Personnel to Remain in Obsolete Facilities for At Least Nine Months Longer than Necessary .....	153
D. Mexico City .....	155
E. Kabul.....	157
1. The Committee’s Hearing and GAO’s Investigation and Report.....	160
2. Electrical Current Problems at the Embassy Put Personnel at Risk .....	168
ADDITIONAL ISSUES .....	169
A. DS’s Representations about Security Issues .....	169
B. The Department’s Excessive Spending for the Art in Embassies Program.....	173
OBO, AS STRUCTURED, IS NOT POSITIONED FOR SUCCESS .....	174
CONCLUSION.....	177
APPENDIX.....	178

## **TABLE OF ACRONYMS**

ARB: Accountability Review Board

CAA: Controlled Access Area

CSP: Construction Security Plan

CST: Construction Surveillance Technician

DS: U.S. Department of State, Bureau of Diplomatic Security

FAH: Foreign Affairs Handbook

FAM: Foreign Affairs Manual

FBO: U.S. Dep't of State, Office of Foreign Buildings Operations (predecessor to OBO)

NCC: New Consulate Compound

NEC: New Embassy Compound

OBO: U.S. Department of State, Bureau of Overseas Buildings Operations

ODNI: Office of the Director of National Intelligence

OSPB: Overseas Security Policy Board

RSO: Regional Security Officer

SED: Standard Embassy Design

SOP: Standard Operating Procedures

SSM: Site Security Manager

## HISTORY OF ATTACKS ON DIPLOMATIC FACILITIES WORLDWIDE

The need for our nation’s diplomats to work in safe and secure facilities is an undisputed top national security priority.<sup>39</sup> Security of U.S. diplomatic facilities abroad has been a long-running concern of the Congress and the Executive Branch.

The numbers bear out this concern. There were more than 200 attacks at U.S. diplomatic facilities between 1987 and 1997.<sup>40</sup> For the period between 1998 and 2013, DS classified at least 296 attacks as “significant.”<sup>41</sup> Even that number, however, may be under-inclusive. In a 56-page report entitled, *Significant Attacks Against U.S. Diplomatic Facilities and Personnel*, DS stated: “[s]ome attacks may not be included because, in certain cases, the motivation of the attacks could not be determined,” and [t]his information is not an all-inclusive compilation, rather, it is a reasonably comprehensive listing of significant attacks.”<sup>42</sup>

Examples of attacks on U.S. facilities abroad illustrate the risk to our diplomatic personnel serving overseas.

### A. Beirut – 1983 and 1984

On April 18, 1983, a suicide bomber drove a delivery van containing 2,000 pounds of explosives into the U.S. Embassy in Beirut, Lebanon.<sup>43</sup> The resulting explosion killed 63 people, including 17 Americans.<sup>44</sup>

---

<sup>39</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Ranking Member Cummings) (“First and foremost, the safety of United States personnel serving overseas is a top national security priority, and it’s critical to our country’s interests throughout the entire world.”).

<sup>40</sup> U.S. Dep’t of State, *Report of the Accountability Review Board on the Embassy Bombings in Nairobi, Kenya and Dar es Salaam, Tanzania on August 7, 1998* (Jan. 1999), available at [http://1997-2001.state.gov/www/regions/africa/accountability\\_report.html](http://1997-2001.state.gov/www/regions/africa/accountability_report.html) [hereinafter E. Africa ARB Rep.].

<sup>41</sup> U.S. Dep’t of State, Bureau of Diplomatic Security, *Significant Attacks Against U.S. Diplomatic Facilities and Personnel 1998-2013* (296 total attacks listed), available at <http://www.state.gov/documents/organization/225846.pdf>.

<sup>42</sup> *Id.* at 1.

<sup>43</sup> U.S. Central Intelligence Agency, *FLASHBACK: April 18, 1983: U.S. Embassy Attacked in Beirut* (updated July 10, 2014, 12:41 PM), <https://www.cia.gov/news-information/featured-story-archive/2014-featured-story-archive/flashback-april-18-1983-u-s-embassy-bombed-in-beirut.html> [hereinafter CIA Beirut Flashback].

<sup>44</sup> *Id.*



Source: *Wall Street Journal*<sup>45</sup>

Elements of Hizballah were responsible for the attack, along with a series of kidnappings that were part of an attempt by that organization and other extremist groups to force U.S. and Israeli personnel to leave Lebanon.<sup>46</sup> U.S. military forces were in the region to maintain stability during the Lebanese Civil War.<sup>47</sup>

According to the Central Intelligence Agency, as a result of the attacks, “then-Secretary of State George Shultz tasked an advisory panel to investigate the security of diplomatic facilities overseas.”<sup>48</sup> The report the panel produced became known as the “Inman Report”<sup>49</sup> and resulted in “security improvements at embassies . . . and the creation of the State Department’s Bureau of Diplomatic Security and Diplomatic Security Service.”<sup>50</sup> The Beirut embassy bombing was the

---

<sup>45</sup> *Debts of the Ayatollah*, WALL ST. J. (Aug. 16, 2015, 5:50 PM), <http://www.wsj.com/articles/debts-of-the-ayatollah-1439507940>.

<sup>46</sup> CIA Beirut Flashback; *see also* U.S. Dep’t of State, *Country Reports on Terrorism, 2015* at 369 (Jun. 2016), available at <http://www.state.gov/documents/organization/258249.pdf>.

<sup>47</sup> CIA Beirut Flashback.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

deadliest attack in the Department’s history at the time.<sup>51</sup> It would not be the last attack on a U.S. embassy in Lebanon, however. The following year, in September 1984, a truck bomb exploded outside the U.S. Embassy annex in Aukar, northeast of Beirut, killing 24 people, two of whom were U.S. military personnel.<sup>52</sup> According to the Department’s 2015 report on terrorist organizations, Hizballah was responsible for both attacks.<sup>53</sup>

## B. Kuwait – 1983

On December 12, 1983, the U.S. Embassy in Kuwait “was bombed in a series of attacks whose targets also included the French embassy, the control tower at the airport, the country’s main oil refinery, and a residential area for employees of the American corporation Raytheon.”<sup>54</sup> The attacks resulted in six deaths (including a suicide truck bomber), and more than 80 injuries.<sup>55</sup> According to a media report, “[t]he suspects were thought to be members of Al Dawa, or ‘The Call,’ an Iranian-backed group and one of the principal Shiite groups operating against Saddam Hussein in Iraq.”<sup>56</sup>



Source: *New York Times*<sup>57</sup>

---

<sup>51</sup> Ass’n for Diplomatic Studies and Training, *Moments in U.S. Diplomatic History, The Bombing of U.S. Embassy Beirut—April 18, 1983*, <http://adst.org/2013/04/the-bombing-of-u-s-embassy-beirut-april-18-1983/>; see also *Frontline: Target America, Terrorist Attacks on Americans, 1979-1988, The attacks, the groups, and the U.S. response*, PBS, available at <http://www.pbs.org/wgbh/pages/frontline/shows/target/etc/cron.html> [hereinafter *Frontline: Target America*].

<sup>52</sup> *Frontline: Target America*.

<sup>53</sup> U.S. Dep’t of State, *Country Reports on Terrorism 2015* at 369 (June 2016) (“Hizballah’s terrorist attacks have included the suicide truck bombings of the U.S. Embassy and U.S. Marine barracks in Beirut in 1983; the U.S. Embassy annex in Beirut in 1984 . . . .”), available at <http://www.state.gov/documents/organization/258249.pdf>.

<sup>54</sup> *Frontline: Target America*.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> James Glanz & Marc Santora, *Iraqi Lawmaker Was Convicted in 1983 Bombings in Kuwait That Killed 5*, N.Y. TIMES (Feb. 7, 2007), [http://www.nytimes.com/2007/02/07/world/middleeast/07bomber.html?\\_r=0](http://www.nytimes.com/2007/02/07/world/middleeast/07bomber.html?_r=0).

### C. Dar es Salaam and Nairobi – 1998

On August 7, 1998, near-simultaneous vehicle bombings of the U.S. Embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, claimed more than 220 lives, and wounded more than 4,000 others.<sup>58</sup> Among those killed were twelve U.S. government employees and family members, and thirty-two Kenyan and eight Tanzanian U.S. government employees.<sup>59</sup> The terrorists who perpetrated these bombings “intended to destroy the chanceries; to kill or injure US Government employees and others in the chanceries; and to damage US prestige, morale, and diplomacy.”<sup>60</sup>

#### Dar es Salaam:



Source: CNN<sup>61</sup>

---

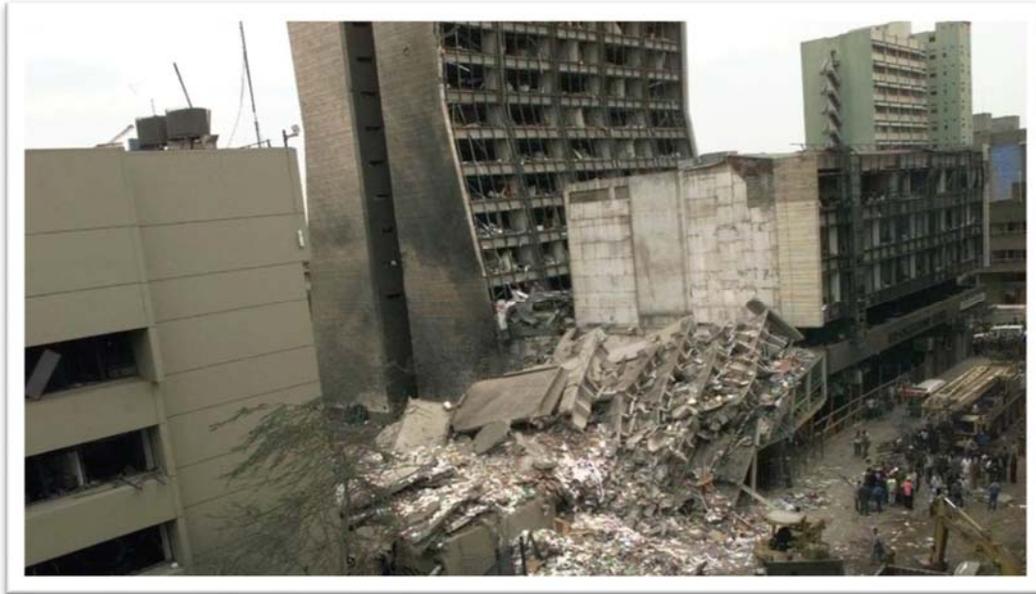
<sup>58</sup> E. Africa ARB Rep., § Executive Overview.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*, § Executive Overview ¶ 1.

<sup>61</sup> CNN Library, *1998 U.S. Embassies in Africa Bombings Fast Facts*, CNN (Aug. 3, 2016), <http://www.cnn.com/2013/10/06/world/africa/africa-embassy-bombings-fast-facts/>.

## Nairobi:



Source: *L.A. Times*<sup>62</sup>

Pursuant to a mandate from then-Secretary of State Madeline Albright, separate Accountability Review Boards (ARBs) were established to examine the facts and circumstances surrounding each of the two bombings.<sup>63</sup> On January 8, 1999, the two Boards submitted their combined report, known as the “Crowe Report,” to Secretary Albright.<sup>64</sup> The report stated:

The security systems and procedures for physical security at the embassies in Nairobi and Dar es Salaam as a general matter met and, in some cases, exceeded the systems and procedures prescribed by the Department of State for posts designated at the medium or low threat levels. However, these standard requirements had not sufficiently anticipated the threat of large vehicular bomb attacks and were inadequate to protect against such attacks.<sup>65</sup>

While “[t]he Boards did not find reasonable cause to believe that any employee of the United States Government or member of the uniformed services was culpable of dereliction of his or her duties in connection with the August 7 bombings,” they:

---

<sup>62</sup> Lauren Raab, *Saudi man linked to Osama bin Laden convicted in 1998 embassy bombings*, L.A. TIMES (Feb. 26, 2015, 1:07 PM), <http://www.latimes.com/nation/nationnow/la-na-nn-khaled-fawwaz-embassy-bombing-20150226-story.html>.

<sup>63</sup> E. Africa ARB Rep.

<sup>64</sup> *Id.*; see also Letter from Adm. William J. Crowe, U.S. Navy (Ret.), to Hon. Madeleine Albright, Secretary, U.S. Dep’t of State (Jan. 8, 1999), available at [https://fas.org/irp/threat/arb/board\\_letter.html](https://fas.org/irp/threat/arb/board_letter.html).

<sup>65</sup> E. Africa ARB Rep., § Executive Overview ¶ 6.

did find, however, an institutional failure of the Department of State and embassies under its direction to recognize threats posed by transnational terrorism and vehicle bombs worldwide. Policy-makers and operational officers were remiss in not preparing more comprehensive procedures to guard against massive truck bombs. This combined with lack of resources for building more secure facilities created the ingredients for a deadly disaster. Responsibility for obtaining adequate resources for security programs is widely dispersed throughout the US government as is decision making for determining security policies and procedures. No one person or office is accountable for decisions on security policies, procedures and resources. Ambassadors who are specifically charged with responsibility for the security of US diplomatic personnel assigned to their posts lack adequate authority and resources to carry out this responsibility.<sup>66</sup>

With respect to the Nairobi facility, the ARB discussed several physical security-related vulnerabilities. The building was constructed before the standards recommended in the Inman Report, however, and was exempted from the current setback requirement:<sup>67</sup>

The Embassy building was constructed under the supervision of the Foreign Buildings Operations [(FBO), OBO's predecessor] in the early 1980's before the Inman standards were produced. It was located at the intersection of two of the busiest streets in Nairobi, near two mass transit centers. It lacked sufficient setback from the streets and from adjacent buildings. To help extend its limited setback, the Embassy was surrounded by a 2.6 meter high steel picket vertical bar fence. An outer perimeter was established beyond the fence with a line of steel bollards, ranging 5 meters to 18 meters in distance from the outer walls of the chancery. The window frames were not anchored into the core structure, but the windows were covered by 4mm Mylar protective film.

Before August 7, Nairobi was designated as a "medium" threat post in the political violence and terrorism category, and the embassy was in compliance with that threat level's physical security standards and procedures as prescribed by the Department—except for the lack of a 100ft. setback/standoff zone.<sup>68</sup>

Before the attack, the U.S. Ambassador in Kenya issued a cable to Department headquarters asking about threats against the embassy "and emphasized the embassy's extreme

---

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*, § Nairobi Discussion and Findings (Finding number four: "Security systems and procedures at the embassy were implemented well within, and even beyond, the medium threat level established by the Department of State, although the building had virtually no setback, having been built before the standard was established and therefore was exempted.").

<sup>68</sup> *Id.*, § Nairobi: Discussion and Findings.

vulnerability due to lack of standoff. She asked for Washington’s support for a new chancery.”<sup>69</sup>  
In response:

The Department responded to the Ambassador’s cable in January, 1998, saying that after a review of the threat, the post’s current security rating for political violence and terrorism of “medium” was appropriate, and that no new office building was contemplated by FBO. The Department offered to send a security assessment team to assist the Embassy in identifying areas where security could be upgraded, and they found ways to reduce the number of embassy personnel, through re-assignments to Pretoria.<sup>70</sup>

The security assessment “did not particularly focus on upgrades in the rear of the embassy or possible vehicle bomb attacks, but instead concentrated on ways to reduce the danger from crime and political violence” and recommended several improvements.<sup>71</sup> The improvements were in process at the time of the bombing, but “they would have made no difference in mitigating the blast, given its size. Nor would they have deterred the terrorists from getting as close to the chancery as they did.”<sup>72</sup>

The facility in Dar es Salaam had similar physical security-related vulnerabilities. Like the facility in Nairobi before the attack, the Department deemed the facility adequate, based on Tanzania’s threat ratings at the time:

Because the political violence threat (which includes terrorism) in Dar Es Salaam was considered “low,” there was no priority attached to providing a greater setback than existed. A security survey conducted by the Department of State’s Office of Security Oversight within the Office of the Inspector General in early 1993 noted that “the chancery’s setback of from 25 to 75 feet from the roadway is considered adequate, given the terrorist threat level.” The Compliance Follow-up Review, dated March 1994, seemed to agree, noting in paragraph three that “while some Middle Eastern governments and organizations with ties to terrorism are present in Dar Es Salaam, they have not been active in targeting American interests in Tanzania. The low (threat) rating appears reasonable.” It was noted, however, that “dense traffic on the (Laibon) side street could pose a problem if the threat from terrorism were to increase.”<sup>73</sup>

---

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*, § Dar es Salaam: Discussion and Findings; *see also id.* (Finding number one: “With the notable exception of failing to meet the Department’s standard for a 100 ft. setback/standoff zone, the security systems and security procedures at the US Embassy in Dar Es Salaam prior to and on August 7, 1998 were in accord with, and in some ways exceeded, Department of State standards for overseas posts assessed as having a ‘low’ threat rating for political violence and terrorism. In view of the August 7 bombings, it is apparent that the Department’s standards themselves, as well as the application of those standards to the majority of overseas Embassy facilities, are inadequate. The standards and their application require immediate review, for both short-term and long-term measures.”).

The RSO arrived shortly before the attacks and attempted to make improvements to enhance the security of the facility, even though the improvements were not required:

Changes in physical security procedures such as those instituted by the new RSO in July 1998 and the previous addition of 4mm Mylar film on all windows were not required for “low” threat posts but were made anyway because of the recognition that “vulnerability” is a better criterion than “threat potential” in determining which security measures should be put in place at any given post.<sup>74</sup>

The Boards concluded:

We must undertake a comprehensive and long-term strategy for protecting American officials overseas, including sustained funding for enhanced security measures, for long-term costs for increased security personnel, and for a capital building program based on an assessment of requirements to meet the new range of global terrorist threats. This must include substantial budgetary appropriations of approximately \$1.4 billion per year maintained over an approximate ten-year period, in addition to savings from the closure of overseas installations where increased capital and security costs outweigh the magnitude of overall US interests. Additional funds for security must be obtained without diverting funds from our major foreign affairs programs.<sup>75</sup>

#### **D. Benghazi – 2012**

On September 11, 2012, armed extremists attacked a U.S. diplomatic facility in Benghazi, Libya.<sup>76</sup> By the next day, those attacks, which, according to the 2012 ARB report, involved arson, small-arms and machine-gun fire, and use of rocket-propelled grenades, grenades and mortars, led to the deaths of four U.S. government personnel: Ambassador Chris Stevens; Sean Smith; Tyrone Woods; and Glen Doherty. The attack also seriously wounded two other U.S. personnel and injured three Libyan contract guards; and resulted in the destruction and abandonment of the U.S. Special Mission compound and Annex.<sup>77</sup> Also according to the 2012 ARB report, “[t]he Benghazi attacks represented the first murder of a U.S. ambassador since 1988.”<sup>78</sup>

---

<sup>74</sup> *Id.*, § Dar es Salaam: Discussion and Findings.

<sup>75</sup> *Id.*, § Executive Overview ¶ 10.

<sup>76</sup> *Benghazi Attacks: Investigative Update Interim Report on the Accountability Review Board, H. Comm. on Oversight & Gov’t Reform* (Sept. 16, 2013).

<sup>77</sup> Benghazi Accountability Review Board Report (Dec. 18, 2012) [hereinafter Benghazi ARB Rep.], available at <http://www.state.gov/documents/organization/202446.pdf>.

<sup>78</sup> *Id.* at 2.



Source: CNN<sup>79</sup>

The 2012 ARB, chaired by Ambassador Thomas R. Pickering, was convened by then-Secretary of State Hillary Rodham Clinton to examine the Benghazi attack.<sup>80</sup> In its final report, the ARB recommended that the Department “should develop minimum security standards for occupancy of temporary facilities in high risk, high threat environments, and seek greater flexibility for the use of [OBO] sources of funding so that they can be rapidly made available for security upgrades at such facilities.”<sup>81</sup> It also recommended:

Before opening or re-opening critical threat or high risk, high threat posts, the Department should establish a multi-bureau support cell, residing in the regional bureau. The support cell should work to expedite the approval and funding for establishing and operating the post, implementing physical security measures, staffing of security and management personnel, and providing equipment, continuing as conditions at the post require.<sup>82</sup>

### **E. Tunis - 2012**

Several days after the attack on the U.S. facility in Benghazi, our embassy in Tunis, Tunisia was attacked by “hundreds of protestors who ransacked the U.S. embassy.”<sup>83</sup> The result

---

<sup>79</sup> CNN Library, *Benghazi Mission Attack Fast Facts*, CNN (Aug. 31, 2016, 7:38 PM), <http://www.cnn.com/2013/09/10/world/benghazi-consulate-attack-fast-facts/>.

<sup>80</sup> Benghazi ARB Rep. at 1.

<sup>81</sup> *Id.* at 9.

<sup>82</sup> *Id.*

<sup>83</sup> Tarek Amara, *Two dead as protesters attack U.S. embassy in Tunisia*, REUTERS (Sept. 14, 2012, 6:49 PM), <http://www.reuters.com/article/us-protests-tunisia-school-idUSBRE88D18020120914>.

was four people killed<sup>84</sup> and twenty-nine others injured.<sup>85</sup> Media reports indicate that an al Qaeda-affiliated group was responsible for the attack.<sup>86</sup>

According to one media report, “[t]he protesters smashed windows, hurled petrol bombs and stones at police from inside, and started fires in the embassy and the compound,” and “[o]ne protester was seen throwing a computer out of a window, while others walked away with telephones and computers.”<sup>87</sup> The attackers also set fire to a nearby American school.<sup>88</sup>



Source: *Associated Press*<sup>89</sup>

## F. Ankara - 2013

The U.S. Embassy in Turkey was the target of a suicide bomber in February 2013.<sup>90</sup> According to media reports, the attack occurred “on a walkway for embassy employees and their

<sup>84</sup> Karin Brulliard, *In Tunisia, embassy attack tests fledgling democracy*, WASH. POST (Sept. 20, 2012), [https://www.washingtonpost.com/world/middle\\_east/in-tunisia-embassy-attack-tests-fledgling-democracy/2012/09/20/19f3986a-0273-11e2-8102-ebee9c66e190\\_story.html](https://www.washingtonpost.com/world/middle_east/in-tunisia-embassy-attack-tests-fledgling-democracy/2012/09/20/19f3986a-0273-11e2-8102-ebee9c66e190_story.html).

<sup>85</sup> Tarek Amara, *Two dead as protesters attack U.S. embassy in Tunisia*, REUTERS (Sept. 14, 2012, 6:49 PM), <http://www.reuters.com/article/us-protests-tunisia-school-idUSBRE88D18020120914>.

<sup>86</sup> Thomas Jocelyn, *Al Qaeda-Affiliated Group Assaulted U.S. Embassy in Tunis*, THE WEEKLY STANDARD (Jan. 10, 2014, 10:19 AM), <http://www.weeklystandard.com/al-qaeda-affiliated-group-assaulted-u.s.-embassy-in-tunis/article/774103>.

<sup>87</sup> Tarek Amara, *Two dead as protesters attack U.S. embassy in Tunisia*, REUTERS (Sept. 14, 2012, 6:49 PM), <http://www.reuters.com/article/us-protests-tunisia-school-idUSBRE88D18020120914>.

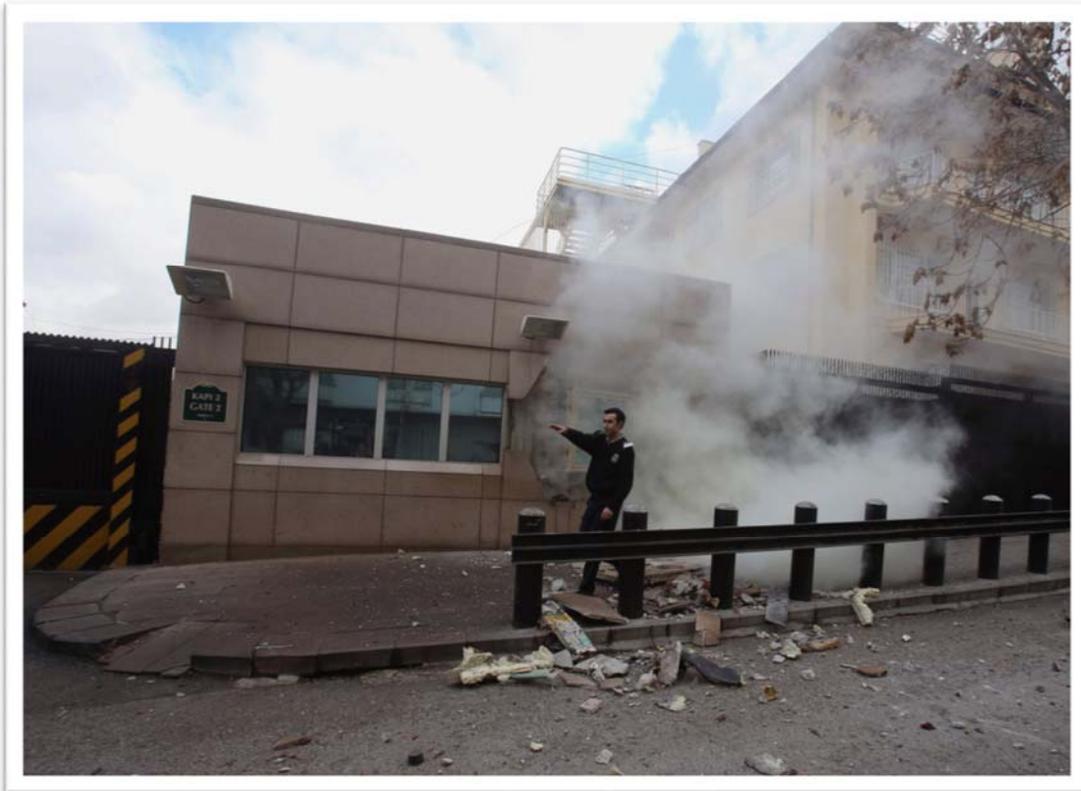
<sup>88</sup> Karin Brulliard, *In Tunisia, embassy attack tests fledgling democracy*, WASH. POST (Sept. 20, 2012), [https://www.washingtonpost.com/world/middle\\_east/in-tunisia-embassy-attack-tests-fledgling-democracy/2012/09/20/19f3986a-0273-11e2-8102-ebee9c66e190\\_story.html](https://www.washingtonpost.com/world/middle_east/in-tunisia-embassy-attack-tests-fledgling-democracy/2012/09/20/19f3986a-0273-11e2-8102-ebee9c66e190_story.html).

<sup>89</sup> *Tunisia’s ruling party condemns U.S. Embassy attack*, ASSOCIATED PRESS (Sept. 15, 2012, 6:29 AM), available at <http://www.cp24.com/world/tunisia-s-ruling-party-condemns-u-s-embassy-attack-1.957168>.

<sup>90</sup> Tim Arango & Sebnem Arsu, *Suicide Blast Kills U.S. Embassy Guard in Turkey*, N.Y. TIMES (Feb. 1, 2013), <http://www.nytimes.com/2013/02/02/world/europe/2-dead-in-suicide-bombing-at-us-embassy-in-turkey.html>.

guests” and killed a local guard, in addition to the bomber.<sup>91</sup> The blast also critically injured a journalist, who was at the embassy to meet with the ambassador.<sup>92</sup>

Media reported at the time that “[t]he blast blew a hole in what appeared to be a building that is part of the compound’s outer gate,” which was “part of a large complex that includes blast doors, reinforced windows and a series of metal detectors that visitors must navigate before reaching embassy offices.”<sup>93</sup>



Source: *New York Times*<sup>94</sup>

## G. Other Attacks

Although each of the attacks detailed above occurred in an area of high conflict, U.S. diplomatic facilities have been targets everywhere in the world, even in countries that are otherwise considered “safe.” For example, on November 30, 2011, an unknown individual threw a Molotov cocktail at the U.S. Embassy in Tallinn, Estonia.<sup>95</sup> On February 17, 2008,

---

<sup>91</sup> Ivan Watson & Greg Botelho, *Guard killed, journalist hurt in suicide bombing at U.S. Embassy in Turkey*, CNN (Feb. 2, 2013, 10:12 AM), <http://www.cnn.com/2013/02/01/world/europe/turkey-embassy-explosion/>.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> Tim Arango & Sebnem Arsu, *Suicide Blast Kills U.S. Embassy Guard in Turkey*, N.Y. TIMES (Feb. 1, 2013), <http://www.nytimes.com/2013/02/02/world/europe/2-dead-in-suicide-bombing-at-us-embassy-in-turkey.html>.

<sup>95</sup> U.S. Dep’t of State, Bureau of Diplomatic Security, *Significant Attacks Against U.S. Diplomatic Facilities and Personnel 1998-2013* at 20, available at <http://www.state.gov/documents/organization/225846.pdf>.

demonstrators threw rocks, trash cans, flares, bottles, and other objects at the façade of the U.S. Embassy in Belgrade, Serbia, breaking windows and doors.<sup>96</sup> On January 12, 2007, assailants fired a rocket-propelled grenade at the U.S. Embassy in Athens, causing slight damage to the building.<sup>97</sup> Given the vulnerability of U.S. embassies and consulates throughout the world, there is an undisputed need for safe and secure facilities for those serving overseas.

## PROGRESSION OF EMBASSY DESIGN AND CONSTRUCTION

OBO is the component within the Department responsible for the “acquisition, design, construction, maintenance, utilization, and sale of U.S. government diplomatic property abroad.”<sup>98</sup> OBO is also responsible for ensuring that the construction of diplomatic compounds meets specific building codes and standards.<sup>99</sup> “DS is responsible for ensuring that new embassy construction meets security standards.”<sup>100</sup>

### A. The Inman Era

As a result of the attacks on U.S. facilities in Beirut in 1983 and 1984, the Department convened a panel to study security issues at U.S. facilities overseas,<sup>101</sup> which resulted in what is popularly known as the “Inman Report,” named for the head of the panel, Rear Admiral Bobby Inman (Ret.).<sup>102</sup>

In brief, the Inman Report recommended creating what has become DS;<sup>103</sup> consolidating the Department’s counterterrorism functions;<sup>104</sup> standardizing and providing additional resources for threat analysis and alerting features at facilities;<sup>105</sup> better contingency planning at posts;<sup>106</sup>

---

<sup>96</sup> *Id.* at 29.

<sup>97</sup> *Id.* at 32.

<sup>98</sup> U.S. Gov’t Accountability Office, *Afghanistan: Embassy Construction Cost and Schedule have Increased, and Further Facilities Planning is Needed* at 2 (May 2015) (GAO-15-410); U.S. Dep’t of State, Bureau of Overseas Buildings Operations, *About OBO*, <http://overseasbuildings.state.gov/about/> (last visited Dec. 2, 2016) (“OBO sets worldwide priorities for the design, construction, acquisition, maintenance, use, and sale of real properties and the use of sales proceeds.”).

<sup>99</sup> *Id.* at 3.

<sup>100</sup> *Id.*; see also U.S. Dep’t of State, Bureau of Diplomatic Security, *Overview*, <http://www.state.gov/m/ds/about/overview/index.htm> (last visited Dec. 2, 2016) (“DS develops and implements security programs to protect the more than 100 domestic State Department facilities as well as the residence of the Secretary of State.”).

<sup>101</sup> U.S. Gov’t Accountability Office, *Embassy Construction: State Has Made Progress Constructing New Embassies, but Better Planning Is Needed for Operations and Maintenance Requirements* at 4 (June 2006) (GAO-06-641) [hereinafter GAO SED Rep.].

<sup>102</sup> U.S. Dep’t of State, *Report of the Secretary of State’s Advisory Panel on Overseas Security* (1985), available at <http://fas.org/irp/threat/inman/> [hereinafter Inman Rep.].

<sup>103</sup> *Id.*, § Summary of Principal Recommendations (“The Department’s operational security activities should be consolidated into a new Bureau for Diplomatic Security.”).

<sup>104</sup> *Id.* (“The Panel recommends a reorganization of the offices primarily responsible for security and counterterrorism in the Department of State,” which “will be reassigned to the Under Secretary for Political Affairs.”).

<sup>105</sup> *Id.* (“The Panel recommends a number of improvements in the Department’s protective intelligence, threat analysis and alerting procedures. Additional resources must be dedicated to these activities.”).

<sup>106</sup> *Id.* (“The Panel recommends that contingency planning at the post level be improved.”).

consolidation and greater control over guard forces;<sup>107</sup> including providing Marine Corps detachments at sensitive posts;<sup>108</sup> and upgrading and standardizing physical security standards.<sup>109</sup>

According to the GAO, the Inman Report “recommended that the chanceries, consulates, and other office buildings at 126 of the 262 overseas posts be replaced due to security conditions and their locations.”<sup>110</sup>

Most relevant to the Committee’s investigation, the Inman Report recommended “that a substantial building program be undertaken to correct the security deficiencies of office buildings of the Department.”<sup>111</sup> Although the Department’s standards at the time “provide[d] reasonable guidance for office building security,” other standards were deficient.<sup>112</sup> Those deficient standards included “perimeter security—including walls, gates, guards, and vehicle barriers.”<sup>113</sup> The Inman Report noted: “[O]ur Embassies will continue to be the primary targets for acts of terrorism” against U.S. interests abroad.<sup>114</sup>

The Inman Report recommendations were implemented through legislation and internal Department guidance. Each U.S. diplomatic facility overseas is required to have a plan to address the threat of “large explosive attacks from vehicles”;<sup>115</sup> have a 100-foot setback from the perimeter of the property;<sup>116</sup> collocate all U.S. government agencies at the post;<sup>117</sup> have two non-contiguous access points for vehicle entry/exit from the compound, and at least one of the

---

<sup>107</sup> *Id.* (“Responsibility for the local guard programs at our posts abroad should be consolidated under the general direction of the Diplomatic Security Service, performance standards should be established, manuals should be prepared, and training, both for the guards themselves and for the program managers, should be upgraded substantially.”).

<sup>108</sup> *Id.* (“Marine Security Guard detachments should be assigned to all highly sensitive posts and to all embassies where conditions permit.”).

<sup>109</sup> *Id.* (“The Panel recommends that the Diplomatic Security Service complete the revision of the physical security standards to include state-of-the-art physical security concepts. These should include appropriate standards for ancillary facilities. They should also include guidelines for residential security and for the effective use of armored vehicles and other security equipment. The standards should provide minimum requirements for all posts and enhanced requirements as threat conditions increase. The standards and guidelines should be made available to all who might have use for them.”).

<sup>110</sup> GAO SED Rep. at 4.

<sup>111</sup> Inman Rep., § Summary of Principal Recommendations.

<sup>112</sup> *Id.*, § Physical Security.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> 22 U.S.C. § 4865(a)(1)(A).

<sup>116</sup> *Id.* § 4865(a)(3)(A); 12 FAM 313(a)(2). The Secretary of State may waive this requirement if he “determines that security considerations permit and it is in the national interest of the United States.” 22 U.S.C. § 4865(a)(3)(B)(i); 12 FAM 315.1(b). The Secretary must submit yearly reports to Congress on “all waivers” granted. 22 U.S.C. § 4865(a)(3)(B)(iii); 12 FAM 315.5(b).

<sup>117</sup> 22 U.S.C. § 4865(a)(2)(A); 12 FAM 313(a)(1). The Secretary of State may waive the collocation requirement if the Secretary and “the head of each agency employing personnel that would not be located at the site” agree that security conditions permit deviation. 12 FAM 315.1(a).

adjacent streets must have bi-directional travel;<sup>118</sup> and each of these requirements must be met before the government occupies post.<sup>119</sup>

## B. Standard Embassy Design (SED)

Following the attacks in Dar es Salaam and Nairobi, the Department convened ARBs to investigate the bombings.<sup>120</sup> Around the same time, the Overseas Presence Advisory Panel “reported on the unsafe, overcrowded, deteriorating, and ‘shockingly shabby’ conditions of U.S. embassies and consulates.”<sup>121</sup>

Congress approached securing diplomatic facilities with renewed vigor. One such example is the Secure Embassy Construction and Counterterrorism Act of 1999 (SECCA).<sup>122</sup> SECCA authorized \$900 million annually for fiscal years 2000 through 2004 to support “Embassy Security, Construction and Maintenance.”<sup>123</sup> These funds were “[i]n addition to amounts otherwise authorized to be appropriated.”<sup>124</sup> The GAO quantified the Department’s expenditures as of 2006 as “an unprecedented \$21 billion, multiyear program to construct 201 new embassies and consulates.”<sup>125</sup>

In response to SECCA and the ARBs’ findings, OBO implemented reforms to the way diplomatic facilities are constructed. The principal change was the implementation of the SED in the early 2000s.<sup>126</sup> In a 2006 report, GAO described the SED process as follows:

The standard embassy design is a tool that OBO reports better enables it to plan, award, design, and construct NECs; simplifies its construction process; and provides economically feasible facilities. The standard embassy design consists of a series of documents describing requirements for site selection, building plans and specifications, design criteria, site adaptation, and contract requirements. It also provides plans and requirements for all features of NECs, including office buildings, compound access control and utility buildings, housing for Marine security guards at posts with a Marine contingent, and perimeter fences. OBO believes that standard embassy designs help speed the planning, design, and construction of NECs by reducing the amount of time it takes to issue

---

<sup>118</sup> 12 FAM 316.2(a)(1).

<sup>119</sup> 12 FAM 315.3 (“If the applicable requirements and standards cannot be met at a facility, occupancy of the facility is prohibited until appropriate waivers and exceptions are requested and approved by the A/S for DS and/or the Secretary.”).

<sup>120</sup> GAO SED Rep. at 5 n.7 (citing U.S. Dep’t of State, *Report of the Accountability Review Boards on the Embassy Bombings in Nairobi, Kenya and Dar es Salaam, Tanzania on August 7, 1998* (Jan. 1999); Adm. William J. Crowe, *Press Briefing on the Report of the Accountability Review Boards on the Embassy Bombings in Nairobi and Dar es Salaam* Jan. 8, 1999)).

<sup>121</sup> GAO SED Rep. at 5.

<sup>122</sup> Pub. L. No. 106-113, App. G, § 601, 113 Stat. 1501A-451 (codified at 22 U.S.C. § 4865).

<sup>123</sup> *Id.* § 604(a).

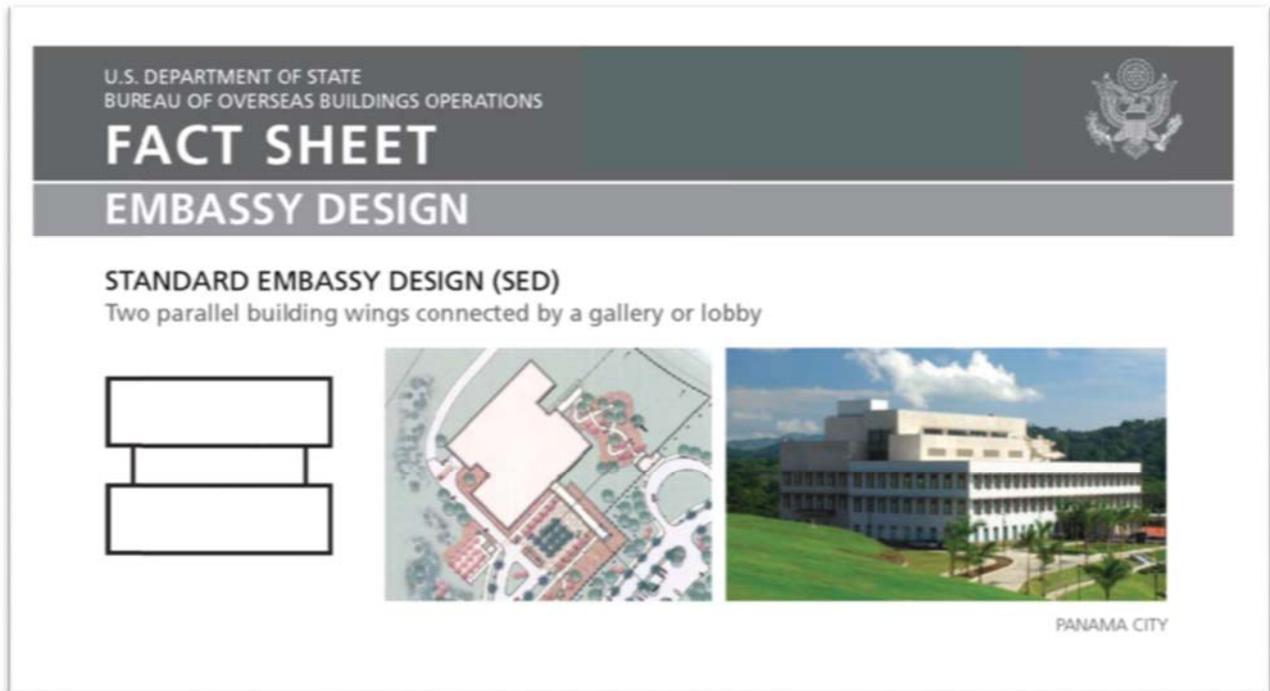
<sup>124</sup> *Id.*

<sup>125</sup> GAO SED Rep. at 1.

<sup>126</sup> Testimony of Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep’t of State, *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 113th Cong. (July 10, 2014) (SED “was developed in 2002”).

requests for proposals, prepare contract documents and issue awards, and complete design reviews.<sup>127</sup>

The SED facility is a template that lays out the process for planning, designing, and building new diplomatic facilities in a standardized arrangement of classified and unclassified spaces that had been pre-certified by DS to meet all security requirements.<sup>128</sup> The system was essentially two parallel bars—one for classified space and one for unclassified space—separated by a lobby:



Source: U.S. Dep't of State, Bureau of Overseas Buildings Operations, Fact Sheet: Embassy Design (on file with Committee staff)

<sup>127</sup> GAO SED Rep. at 21.

<sup>128</sup> *Id.*

There was also a derivative SED, which also contained the two bars, but were not necessarily parallel:



Source: U.S. Dep’t of State, Bureau of Overseas Buildings Operations, Fact Sheet: Embassy Design (on file with Committee staff)

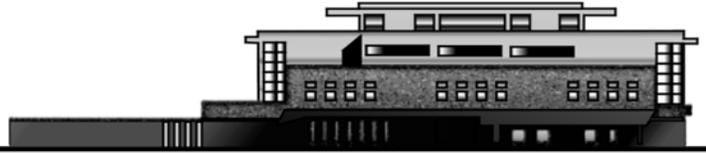
“The SED design is flexible,”<sup>129</sup> and “[o]ver the years the SED has evolved and matured.”<sup>130</sup> There were initially three principal designs for the SED: small; medium; and large.<sup>131</sup> A 2003 GAO report shows the different sizes of facilities:

<sup>129</sup> U.S. Dep’t of State, Office of Inspector General, *Report of Inspection, Bureau of Overseas Buildings Operations* at 23 (Aug. 2008), available at <https://oig.state.gov/system/files/109074.pdf> [hereinafter OIG OBO Inspection Rep.].

<sup>130</sup> *Id.* at 31; see also *id.* (“The SED was envisioned as an evolving, not static, design. Each year adjustments are made to the design, so that each ‘SED class’ after 2002 reflects modifications based on practical experiences with the prior design class.”).

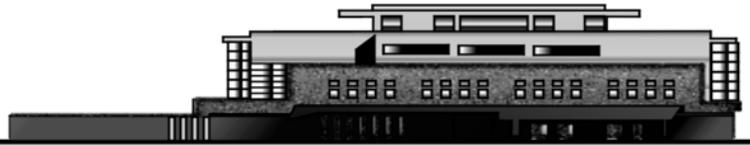
<sup>131</sup> U.S. Gov’t Accountability Office, *New Embassy Compounds: State Faces Challenges in Sizing Facilities and Providing for Operations and Maintenance Requirements* at 4 (July 2010) (GAO-10-689) [hereinafter GAO Sizing Facilities Rep.].

### Small



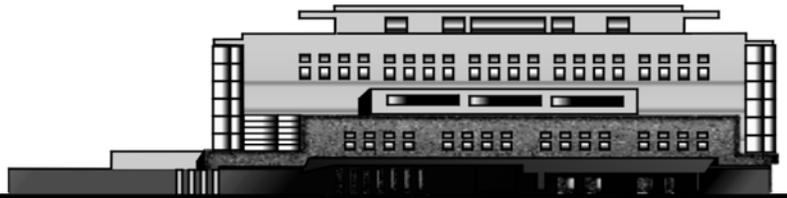
Construction cost: \$47 million  
Size: Up to 46,000 square feet  
Planning duration: 6 months  
Design/build contract acquisition duration: 6 months  
Design/construction duration: 15 months  
Commissioning duration: 2 months  
Total project duration: 29 months

### Medium



Construction cost: \$68 million  
Size: 46,000–80,000 square feet  
Planning duration: 6 months  
Design/build contract acquisition duration: 6 months  
Design/construction duration: 24 months  
Commissioning duration: 2 months  
Total project duration: 38 months

### Large



Construction cost: \$88 million  
Size: 80,000–122,000 square feet  
Planning duration: 6 months  
Design/build contract acquisition duration: 6 months  
Design/construction duration: 28 months  
Commissioning duration: 2 months  
Total project duration: 42 months

Source: OBO.

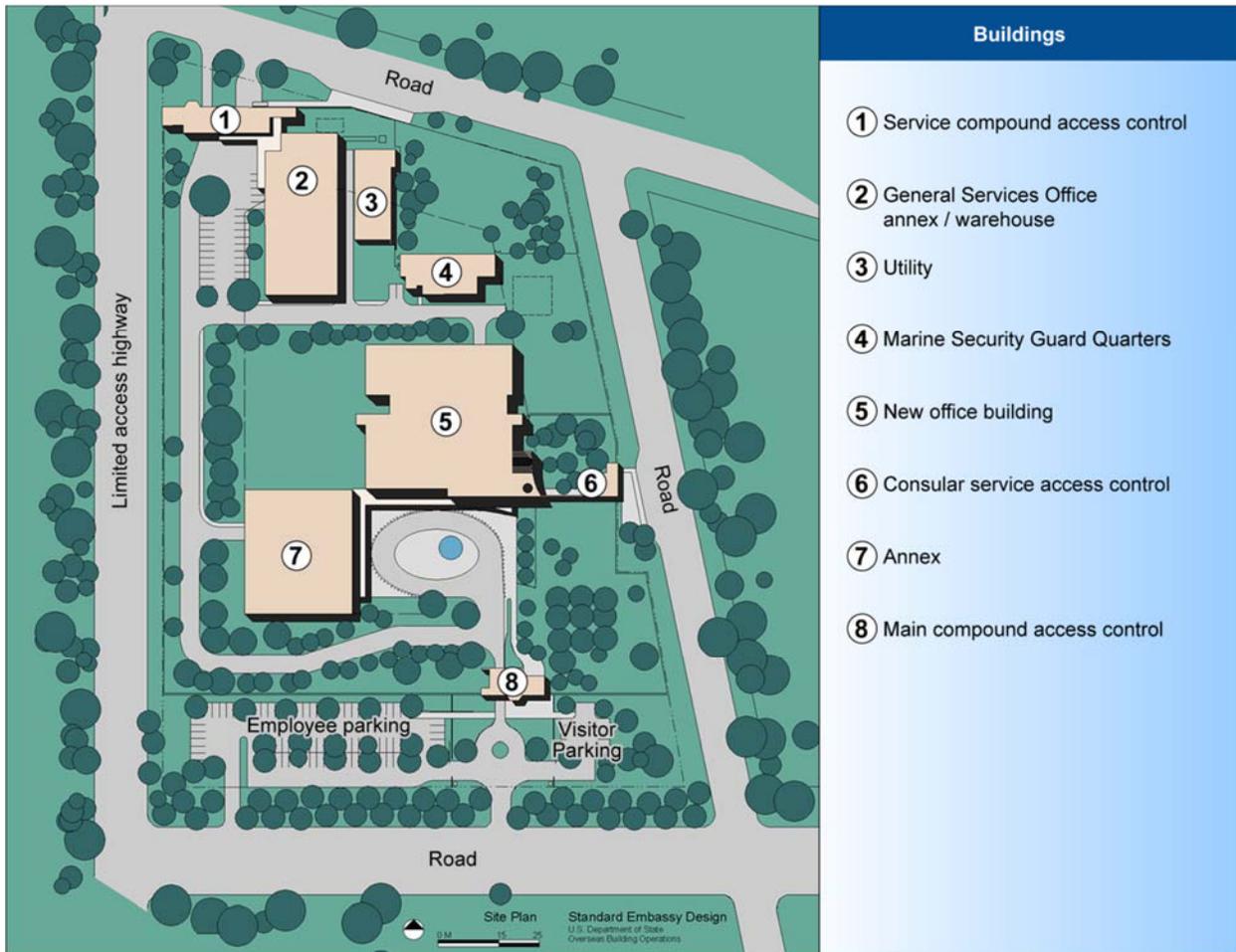
Source: GAO<sup>132</sup>

Later, based on the experience with the SED, OBO developed two additional prototypes: the Extra Large or Special SED, and the Standard Secure-Mini Compound.<sup>133</sup>

<sup>132</sup> U.S. Gov't Accountability Office, *Embassy Construction: State Department Has Implemented Management Reforms, but Challenges Remain* (Nov. 2003) (GAO-04-100).

<sup>133</sup> GAO Sizing Facilities Rep. at 4.

A typical SED facility layout is captured in this GAO graphic:



Sources: Department of State and GAO. | GAO-15-472R

Source: GAO<sup>134</sup>

For SEDs, the “construction material was cast-in-place reinforced concrete,” for which DS “gave [OBO] the doors and windows, and then the blast windows were traditional punched windows.”<sup>135</sup> An engineer from DS Research & Development (DS R&D) told the Committee “these were all very accepted, normal, typical types of blast-resistant design and construction.”<sup>136</sup> As a result, DS R&D’s “level of involvement in the SEDs was very minimal,” and “there was no

<sup>134</sup> Letter from U.S. Gov’t Accountability Office, to Hon. Edward R. Royce, Chairman, H. Comm. on Foreign Affairs, and Hon. Eliot L. Engel, Ranking Member, H. Comm. on Foreign Affairs, “State Department Construction: Basis for Building versus Leasing Decisions was Insufficiently Documented at Three Embassies” (Apr. 24, 2015).

<sup>135</sup> H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of Russell Norris at 175 (Aug. 17, 2016) [hereinafter Norris Tr.].

<sup>136</sup> *Id.*

delaying under the SED program for R&D to take a look at . . . any particular elements of the SEDs.”<sup>137</sup>

OBO has reported that SEDs are incompatible with building in urban areas.<sup>138</sup> The OIG, however, recognized that in early 2008 OBO began developing a vertical SED that “could be more easily located closer to the city center.”<sup>139</sup> Called the VSED (Vertical Standard Embassy Design), this template would “have a much smaller footprint but more stories.”<sup>140</sup> Although the OIG recognized that the VSED might not work in all urban areas—citing London as an example<sup>141</sup>—it would at least import the possibility of a more standardized facility in certain urban centers.<sup>142</sup> A VSED-type template also could use certain DS pre-approved elements that may cut down on the time needed for testing certain things like glass curtain wall systems.

#### Benefits of SED

- Between 2002 and 2012, the Department completed 88 new facilities, as compared to an average of one per year before SED. U.S. Dep’t of State, Bureau of Overseas Buildings Operations, *Industry Advisory Panel Meeting Minutes at 25* (Apr. 17, 2012) (on file with Committee staff).
- Reduced construction time from 69.4 months to 36.7 months. GAO SED Rep at 10.
- GAO found that “actual construction costs for most completed” SED facilities “were significantly lower than the funding levels OBO reported as needed for those projects.” GAO SED Rep. at 2, 9.

SED facilities yielded cost savings and reduced construction time. Before implementation of SED, OBO was building, on average, one new embassy per year.<sup>143</sup> That pace quickened under the SED system. GAO found that construction time for embassy projects using the SED had been reduced from 69.4 months to just 36.7 months.<sup>144</sup> With respect to the budget needed for SED facility construction, GAO concluded that, “actual construction costs for

<sup>137</sup> *Id.* (“Q So there was no delaying under the SED program for R&D to take a look at the—any particular elements of the SEDs? A That is correct.”).

<sup>138</sup> *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 113th Cong. (July 10, 2014) (Director Muniz: “But in a lot of the cities that we’re required to build in now, not only is it not possible to find those 10 acres; if we were able to find it, it is extra ordinarily expensive.”).

<sup>139</sup> OIG OBO Inspection Rep. at 23.

<sup>140</sup> *Id.* at 24.

<sup>141</sup> *Id.*

<sup>142</sup> In fact, OIG made an informal recommendation that OBO create basic standards for a VSED template, keeping in mind that the footprints and mission needs in urban environments will vary. *Id.* at 113 (“Informal Recommendation 1: The Bureau of Overseas Buildings Operations should consider developing only basic requirements for the Vertical Standard Embassy Design using the design-bid-build method of delivery for these unique projects.”).

<sup>143</sup> H. Comm. on Oversight & Gov’t Reform & H. Comm. on Foreign Affairs, *Joint Hearing on Allegations of Waste, Fraud & Abuse at the New U.S. Embassy in Iraq*, 110th Cong. (July 26, 2007) (testimony of Charles E. Williams, then-Director and Chief Operating Officer, Bureau of Overseas Buildings Operations).

<sup>144</sup> GAO SED Rep at 10.

most completed projects were significantly lower than the funding levels OBO reported as needed for those projects.”<sup>145</sup> In fact, “[o]verall, OBO obligated a net \$165.5 million less for these 18 projects than the amount it had reported to Congress it would need.”<sup>146</sup> That surplus was used to acquire new sites and fund an entirely new facility that was to be built in a later year.<sup>147</sup> The OIG report a few years later detailed several SED facilities that were completed at costs less than projected.<sup>148</sup>

Between 2002 and 2012, OBO completed 88 new overseas diplomatic compounds based on the SED program,<sup>149</sup> as compared to zero done under a pure Design Excellence framework in the six years since that program began, as discussed below. The new facilities benefitted personnel on the ground by moving more than 27,000 people into more secure facilities in that period.<sup>150</sup> In fact, the Department’s OIG noted in 2008 “OBO’s continuing use of the design-build and [SED] concepts is effective.”<sup>151</sup> As of 2016, OBO reports that more than 31,000 government employees have moved to safer facilities.<sup>152</sup>

Several witnesses interviewed by the Committee who had worked on SED facilities testified that they are more routinely on time than the current Design Excellence facilities:

- Djibouti, an SED, was delayed by “[a]bout a month. Ouagadougou [another SED] came in on time by about a month. Dakar [another SED] was six months early”;<sup>153</sup> and
- Of the three SED facilities the witness discussed, he listed Bucharest as “on schedule,” and “[t]here was no delays,” and Johannesburg as “on time as well.”<sup>154</sup>

Even when SEDs were delayed, it was usually by a period of a month or two, rather than many months, or even years, as with current facilities. That was the finding of the GAO ten years ago, when it recognized that, even when late, nearly all of the 18 projects reviewed “were sufficiently completed to allow posts to occupy their respective facilities on, ahead of, or within

---

<sup>145</sup> *Id.* at 2, 9.

<sup>146</sup> *Id.* at 17.

<sup>147</sup> *Id.* (“Accelerating funding of future year projects. For example, [the Department] reported that the new embassy compound in Freetown, Sierra Leone, was funded with approximately \$60 million in funds previously obligated, but not needed, for other NEC projects.”).

<sup>148</sup> OIG OBO Inspection Rep. at 143-200 (listing SED facilities in Phnom Penh, Astana, Bamako, and others).

<sup>149</sup> U.S. Dep’t of State, Bureau of Overseas Buildings Operations, *Industry Advisory Panel Meeting Minutes* at 25 (Apr. 17, 2012) (on file with Committee staff).

<sup>150</sup> U.S. Dep’t of State, Bureau of Overseas Buildings Operations, *People Moved to Safer Facilities* (showing 27,649 as of 2012) (on file with Committee staff).

<sup>151</sup> OIG OBO Inspection Rep. at 1.

<sup>152</sup> U.S. Dep’t of State, Bureau of Overseas Buildings Operations, *Fact Sheet: Excellence in Diplomatic Facilities*, available at <http://overseasbuildings.state.gov/sites/admin-overseasbuildings.state.gov/files/pdfs/excellence.pdf>.

<sup>153</sup> H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of Curt Olsen at 62 (Apr. 15, 2016).

<sup>154</sup> H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of Adel Ekdawi at 60-61 (May 4, 2016) [hereinafter Ekdawi Tr.].

1 month after the scheduled move-in date.”<sup>155</sup> One witness, when asked about the merits of SED facilities, said he “didn’t have any complaint” with them.<sup>156</sup>

A chart provided to the Committee by the Department titled “Embassy and Consulate Projects Completed Under Budget and Under Schedule Since FY09” shows 11 SEDs meeting that description.<sup>157</sup> All but one was completed under budget.<sup>158</sup> In addition, four of the seven facilities listed as “Under Schedule” were SEDs, and one was a Standard Secure Mini-Compound type SED.<sup>159</sup>

Response to House Oversight and Government Reform Committee Question from Hearing on September 9, 2015					
Question: Please provide a case where an embassy or consulate project cost went down or came in under budget?					
Response: Our list of embassy and consulate projects completed under budget and under schedule since FY 09 below.					
Embassy and Consulate Projects Completed Under Budget and Under Schedule Since FY09					
Project	Type	Under Budget	Under Schedule	Completion	SED/Derivative/ Performance-based
Antananarivo	NEC	Yes	Yes	FY10	SED
Bandar Seri Begawan	NEC	Yes		FY10	SSMC/SED
Belgrade	NEC	Yes		FY13	SED
Brazzaville	NEC	Yes		FY09	Derivative
Bujumbura	NEC	Yes		FY12	SED
Ciudad Juarez	NCC	Yes		FY09	Derivative
Cotonou	NEC	Yes	Yes	FY12	SED
Dakar	NEC	Yes	Yes	FY13	SED
Dubai	NCC	Yes		FY11	SED
Guangzhou	NCC		Yes	FY13	Performance-Based
Karachi	NCC	Yes		FY11	SED
Kyiv	NEC		Yes	FY11	Derivative
Libreville	NEC		Yes	FY12	SED
Lusaka	NEC	Yes		FY11	SED
Monrovia	NEC	Yes		FY12	Derivative
Monterrey	NCC	Yes		FY14	Derivative
Ouagadougou	NEC	Yes		FY10	SED
Rabat	NEC	Yes	Yes	FY14	Performance-Based
Santo Domingo	NEC	Yes		FY14	SED
Skopje	NEC	Yes		FY09	Derivative
Vientiane	NEC	Yes		FY14	Derivative

Source: U.S. Dep’t of State<sup>160</sup>

<sup>155</sup> GAO SED Rep. at 2 (“[A]lthough only one-half of State’s construction projects were completed according to the contractual schedules, all but three were sufficiently completed to allow posts to occupy their respective facilities on, ahead of, or within 1 month after the scheduled move-in date.”), 9 (same). The GAO report also recognized that some of the projects under construction at that time were behind schedule and potentially over budget, OBO had “taken actions to mitigate the impact of these delays.” *Id.* at 2-3, 9-10.

<sup>156</sup> Ekdawi Tr. at 62.

<sup>157</sup> U.S. Dep’t of State, *Response to House Oversight and Government Reform Committee Question from Hearing on September 9, 2015: Embassy and Consulate Projects Completed Under Budget and Under Schedule Since FY09* (Oct. 6, 2015).

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

GAO's 2006 report did express some concern that operations and maintenance costs for SEDs would outpace costs for the facilities being replaced.<sup>161</sup> GAO concluded "these costs increases are driven in part by technical security requirements that resulted in greater utility consumption, the need for highly qualified technical staff, and new maintenance requirements that posts did not have at their previous locations."<sup>162</sup> GAO found the Department had not initially developed cost or staffing projections for these facilities, but it later did so in part.<sup>163</sup> As a result, GAO recommended "the Secretary of State develop an integrated and comprehensive facilities plan that clearly specifies the financial and human resources needed for meeting the immediate and long-term operations and maintenance requirements for new embassy compounds."<sup>164</sup> The *Foreign Affairs Manual* now addresses this, requiring OBO's Director to "[d]evelop[] a Long-Range Overseas Buildings Plan and Long-Range Overseas Maintenance Plan."<sup>165</sup>

The GAO's report recognized the Department's projection that, "[f]rom 2009 to 2018, [the Department] expects an average annual funding level of approximately \$1.4 billion for NEC projects."<sup>166</sup> These projections were off the mark, perhaps because the Department fundamentally altered the way in which it constructed facilities abroad. As discussed below, the new facility in Beirut alone is budgeted to cost almost \$1.2 billion.

Despite its rhetoric today about the limitations of the SED program,<sup>167</sup> the Department itself recognizes the benefits of this program. An internal document relating to the Jakarta NEC stated that "[m]any of the standard systems and materials used in the [SED] have proven themselves over time in terms of security and lowered maintenance costs, and have been retained behind the scenes in in [sic] the design for Jakarta."<sup>168</sup> The document also stated that "OBO's approach to major building systems is evolving away from SED values" and instead "adapting to environmental and sustainability goals in urban environments."<sup>169</sup> OBO's current position also seems to diverge from the results of an OIG inspection in 2008. In that inspection report, the OIG noted "[p]osts commented favorably about their new facilities," and "[m]any have received positive feedback from their host governments that the facilities are architecturally attractive and appropriate."<sup>170</sup>

Others in the Department have said positive things about Design Excellence. One DS witness testified in a transcribed interview that Design Excellence "has not negatively affected"

---

<sup>161</sup> GAO SED Rep. at 3, 27.

<sup>162</sup> *Id.*

<sup>163</sup> *Id.* at 3.

<sup>164</sup> *Id.* at 4.

<sup>165</sup> 1 FAM 281.1(11).

<sup>166</sup> GAO SED Rep. at 6.

<sup>167</sup> *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov't Reform, 113th Cong. (July 10, 2014) (Director Muniz testifying that the SED is "basically . . . two separate bars of construction, it is less efficient, it is harder to get from one bar to the other than a cube" and calling the SED "a very fixed solution").

<sup>168</sup> Undated Document regarding Jakarta NEC, CDP201500009-000005083 (on file with Committee staff).

<sup>169</sup> *Id.*

<sup>170</sup> OIG OBO Inspection Rep. at 1.

security, and “[i]n some cases, I would say it has positively affected it.”<sup>171</sup> He cited better flow in the consular areas and better separation between embassy staff and consular visitors.<sup>172</sup> He did not opine, however, on the additional time required to deliver new Design Excellence projects and move personnel out of outdated facilities.

In an effort to obtain answers to some of the questions left unanswered in GAO’s 2006 report, the Committee commissioned the GAO to review the process by which the Department switched from the SED to Design Excellence.<sup>173</sup> The GAO’s review will proceed in two phases: (1) GAO will examine the process and reasons for switching from SED to Design Excellence; and (2) GAO will look at specific facilities for SEDs and Design Excellence to compare the benefits of each. The GAO’s report on the first portion (*i.e.*, the process and reasons for the switch to Design Excellence) is expected to be released in winter 2017.

Although no system is perfect, the SED system offered several valuable tools to reduce construction time and costs. The Department should take a fresh look at re-implementing some of the elements, such as DS pre-approved doors, windows, and fixtures.

### C. Design Excellence

#### 1. OBO Switches from a System that Works to a System that Takes Longer, Costs More, and Creates Security Vulnerabilities

**FINDING:** OBO’s shift away from the Standard Embassy Design to Design Excellence brought about longer planning and construction schedules, which were accompanied by millions of dollars in increased costs for facilities.

**FINDING:** Since the beginning of Design Excellence approximately six years ago, the Department has not yet completed a single Design Excellence facility, although it has completed some hybrid facilities. That compares to an average of just over eight facilities per year under the Standard Embassy Design.

After nearly a decade of successfully delivering facilities under the SED program, the Department switched gears in 2010 by transitioning to a design program initially known as “Design Excellence.” Design Excellence has its genesis in the General Services

<sup>171</sup> H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of Wayne Ashbery at 122 (Oct. 18, 2016) [hereinafter Ashbery Tr.].

<sup>172</sup> *Id.* at 122-23.

<sup>173</sup> Letter from Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov’t Reform to Hon. Gene L. Dodaro, Comptroller Gen., U.S. Gov’t Accountability Office (Aug. 6, 2014) (requesting review); Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, and Hon. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight & Gov’t Reform, to Hon. Gene L. Dodaro, Comptroller General, U.S. Gov’t Accountability Office (Apr. 22, 2015).

Administration's (GSA) program of the same name. GSA's Design Excellence program seeks "to achieve top-quality design talent."<sup>174</sup> OBO's current principal deputy director, Casey Jones, was in charge of GSA's Design Excellence program before coming to the Department.<sup>175</sup>

Under the SED program, OBO completed 88 new overseas diplomatic compounds based on the SED program between 2002 and 2012.<sup>176</sup> By contrast, the Department has not completed a facility fully using the Design Excellence program in the six years of the program's existence.<sup>177</sup> A chart provided to the Committee by the Department showing NECs and NCCs under design or construction as of January 2015 shows not a single Design Excellence-only facility completed. For facilities that have been completed, the chart notes: "These projects, while not specifically solicited under the [Design] Excellence initiative, are similar in approach because of the site, permit or other project requirements."<sup>178</sup>

---

<sup>174</sup> U.S. Gen. Servs. Admin., *Design Excellence Program*, available at <http://www.gsa.gov/portal/content/104455> (last visited Dec. 2, 2016).

<sup>175</sup> Biography of Casey Jones, Deputy Director, Bureau of Overseas Buildings Operations, U.S. Dep't of State *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov't Reform, 113th Cong. (July 10, 2014) ("Prior to joining the State Department, he served as the Director of Design Excellence at the U.S. General Services Administration, where he was responsible for fostering excellence in federally commissioned architecture for a range of federal agencies, most notably the Department of Homeland Security and the Administrative Office of the U.S. Courts.").

<sup>176</sup> U.S. Dep't of State, Bureau of Overseas Buildings Operations, *Industry Advisory Panel Meeting Minutes* at 25 (Apr. 17, 2012) (on file with Committee staff).

<sup>177</sup> Media Note, *United States Dedicates New U.S. Embassy in Paramaribo, Suriname* (Oct. 5, 2016), available at <http://www.state.gov/r/pa/prs/ps/2016/10/262833.htm>; Media Note, *United States Dedicates New U.S. Embassy in Mbabane, Swaziland* (June 27, 2016), available at <http://www.state.gov/r/pa/prs/ps/2016/06/259070.htm>; Media Note, *United States Dedicates New U.S. Embassy in Bishkek, Kyrgyzstan* (Nov. 2, 2015), available at <http://www.state.gov/r/pa/prs/ps/2015/11/249108.htm>; Media Note, *United States Dedicates New U.S. Embassy to the Holy See* (Sept. 9, 2015), available at <http://www.state.gov/r/pa/prs/ps/2015/09/246729.htm>; Media Note, *United States Dedicates New U.S. Embassy in Cotonou, Benin* (July 8, 2015), available at <http://www.state.gov/r/pa/prs/ps/2015/07/244726.htm>; Media Note, *United States Dedicates New U.S. Embassy in Vientiane, Laos* (Dec. 5, 2014), available at <http://www.state.gov/r/pa/prs/ps/2014/12/234696.htm>; Media Note, *United States Dedicates New U.S. Embassy in Rabat, Morocco* (Dec. 2, 2014), available at <http://www.state.gov/r/pa/prs/ps/2014/12/234609.htm>; Media Note, *United States Dedicates New U.S. Embassy Office Annex in Abuja, Nigeria* (Nov. 7, 2014), available at <http://www.state.gov/r/pa/prs/ps/2014/11/233838.htm>; Media Note, *United States Dedicates New U.S. Consulate General in Monterrey, Mexico* (July 2, 2014), available at <http://www.state.gov/r/pa/prs/ps/2014/07/228726.htm>; Media Note, *United States Dedicates New U.S. Embassy in Santo Domingo, Dominican Republic* (June 24, 2014), available at <http://www.state.gov/r/pa/prs/ps/2014/06/228402.htm>; Media Note, *United States Dedicates New U.S. Consulate General in Guayaquil, Ecuador* (Feb. 7, 2014), available at <http://www.state.gov/r/pa/prs/ps/2014/02/221462.htm>; Media Note, *United States Dedicates New U.S. Embassy in Malabo, Equatorial Guinea* (Dec. 11, 2013), available at <http://www.state.gov/r/pa/prs/ps/2013/12/218626.htm>; Media Note, *United States Dedicates New U.S. Embassy in Belgrade, Serbia* (July 1, 2013), available at <http://www.state.gov/r/pa/prs/ps/2013/07/211441.htm>; Media Note, *United States Dedicates New U.S. Embassy in Bujumbura, Burundi* (May 21, 2013), available at <http://www.state.gov/r/pa/prs/ps/2013/05/209767.htm>; Media Note, *United States Dedicates New Annex Facility in Manila, Philippines* (Mar. 20, 2013), available at <http://www.state.gov/r/pa/prs/ps/2013/03/206461.htm>; Media Note, *United States Dedicates New U.S. Embassy in Dakar, Senegal* (Mar. 15, 2013), available at <http://www.state.gov/r/pa/prs/ps/2013/03/206314.htm>.

<sup>178</sup> U.S. Dep't of State, Bureau of Overseas Buildings Operations, *New Embassy and Consulate Projects in Design of Construction* (Jan. 16, 2015) (on file with Committee staff).

Overseas Buildings Operations -- New Embassy and Consulate Projects in Design or Construction						
Capital Projects /Post	Country	Type	% Construction Complete	SED/Derivative/ Performance-based	Construction Award	Excellence
Ankara	Turkey	NEC	0%	Performance-Based	FY16	Yes
Ashgabat	Turkmenistan	NEC	0%	Performance-Based	FY14	No
Asuncion	Paraguay	NEC	0%	Performance-Based	FY16	Yes
Beirut	Lebanon	NEC	0%	Performance-Based	FY16	Yes
Bishkek	Kyrgyzstan	NEC	70%	Derivative	FY11	No
Colombo	Sri Lanka	NEC	0%	Performance-Based	FY15	Yes
Cotonou	Benin	NEC	90%	SED	FY12	No
Dhahran	Saudi Arabia	NCC	0%	Performance-Based	FY16	Yes
Erbil	Iraq	NCC & Housing	0%	Performance-Based	FY16	Yes
Guatemala City	Guatemala	NEC	0%	Performance-Based	FY16	Yes
Harare	Zimbabwe	NEC	0%	Derivative	FY15	Yes
Hyderabad	India	NEC	0%	Performance-Based	FY17	Yes
Islamabad	Pakistan	NEC	57%	Performance-Based	FY10	No
Jakarta	Indonesia	NEC	19%	Performance-Based	FY12	*
Jeddah	Saudi Arabia	NCC & Housing	19%	SED	FY12	No
London	UK	NEC	29%	Performance-Based	FY13	*
Maputo	Mozambique	NEC	0%	Performance-Based	FY15	Yes
Matamoros	Mexico	NCC	0%	Performance-Based	FY15	Yes
Mbabane	Swaziland	NEC	67%	Performance-Based	FY12	*
Mexico City	Mexico	NEC	0%	Performance-Based	FY14	Yes
Ndjamena	Chad	NEC	7%	Derivative	FY14	*
Niamey	Niger	NEC	0%	Performance-Based	FY15	Yes
Nouakchott	Mauritania	NEC	23%	SED	FY13	No
Nuevo Laredo	Mexico	NCC	0%	Performance-Based	FY14	Yes
Oslo	Norway	NEC	68%	Performance-Based	FY11	*
Paramaribo	Suriname	NEC	21%	Derivative	FY13	*
Port Moresby (D/B/B)	Papua NG	NEC	49%	Performance-Based	FY10	*
Pristina	Kosovo	NEC	0%	Performance-Based	FY14	Yes
Taipei (Strategic/Asset Mgt)	Taiwan	NOC Phase 1 & 2	18%	Performance-Based	FY09/FY12	No
The Hague	Netherlands	NEC	14%	Derivative	FY13	*

\* These projects, while not specifically solicited under the Excellence initiative, are similar in approach because of site, permit, or project requirements.

Source: U.S. Dep't of State<sup>179</sup>

When a project is under Design Excellence, the Department appears to note that fact in the relevant press releases. For example, when the design team was announced for the Beirut NEC, OBO wrote in its press release: “This project was solicited under OBO’s Excellence in Diplomatic Facilities initiative, a holistic approach to project development and delivery which seeks to utilize the best methods, technologies, and staff abilities to produce facilities that are outstanding in all respects.”<sup>180</sup>

<sup>179</sup> *Id.*

<sup>180</sup> Media Note, *Design Team Selection Announced for New U.S. Embassy in Beirut* (Oct. 29, 2013), available at <http://www.state.gov/r/pa/prs/ps/2013/10/215995.htm>.

OBO claims that Design Excellence “reemphasizes that embassies should represent the best in American architecture, design, engineering, technology, sustainability, art, and cultural heritage, as well as represent America to the host nation.”<sup>181</sup>

Documents and testimony show these facilities are costing more than previous facilities, oftentimes including tens of millions of dollars in design fees and many months of the design process. The result is—as is the case in Beirut, for example—our diplomats abroad are remaining in facilities longer than necessary. It is also important to note, however, that many of the witnesses the Committee interviewed did not have concerns with the ultimate security of the facilities, even under the new system.

Design Excellence has resulted in the Department building facilities in places like Harare, Zimbabwe and Maputo, Mozambique at a cost of more than \$250 million each.<sup>182</sup> These facilities are more than \$100 million more expensive than similarly situated facilities in the region built under the SED program. Under the SED program—which worked well, particularly in places like sub-Saharan Africa—the Department previously completed facilities at a lower total cost. For instance, the Department delivered the NEC in Libreville, Gabon—an SED—for approximately \$108 million.<sup>183</sup> The NEC in Djibouti tells a similar story, with the Department delivering that facility for just over \$150 million.<sup>184</sup>

The Committee’s investigation of the Design Excellence program suggests that the Department prizes “architecturally significant” buildings with little regard to the cost. While that may make sense in certain high-profile world capitals, the design-first concept has been exported to places like Harare; Maputo; and Port Moresby, Papua New Guinea.<sup>185</sup>

The significance of this shift toward prioritizing more expensive architecture is reflected in public statements from high-ranking Department Officials. Before he became Secretary of State, then-Senator John Kerry said of the SED facilities: “We are building some of the ugliest

---

<sup>181</sup> U.S. Dep’t of State, Bureau of Overseas Buildings Operations, *Excellence in Diplomatic Facilities: Message from OBO Director Lydia Muniz*, available at <http://overseasbuildings.state.gov/excellence/> (last visited Dec. 2, 2016).

<sup>182</sup> Harare NEC PPR, Apr. 2016 (CDP-2016-00016-0002868) (showing “Total Project Cost” of \$291,683,000 and a “Design” budget of \$5,944,000); Maputo NEC PPR, Apr. 2016 (CDP-2016-00016-0002884) (showing “Total Project Cost” of \$257,820,000 and “Design” budget of \$14,959,000).

<sup>183</sup> Libreville NEC PPR, Aug. 2012 (showing “Total Project Cost” of \$108,762,706 and noting the NEC “[o]ccupancy started on August 9, 2012”).

<sup>184</sup> Djibouti NEC PPR, Nov. 2011 (showing “Total Project Cost” of \$151,772,269 and noting the NEC “opened for official business . . . on October 23, 2011”).

<sup>185</sup> Harare NEC PPR, Apr. 2016 (CDP-2016-00016-0002868) (showing “Total Project Cost” of \$291,683,000 and a “Design” budget of \$5,944,000); Maputo NEC PPR, Apr. 2016 (CDP-2016-00016-0002884) (showing “Total Project Cost” of \$257,820,000 and “Design” budget of \$14,959,000); Port Moresby NEC PPR, Apr. 2016 (CDP-2016-00016-0002439) (showing “Total Project Cost” of \$212,298,000 and “Design” budget of \$10,076,000).

embassies I've ever seen.”<sup>186</sup> For her part, OBO Director Muniz said “I believe in the power of architecture.”<sup>187</sup>

During transcribed interviews with Committee staff, OBO personnel claimed not to value aesthetics over other factors in embassy design.<sup>188</sup> But, as the Beirut NEC Project Manager testified, “an embassy anywhere is the face of America in that location . . . so it needs to be inviting. It needs to stand for what we stand for. . . . So I don't think you can do that without at least weighing aesthetics into that somewhere.”<sup>189</sup>

Director Muniz testified before the Committee that, “[a]s I've explained and assured the committee, there's no additional cost under the excellence initiative.”<sup>190</sup> The facts tell a different story. Two SED facilities built in sub-Saharan Africa—Libreville, Gabon and Djibouti—cost approximately \$108 million and just over \$150 million, respectively.<sup>191</sup> For comparison, the budget for the Maputo NEC is more than \$257 million, including approximately \$15 million in design costs alone.<sup>192</sup> The total budget for the Harare NEC is even higher, at nearly \$292 million.<sup>193</sup>

The need to move U.S. diplomats into new facilities in Maputo and Harare is urgent. In Maputo, for example, the country is “is classified as ‘critical’ for crime, the Department's highest rating on a scale of low-medium-high-critical.”<sup>194</sup> During Chairman Chaffetz' trip to Maputo, the regional security officer (RSO) reported there were more than 90 crimes against Americans there in 2014.<sup>195</sup> The current facility in Maputo is “four adjacent buildings originally built in the 1950s as residences and modified over the years serve as the Chancery and Annexes

---

<sup>186</sup> Tanya Ballard Brown, *Can U.S. Embassies Be Safe Without Being Unsightly?*, NPR, (Feb. 26, 2013, 5:15 PM ET), available at <http://www.npr.org/sections/thetwo-way/2013/02/26/172978571/can-u-s-embassies-be-safe-without-being-unsightly>.

<sup>187</sup> Fred A. Bernstein, *Designing Diplomacy: Top Firms Selected for New U.S. Embassies*, ARCHITECTURAL RECORD (Mar. 23, 2016), available at <http://www.architecturalrecord.com/articles/11569-designing-diplomacy-top-firms-selected-for-new-us-embassies>.

<sup>188</sup> Shipman Tr. at 148 (testifying that aesthetics is not prioritized over security, budget, function, or sustainability); Capone Tr. at 132 (discussing the role of aesthetics and noting “[y]ou're portraying the U.S. You want a nice looking building. So, yes, aesthetics are a concern.”).

<sup>189</sup> Shipman Tr. at 151.

<sup>190</sup> *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov't Reform, 113th Cong. (July 10, 2014) (response of Director Muniz in response to a question by Rep. Kelly).

<sup>191</sup> Libreville NEC PPR, Aug. 2012 (showing “Total Project Cost” of \$108,762,706); Djibouti NEC PPR, Nov. 2011 (showing “Total Project Cost” of \$151,772,269).

<sup>192</sup> Maputo NEC PPR, Apr. 2016 (CDP-2016-00016-0002884) (showing “Total Project Cost” of \$257,820,000 and “Design” budget of \$14,959,000).

<sup>193</sup> Harare NEC PPR, Apr. 2016 (CDP-2016-00016-0002868) (showing “Total Project Cost” of \$291,683,000 and a “Design” budget of \$5,944,000).

<sup>194</sup> U.S. Dep't of State, *Mozambique: Scen setter for CODEL Chaffetz*, Cable No. 15 MAPUTO 318 (Feb. 27, 2015).

<sup>195</sup> U.S. Dep't of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform, and the Hon. Stephen Lynch on Maputo Security (Mar. 7, 2015).

on a single compound.”<sup>196</sup> The embassy is essentially four houses the Department rented and then built a fence around:



Source: U.S. Dep’t of State<sup>197</sup>

The current facility has essentially no setback, and the only separation from the embassy and the street is a metal fence.

There are a significant number of U.S. personnel working in Maputo: “The current US Embassy in Maputo employs more than 400 Americans and local staff who are spread throughout the city in multiple locations and are in buildings that do not meet current Department security standards. Post is on the Top 80 list of facilities to be replaced.”<sup>198</sup> When Chairman Chaffetz visited Maputo, Ambassador Douglas M. Griffiths made clear he believed Maputo needed a new embassy and had sent several cables informing the Department headquarters of his concerns.<sup>199</sup>

---

<sup>196</sup> U.S. Dep’t of State, Bureau of Overseas Buildings Operations, *Facilities Fact Sheet Embassy Maputo* (on file with Committee staff).

<sup>197</sup> U.S. Dep’t of State, *U.S. Embassy Maputo, Mozambique*, <https://diplomacy.state.gov/discoverdiplomacy/explorer/places/195857> htm (last visited Dec. 2, 2016).

<sup>198</sup> U.S. Dep’t of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, and the Hon. Stephen Lynch on Maputo Security (Mar. 7, 2015).

<sup>199</sup> *Id.*



Source: House Committee on Oversight and Government Reform Staff

The Department purchased the Maputo NEC site in 2007,<sup>200</sup> and in 2016, the new facility is not yet complete. As of April 2016—more than a year after Chairman Chaffetz’ visit to the site—the Department’s schedule showed a completion percentage of zero.<sup>201</sup> This is what the site looked like during Chairman Chaffetz’ March 2015 visit:

---

<sup>200</sup> U.S. Dep’t of State, Bureau of Overseas Buildings Operations, *Facilities Fact Sheet Embassy Maputo* (on file with Committee staff).

<sup>201</sup> Maputo NEC PPR, Apr. 2016 (CDP-2016-00016-0002884).



Source: House Committee on Oversight and Government Reform Staff

The NEC in Port Moresby, Papua New Guinea tells a similar story. The NEC there was supposed to be a Standard Secure Mini Compound, a type of SED.<sup>202</sup> Under that design, the total budget for the facility started approximately \$77.5 million, with approximately \$2.5 million was for design costs.<sup>203</sup> The Department broke ground in August 2012,<sup>204</sup> and the facility was to be complete in July 2014.<sup>205</sup> The current embassy is “in an old bank building,” and the employees there “have to have an armed guard take them from their living facilities to the embassy itself,” a “facility that by any standard is not properly secure.”<sup>206</sup>

---

<sup>202</sup> Port Moresby NEC PPR, Apr. 2012 (listing the facility as “Standard Secure Mini Compound”); *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 113th Cong. (July 10, 2014) (OBO Principal Director Casey Jones: “At Port Moresby we started with what was essentially a standard embassy design. It was a mini standard design.”).

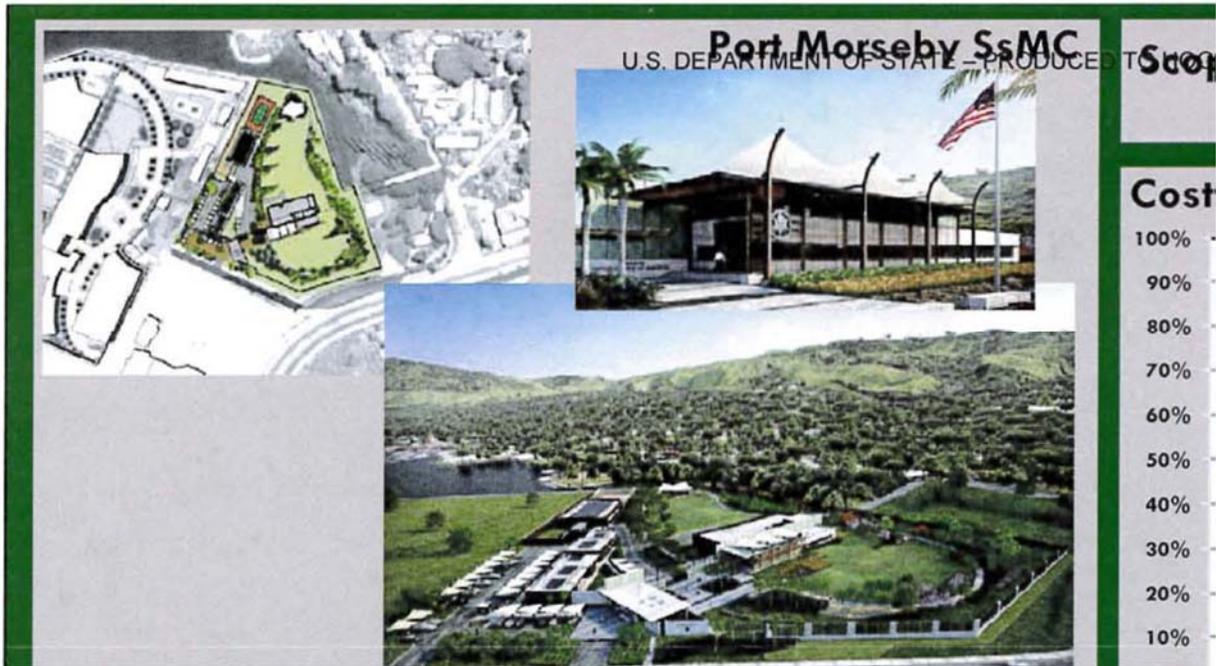
<sup>203</sup> Port Moresby NEC PPR, Apr. 2012 (listing a total budget off \$77,546,000 and a design budget of \$2,543,000).

<sup>204</sup> Port Moresby NEC PPR, Aug. 2012 (“Ground breaking was August 6, 2012, 0900.”).

<sup>205</sup> Port Moresby NEC PPR, May 2012 (showing July 2014 as 100% on the “Cost Loaded Schedule”).

<sup>206</sup> *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 113th Cong. (July 10, 2014) (statement of Chairman Chaffetz).

This is what the SED version of the Port Moresby NEC was to look like:



Source: U.S. Dep't of State<sup>207</sup>

When the project was 49 percent complete—and several months after Chairman Chaffetz visited the site in early 2014—the Department noted in an internal tracking document: “Work has been suspended on site per direction from the CO [contracting officer]. Negotiations are underway to de-scope and shutter project in preparation for new contract award.”<sup>208</sup>

The Department thus shut down a half-completed NEC project in a country that needed a new facility.<sup>209</sup> In its place, the Department awarded a new contract in September 2015, more than a year after the facility was supposed to be complete.<sup>210</sup> The Department replaced the SED-based facility with a Design Excellence project that currently has an unknown budget,<sup>211</sup> but as

<sup>207</sup> Port Moresby NEC PPR, Apr. 2016 (CDP-2016-00016-0002917).

<sup>208</sup> Port Moresby NEC PPR, June 2014.

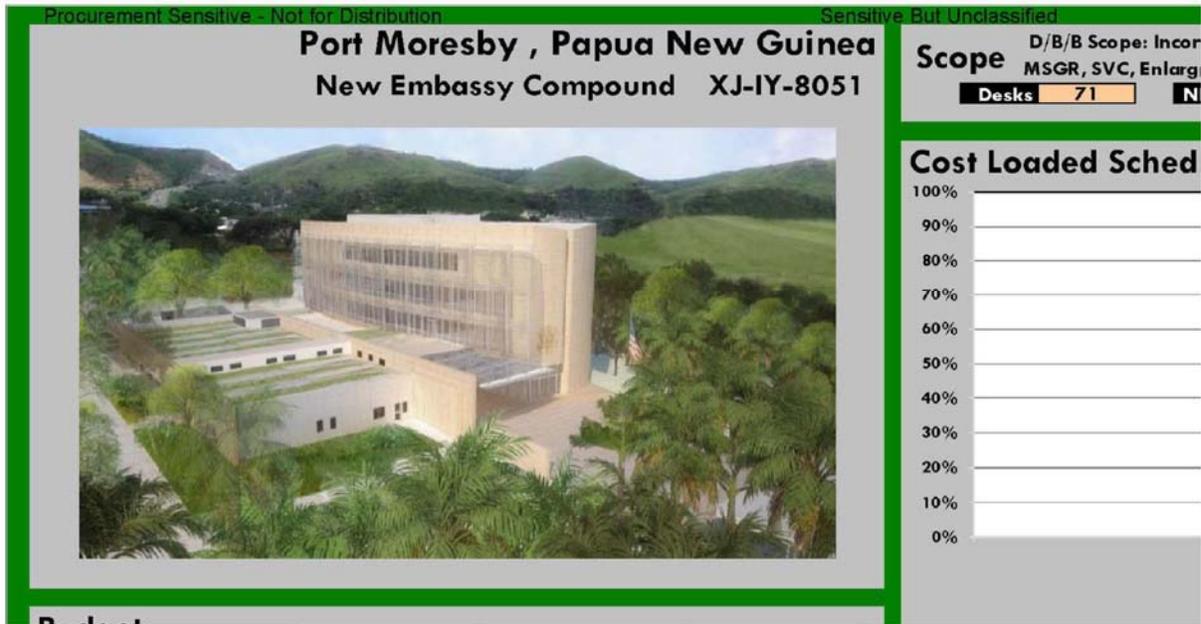
<sup>209</sup> *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov't Reform, 113th Cong. (July 10, 2014) (“Mr. Chaffetz. So they’re having to stay in the same facility. It is exceptionally dangerous, correct? Ms. Muniz. The reason Port Moresby is on the vulnerability list and getting a new embassy is because it’s dangerous.”); see also *id* (Chairman Chaffetz. “During my short visit [to Port Moresby], there was an attempted carjacking of an embassy staffer.”).

<sup>210</sup> Port Moresby NEC PPR, Apr. 2016 (CDP-2016-00016-0002917); *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov't Reform, 113th Cong. (July 10, 2014) (Mr. Chaffetz. Let’s go to Port Moresby for a second, because I had a chance to go visit there in February. When was that originally slated to be completed? Ms. Muniz. In 2014. Mr. Chaffetz. May of 2014, correct? Ms. Muniz. Yes. Mr. Chaffetz. And now when is it slated to be completed? Ms. Muniz. In early 2018.”).

<sup>211</sup> Port Moresby NEC PPR, Apr. 2016 (CDP-2016-00016-0002917) (listing a total budget of “-”).

of October 2015, the budget was to be more than \$212 million.<sup>212</sup> Of that amount, more than \$10 million was for design costs.<sup>213</sup>

This is what the current version of the Port Moresby NEC is slated to look like:



Source: U.S. Dep't of State<sup>214</sup>

In testimony before the Committee, OBO's principal director, Casey Jones, said the addition of a Marine guard detachment and additional desks resulted in a cost of \$24 million over stopping the project all together and starting over.<sup>215</sup> The numbers do not appear to bear this out, however. Looking at May 2014—just before Mr. Jones testified before the Committee—the Department budgeted approximately \$79.3 million for the NEC,<sup>216</sup> and an additional \$17.6 million for the Marine quarters.<sup>217</sup> That total of approximately \$96.9 million is less than the approximately \$212 million budgeted in October 2015<sup>218</sup> that has since turned into an unknown budget.<sup>219</sup>

<sup>212</sup> Port Moresby NEC PPR, Oct. 2015 (CDP-2016-00016-0002439) (listing a current working estimate of a total budget of \$212,298,000).

<sup>213</sup> *Id.* (listing a current working estimate design budget of \$10,076,000).

<sup>214</sup> Port Moresby NEC PPR, Apr. 2015 (CDP-2016-00016-0002917).

<sup>215</sup> *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov't Reform, 113th Cong. (July 10, 2014) (opening statement Casey Jones, Principal Deputy Director, Bureau of Overseas Buildings Operations, U.S. Dep't of State).

<sup>216</sup> Port Moresby NEC PPR, May 2014 (showing a total budget of \$79,346,000).

<sup>217</sup> Port Moresby MSGQ/NOX PPR, May 2014 (showing a total budget of \$17,658,000).

<sup>218</sup> Port Moresby NEC PPR, Oct. 2015 (CDP-2016-00016-0002439) (listing a current working estimate of a total budget of \$212,298,000).

<sup>219</sup> Port Moresby NEC PPR, Apr. 2016 (CDP-2016-00016-0002917) (listing a total budget of "-").

There is also, as of April 2016, no estimated date of completion for the Port Moresby NEC.<sup>220</sup> In July 2014, Director Muniz told Chairman Chaffetz the NEC would be completed in “early 2018.”<sup>221</sup> That seems unlikely, given that only seven months ago, the Department did not even have an estimated date.

In addition to the delays, Design Excellence results in increased costs. In fact, demonstrating where the Department was on NEC costs in 2008, the OIG’s OBO inspection report noted: “The ultimate goal of the Department is to construct 150 NECs by 2018, at a total cost of \$17.5 billion,” though it recognized “[e]scalating construction, commodity, labor costs, and the depreciation of the dollar threaten to prevent the attainment of that very important goal.”<sup>222</sup> The OIG’s prediction of escalating construction costs alone cannot explain why the budgets for only three facilities—London,<sup>223</sup> Beirut,<sup>224</sup> and Mexico City<sup>225</sup>—comprise a projected \$3.13 billion (or almost 18 percent) of that number. What of the other 147 contemplated facilities? Will they be built at a cost of approximately \$97 million each? Given the more than a quarter of a billion dollars spent in places like Maputo and Harare, it seems unlikely.

**FINDING:** OBO created and implemented Design Excellence without assessing the costs and benefits.

Fundamental elements of Design Excellence have faced criticism in the past, including criticism for security-related vulnerabilities. Former State Department Under Secretary for Management Grant Green issued a report undercutting many of the Department’s arguments for Design Excellence.<sup>226</sup> The report noted OBO’s ad hoc approach to implementing Design Excellence, the problem that more expensive facilities will yield fewer facilities, and security issues with moving away from the SED.<sup>227</sup> The report found:

- “There is *no evidence of a business case or cost benefit analysis* supporting” Design Excellence;
- “Despite schedule/cost assurances from OBO, *there is concern that fewer facilities (embassies/consulates) can be built over the same time frame* (leaving more personnel exposed in inadequate facilities for longer periods of time)”;

<sup>220</sup> *Id.* (listing “Est. Post Move in” as “TBD”).

<sup>221</sup> *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 113th Cong. (July 10, 2014) (“Mr. Chaffetz. And now when is it slated to be completed? Ms. Muniz. In early 2018.”); see also *id.* (“Mr. Chaffetz. . . . What is the new date for Port Moresby that they are going to move in? Mr. Jones. I believe that the new date will be in 2018.”).

<sup>222</sup> OIG OBO Inspection Rep. at 1.

<sup>223</sup> London NEC PPR, Apr. 2016 (CDP-201500016-0002966) (listing a budget of \$1,023,655,000).

<sup>224</sup> Beirut NEC PPR, Apr. 2016 (CDP-201500013-000000016) (listing a “Total Project Cost” of \$1,167,067,000).

<sup>225</sup> Mexico City NEC PPR, Apr. 2016 (CDP-201500016-0003121) (listing a “Total Project Cost” of \$943,065,000).

<sup>226</sup> U.S. Dep’t of State, *Report on Diplomatic Security Organization and Management* at 21 (May 2013) (emphasis added), available at <https://assets.documentcloud.org/documents/1153797/report-diplomatic-security.pdf>.

<sup>227</sup> *Id.*

- “Having unique designs for each facility requires *more time for DS to review the designs and determine the necessary countermeasures*; with DS already overloaded with tasks, the panel questions the advisability of requiring this extra time”;
- “As enemies find new ways to attack U.S. facilities, *having multiple designs makes developing and deploying countermeasures more difficult*,” and
- “*Variations in design will require increased availability of non-standard items* that require replacing (doors, windows, access barriers, etc.) particularly when a post must recover from a recent attack.”<sup>228</sup>

“OBO report[ed to GAO that SED] better enable[d] it to plan, award, design, and construct NECs; simplify[d] its construction process; and provide[d] economically feasible facilities.”<sup>229</sup>

## 2. Design Excellence’s Brownfield Development Leads to Costly Remediation and Years-Long Delays in Moving Personnel in Mexico City

Under the Design Excellence program, the Department looks at using “Urban Locations/Brownfield Redevelopment,” “Expanded Design Leadership,” “Hir[ing] Strong Design Teams with Good Leadership,” and “Industry Design Reviews” as guiding factors.<sup>230</sup> In addition, OBO seeks LEED Silver certification for new projects.<sup>231</sup>

The Mexico City NEC site provides an example of issues related to brownfield development. The Department told Committee staff: “After searching for a new site for a number of years, in 2010 the Department identified and evaluated potentially viable sites—focusing on centrally located properties in Mexico City.”<sup>232</sup> The Department entered into a contract to purchase the site of a former soap and toothpaste factory, but, more than two years after starting remediation to clean up contaminated soil, the Department has not yet begun construction.<sup>233</sup> The Department told Committee staff that this site was the “most suitable available property,” notwithstanding the contamination, and they were “not surprised” and it “is not unusual” for a brownfield to have contamination.<sup>234</sup> As a term of the sale, the seller was

---

<sup>228</sup> *Id.* (emphases added).

<sup>229</sup> GAO SED Rep. at 21.

<sup>230</sup> American Council of Engineering Companies, *The Bureau of Overseas Buildings Operations (OBO) Excellence and Opportunities* at 10-11 (Aug. 14, 2013), available at <http://community.acec.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=a35b31d2-9dba-4a99-b0c4-94fe827ad764>.

<sup>231</sup> Shipman Tr. at 125 (“Q Does OBO have a baseline they shoot for on each building? A It’s LEED Silver. Q LEED Silver for each new facility? A Yes.”).

<sup>232</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Site Selection (Apr. 16, 2015).

<sup>233</sup> Colgate-Palmolive Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Sept. 14, 2016).

<sup>234</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Site Selection (Apr. 16, 2015).

required to fully clean the site before the Department took possession.<sup>235</sup> In September 2016, approximately five years after the agreement to purchase the site for the Mexico City NEC, the Mexican government approved the remediation, and the Department finally took possession.<sup>236</sup> This is approximately what the site looked like when Chairman Chaffetz traveled to Mexico City in April 2015:

## New U.S. Embassy Mexico City

### Site Acquisition Status



U.S. DEPARTMENT OF STATE OVERSEAS BUILDINGS OPERATIONS

8

Source: U.S. Dep't of State<sup>237</sup>

In the meantime, the current embassy in Mexico City lacks a proper setback and is situated on a busy street downtown.<sup>238</sup>

<sup>235</sup> Promissory Purchase Agreement Between the United States of America and Inmobiliaria Colpal, S. de R.L. de S.V. § 9.b (Sept. 13, 2011) (Bates number 000001) (“Seller [Colgate] shall perform whatever works necessary, *at its sole cost*, to make and deliver the Property ‘Ready to Build’ on or before the Settlement Date.”) (emphasis added).

<sup>236</sup> Colgate-Palmolive Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Sept. 14, 2016); Colgate-Palmolive Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Oct. 3, 2016).

<sup>237</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Apr. 9, 2015).

<sup>238</sup> U.S. Dep’t of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, and the Hon. Stacey Plaskett on Mexico City NEC (Apr. 24, 2015).

Mexico City is not an outlier in terms of costly brownfield development. The Department spent approximately \$12 million to clean contaminated soil at the site of the London NEC,<sup>239</sup> as well as significant amounts of money for remediation on other sites. For instance, the Department spent \$640,427 “for the excavation and disposal of contaminated soil and pavement” at the Harare NEC site, \$2.31 million at the Jakarta NEC site “to raise site with fill and the excavation and disposal of contaminated soil,” and \$1.145 million at the Vientiane NEC “for the excavation and disposal of contaminated soil and the installation of a retaining wall.”<sup>240</sup> In addition to these sums, the Department paid \$228,300 “for quality assurance of remediation efforts” at the Mexico City NEC site, notwithstanding the contractual requirement that the seller of that site turn over a fully remediated site.

The Department entered into a contract to purchase the Mexico City site in September 2011, paying half of the purchase price up front, with the other half due on completion.<sup>241</sup> In the five years since the Department purchased the property, nearly a year and a half since Chairman Chaffetz visited the site, and more than \$225,000 in funds spent on remediation<sup>242</sup> (notwithstanding that it is the seller’s responsibility to fully remediate the site<sup>243</sup>), the Department has not yet even broken ground. The contract between the Department and Colgate envisioned that the remediation would be complete by March 2015.<sup>244</sup> It was not complete until the summer of 2016.<sup>245</sup>

### 3. State Department Office of Inspector General Assessments of OBO Embassy Construction

As the OIG recognized recently, “[t]he cost of building [NECs] is increasing.”<sup>246</sup> As a result, the OIG will conduct an audit in 2017 related to “OBO New Embassy Construction Budget Planning.”<sup>247</sup> The OIG recognizes that, “[g]iven the increased costs of constructing a NEC, it is important that OBO provide to its stakeholders transparent embassy construction cost estimates through its capital planning, project prioritization and budgeting methods.”<sup>248</sup> The

---

<sup>239</sup> Responses to Questions for the Record Submitted to Director Lydia Muniz by Rep. Jason Chaffetz (1-16) H. Comm. Oversight and Government Reform December 08, 2015, Resp. No. 11 (Feb. 12, 2016).

<sup>240</sup> *Id.*

<sup>241</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Apr. 9, 2015); *see also* Promissory Purchase Agreement Between the United States of America and Inmobiliaria Colpal, S. de R.L. de S.V. (Sept. 13, 2011) (Bates number 000001).

<sup>242</sup> Responses to Questions for the Record Submitted to Director Lydia Muniz by Rep. Jason Chaffetz (1-16) H. Comm. Oversight and Government Reform December 08, 2015, Resp. No. 11 (Feb. 12, 2016).

<sup>243</sup> Promissory Purchase Agreement Between the United States of America and Inmobiliaria Colpal, S. de R.L. de S.V. § 9.b (Sept. 13, 2011) (Bates number 000001) (“Seller [Colgate] shall perform whatever works necessary, *at its sole cost*, to make and deliver the Property ‘Ready to Build’ on or before the Settlement Date.”) (emphasis added).

<sup>244</sup> *Id.*

<sup>245</sup> Colgate-Palmolive Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Sept. 14, 2016).

<sup>246</sup> U.S. Dep’t of State, Office of Inspector General, *Work Plan FY 2017 – FY 2018* at 7 (OIG-EX-16-02), available at [https://oig.state.gov/system/files/2017-18\\_work\\_plan\\_final.pdf](https://oig.state.gov/system/files/2017-18_work_plan_final.pdf).

<sup>247</sup> *Id.*

<sup>248</sup> *Id.*

OIG is also planning to conduct an audit of “OBO’s Value Engineering Program,”<sup>249</sup> which was an issue in the Department’s construction of the NEC in Kabul.<sup>250</sup>

OBO should strive to be “willing to make tough decisions to balance the needs of stakeholders within fiscal realities,” as the OIG recognized about a previous Director of OBO.<sup>251</sup> Although, as the OIG’s OBO inspection report recognized, earlier iterations of OBO management were not perfect, they did instill “much needed discipline at all levels of OBO in managing projects, which is a crucial factor in containing costs and meeting construction schedules.”<sup>252</sup> A balance needs to be struck that protects our diplomats and taxpayers with respect to diplomatic facilities abroad.

---

<sup>249</sup> *Id.* (“Value engineering (VE) is an organized study that analyzes the functions of systems equipment, facilities, services, and supplies to achieve essential performance, reliability, quality, and safety. All OBO projects with an estimated cost of construction over \$5 million will have at least one VE study or formal waiver from the VE study.”).

<sup>250</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

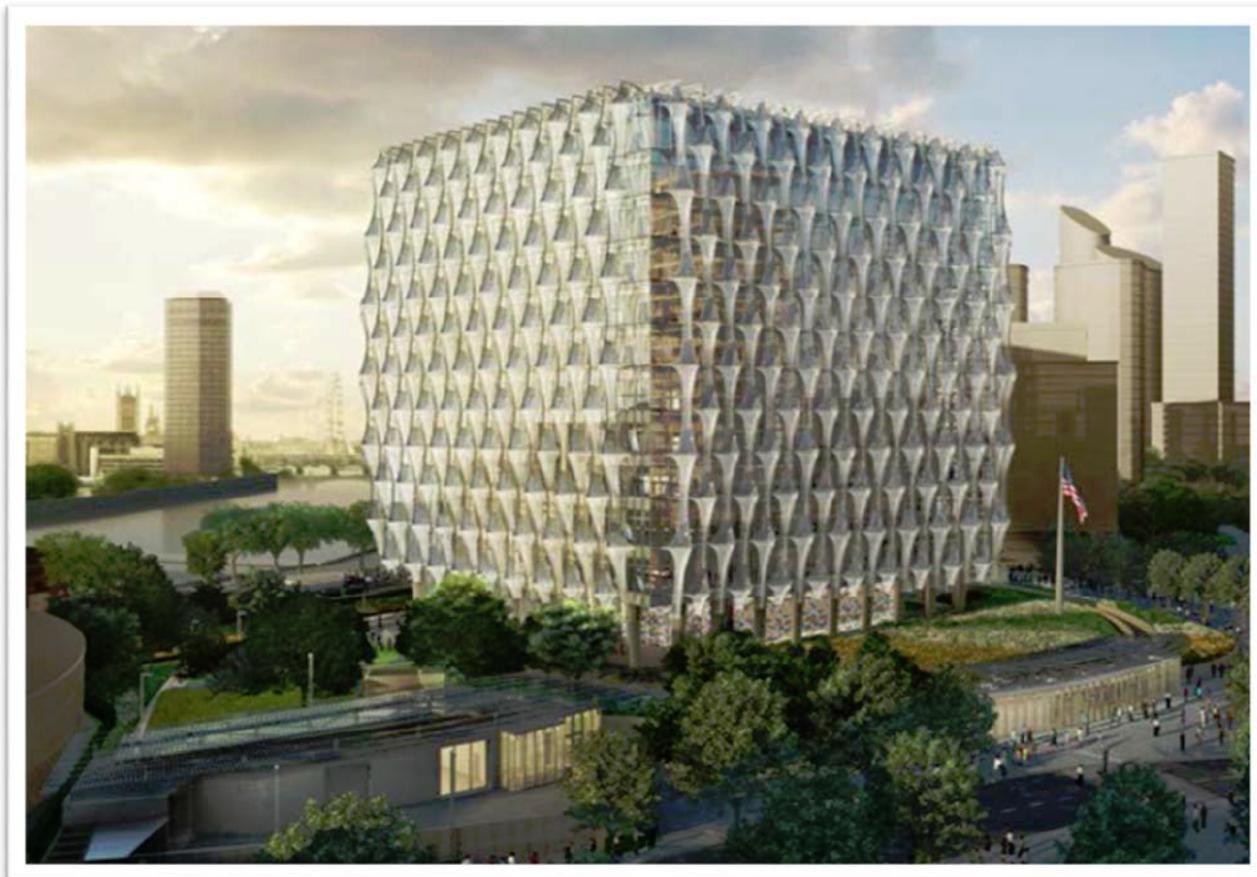
<sup>251</sup> OIG OBO Inspection Rep. at 5.

<sup>252</sup> *Id.*

## THE DEPARTMENT DOES A POOR JOB OF MANAGING RISKS OVERSEAS: CASE STUDIES

**FINDING:** As a result of the Department’s new system of constructing facilities, our diplomats are forced to remain in outdated and less secure facilities for longer than is necessary.

### A. London



Source: U.S. Dep’t of State OIG<sup>253</sup>

The budget for our NEC in London is more than \$1 billion, making the NEC “among the most expensive embassies ever built” by the Department.<sup>254</sup> In fact, the London NEC is budgeted to cost more than \$1.57 million per desk;<sup>255</sup> that is, the cost for each space for an

<sup>253</sup> U.S. Dep’t of State, Office of Inspector General, *Audit of the Construction Contract Award and Security Evaluation of the New Embassy Compound London* at 4 (July 2015) [hereinafter OIG London Rep.], available at <https://oig.state.gov/system/files/aud-cgi-15-31.pdf>.

<sup>254</sup> *Id.*

<sup>255</sup> London NEC PPR, Apr. 2016 (CDP-201500016-0002966) (showing 649 desks and a budget of \$1,023,655,000).

employee to conduct the U.S. government’s diplomatic work, as opposed to a local guard, gardener, or the like.

Documents and testimony show the London NEC is a project beset by dangerous shortcuts that were apparently brought about by an aggressive construction schedule. Those problems include: (i) beginning construction before properly certifying to Congress that the building will withstand an explosion; (ii) having uncleared foreign nationals on the site without being fully screened; (iii) procuring or fabricating materials for the classified space without following procedures to ensure that those materials are not subject to compromise by counterintelligence agencies; (iv) failing to properly secure communications cables during construction; (v) improperly permitting foreign nationals to participate in construction of the classified space; and (vi) failing to ensure that there is a guard posted at one of the entrances to the classified space.<sup>256</sup> Even with these shortcuts, delivery of the London NEC may be delayed, potentially costing the government additional money.

## 1. Background of the London NEC

The United States needs a new facility in London. The current U.S. Embassy in London was built in 1960, and does not meet current security and building standards for embassies and consulates.<sup>257</sup> Rather than undertake a more than \$500 million renovation that would still not meet all of the relevant standards, the Department decided in 2006 to construct a new embassy.<sup>258</sup> In a fact sheet accompanying the new embassy’s ground breaking, the Department declared that “[t]he new U.S. Embassy will enhance the urban fabric of London and demonstrate exceptional American architecture, technology, and sustainability.”<sup>259</sup>

The current embassy in London has inadequate setback from the public area in Grosvenor Square, as well as the road next to the facility:

---

<sup>256</sup> Memorandum from Helen V. Jones and John Hall, Security Management, Bureau of Overseas Buildings Operations, U.S. Dep’t of State, to Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep’t of State (Apr. 29, 2016), Attachment to Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, and Hon. Ron DeSantis, Chairman, Subcomm. on National Security, H. Comm. on Oversight & Gov’t Reform, to Hon. John F. Kerry, Sec’y, U.S. Dep’t of State (June 9, 2016) [hereinafter OBO SM London Mem.].

<sup>257</sup> OIG London Rep. at 4.

<sup>258</sup> *Id.*; see also Briefing by U.S. Dep’t of State to H. Comm. on Oversight & Gov’t Reform staff on New London Embassy (Aug. 7, 2015) (noting that the renovation cost “was estimated to cost approximately \$550 million”); *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep’t of State); U.S. Dep’t of State, Bureau of Overseas Buildings Operations, *U.S. Embassy London, United Kingdom Ground Breaking Fact Sheet*, Nov. 2013, available at [http://overseasbuildings.state.gov/sites/admin-overseasbuildings.state.gov/files/pdfs/london\\_508.pdf](http://overseasbuildings.state.gov/sites/admin-overseasbuildings.state.gov/files/pdfs/london_508.pdf).

<sup>259</sup> U.S. Dep’t of State, Bureau of Overseas Buildings Operations, *U.S. Embassy London, United Kingdom Ground Breaking Fact Sheet*, Nov. 2013, available at [http://overseasbuildings.state.gov/sites/admin-overseasbuildings.state.gov/files/pdfs/london\\_508.pdf](http://overseasbuildings.state.gov/sites/admin-overseasbuildings.state.gov/files/pdfs/london_508.pdf).



Source: House Committee on Oversight and Government Reform Staff



Source: House Committee on Oversight and Government Reform Staff



Source: House Committee on Oversight and Government Reform Staff

The construction of the London NEC, like any diplomatic facility constructed abroad, is governed by three interdependent sets of procedures. The first is the *Foreign Affairs Handbook*, the second is that facility's construction security plan (CSP), and the third is the set of standard operating procedures (SOPs) implementing the CSP for that site.<sup>260</sup> The relevant portion of the *Foreign Affairs Handbook*, known as 12 FAH-6, governs in the hierarchy<sup>261</sup> and is incorporated in a project's CSP:

Q And is 12 FAH[-]6 binding?

A Is 12 FAH[-]6 binding?

Q Yes, are you required to follow it as a site security manager?

A Yes. And the CSP should incorporate[] those aspects of the 12 FAH[-]6. . . .

Q The CSP incorporates the 12 FAH[-]6 requirements?

A Yes.<sup>262</sup>

---

<sup>260</sup> Ashbery Tr. at 82-83 (describing each document's role).

<sup>261</sup> Jones Tr. at 38-39 ("Q Okay. In that hierarchy, hierarchy's maybe not the right word, but in that group of three documents, the CSP the SOP, and the Foreign Affairs Handbook, which one governs? A The 12 FAH[-]6.")

<sup>262</sup> H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Raymond Bassi at 62 (Sept. 15, 2016) [hereinafter Bassi Tr.].

The requirements of 12 FAH-6 remain static, but the CSP and the SOPs are generally unique to each site, depending on that site's threat level for terrorism and espionage.<sup>263</sup> The CSP and SOPs may change over the course of the project.<sup>264</sup> The CSP also provides the basis for the Department's certification to Congress that a particular project will be safe and secure.<sup>265</sup>

In addition to the site team's security failures discussed below, there remain questions about the testing of the curtain wall façade of the building. With respect to curtain walls, OBO Director Muniz testified: "Glass curtain walls are non[-]load bearing exterior walls that typically provide for large, unobstructed spans of glass across multiple floors."<sup>266</sup> As one of the Department's blast experts testified: "It's called curtain wall because it basically hangs off the building. It is supported at each floor by a mechanical system that holds the thing up and off and away from the building."<sup>267</sup> Although curtain wall systems are commonly used in commercial buildings, they have not often been used at U.S. diplomatic facilities abroad, which have higher security standards, because "[c]ommercial buildings typically don't try to preclude being shot at by high-powered rifles and attacked by mobs."<sup>268</sup> A former construction executive for the Jakarta NEC—another facility using a glass curtain wall system—testified that the use of such systems in diplomatic facilities abroad is "very, very unique."<sup>269</sup>

This diagram shows some detail of the London NEC curtain wall:

---

<sup>263</sup> H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Bruce Cotterman at 19 (Aug. 18, 2016) [hereinafter Cotterman Tr.] ("Q Okay. Let's talk about the construction security plan, or CSP at London. How was the London CSP similar to others that are drawn up and used by our office or drawn up and applied by your office? A They're similar because of the threat level. The—our CSPs are developed based on the technical threat level of the post."); Ashbery Tr. at 78 ("Q What are standard operating procedures? A Standard operating procedures would be a set of procedures that are a mechanism for implementing a construction security plan.").

<sup>264</sup> Jones Tr. at 18-19 (describing a change to the London CSP); H. Comm. on Oversight & Gov't Reform, Transcribed Interview of John Hall at 71 (June 26, 2016) (noting the London SOPs have not changed). According to the London site security manager, however, the CSP "remain[s] static over the life of the project." Bassi Tr. at 61 ("Q So does the CSP[] remain static over the life of the project? A Yes. Q It does? A CSP is static.").

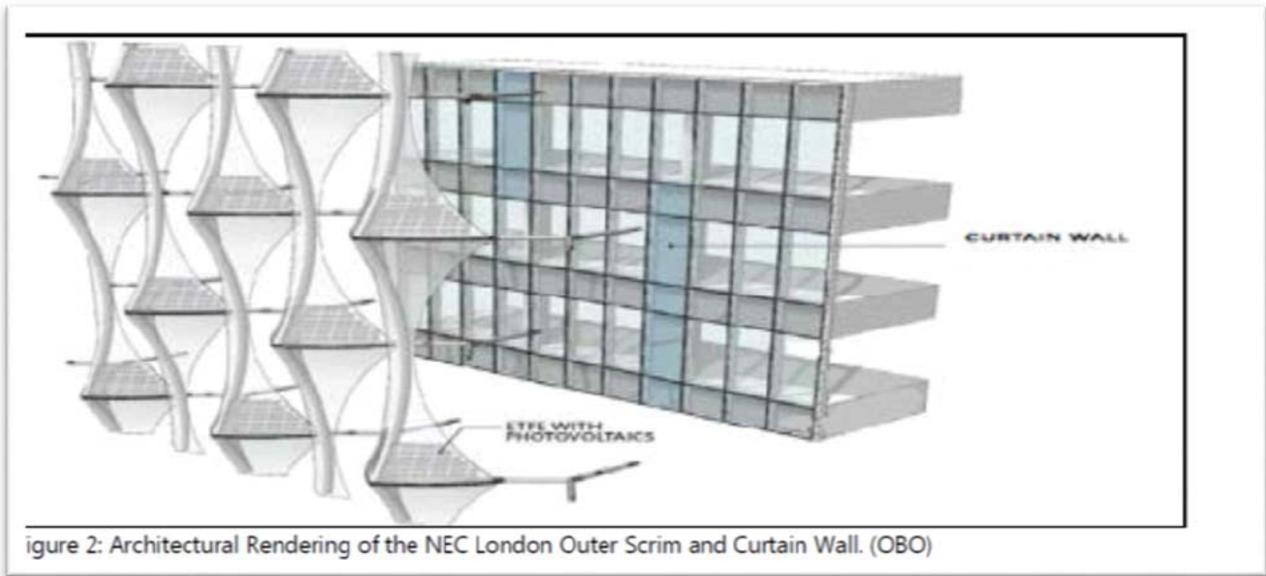
<sup>265</sup> Bassi Tr. at 62 ("Q Does the CSP provide the basis for the Department certification to Congress about a particular facility? A Yes. I believe it is included in the package."), 110-11 ("Q I want to go back to the [CSP] so that I have a very clear understanding of what it is. So I think earlier today it was discussed that the [CSP] forms the basis for the certification to Congress. A Uh huh. Q And is the [CSP] related to the contract at the embassy? A It's part of the certification package to Congress in which the State Department certifies to Congress they will build an embassy according to Public Law 101 and they will build it in secure certain ways, et cetera, et cetera. And as part of that is the construction security plan which outlines the steps that will be taken to do that construction.").

<sup>266</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep't of State).

<sup>267</sup> Norris Tr. at 29.

<sup>268</sup> *Id.* at 21.

<sup>269</sup> H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Susan Patton at 102 [hereinafter Patton Tr.] ("A This is an 11-story office building with a glass curtain wall, which is incredibly typical. . . . Except for U.S. Government standard security standards, which are the same on our buildings. So that's what makes—that's what makes State Department buildings unique is the security requirements. They're unique—no matter what we build, those standards apply. So that's very, very unique.").



Source: U.S. Dep't of State OIG<sup>270</sup>

## 2. It is Unlikely the Department will Take Delivery of the London NEC by the Time Required in the Contract to Vacate the Current Facility

**FINDING:** More than three-and-a-half years after beginning construction, security-related issues have jeopardized the on-time delivery of the London NEC, potentially exposing the government to millions of dollars in additional costs above the \$1.023 billion budgeted for the facility, which is one of the most expensive facilities ever constructed by the Department.

**FINDING:** The Department agreed to move out of its current embassy by February 28, 2017. As part of that agreement, the Department agreed to pay rent to the new owner of approximately \$22 million for an additional six-month lease term (or more than \$3.6 million per month). It is unknown when the Department will fully move out of its current embassy in London.

The Department faces significant penalties should it fail to vacate the current facility by February 2017. Nevertheless, it appears the ongoing security issues discussed below will delay the Department's move into the new facility.

<sup>270</sup> OIG London Rep. at 5.

The Department used the proceeds from the sale of the current embassy property and other properties in London to fund the London NEC. The Department sold the current chancery building to a group of Qatari investors, and “at the closing for the sale of the Chancery, State prepaid a 3 ½ year lease for the [current embassy’s] Chancery for approximately \$33 million.”<sup>271</sup> That lease period “covers the Department’s leaseback of the Chancery through February 28, 2017,” and “[i]f the Department does not vacate the Chancery by that date, further rents will be due (that is, approximately \$22 million for a 6-month extension).”<sup>272</sup>

The financial penalties for the Department are high if it fails to meet the construction schedule. Further, Congress remains concerned about the costs of the London NEC such that it placed a provision in the FY 2016 Omnibus bill prohibiting the use of appropriated funds for the London NEC.<sup>273</sup>

The Deputy Assistant Secretary for Countermeasures in DS, Wayne Ashbery, testified he does not believe the Department will move into the facility by February 2017. He testified:

Q Is it unlikely that the building will be occupied by February?

A In my opinion, yes, it is unlikely.<sup>274</sup>

When asked about some security-related issues, and whether “the resolution of th[em] might impact the schedule for delivery of the embassy,” he testified “I believe it may, yes.”<sup>275</sup> He based this understanding on the fact that DS’s final accreditation inspection—the inspection before a diplomatic facility is cleared for occupancy<sup>276</sup>—was initially scheduled for November 2016. Now, however, it is not scheduled because DS is still ascertaining the extent of several security-related issues discussed below. Regarding the final accreditation inspection, the Deputy Assistant Secretary Ashbery told the Committee:

Q When is the final accreditation inspection scheduled for?

A At this point in time, we have not scheduled it.

---

<sup>271</sup> *Id.* at 15.

<sup>272</sup> *Id.* The OIG’s report recognized that, “[s]hould the contractor require a full 44 months to attain substantial completion, performance would continue into February 2017,” and as a result, “[a]ny extensions past this November 2016 deadline would force OBO to extend the lease for the current embassy Chancery building, which would cost additional money.” *Id.* at 16.

<sup>273</sup> Consolidated Appropriations Act, 2016, Pub. L. No. 114-113 § 7004(e)(1), 129 Stat. 2241, 2734 (2015) (“None of the funds appropriated under the heading ‘Embassy Security, Construction, and Maintenance’ in this Act and prior Acts making appropriations for the Department of State, foreign operations, and related programs, made available through Federal agency Capital Security Cost Sharing contributions and reimbursements, or generated from the proceeds of real property sales, other than from real property sales located in London, United Kingdom, may be made available for site acquisition and mitigation, planning, design, or construction of the New London Embassy . . .”).

<sup>274</sup> Ashbery Tr. at 158.

<sup>275</sup> *Id.* at 157.

<sup>276</sup> *Id.* at 81 (describing the final accreditation, also known as phase three, inspection: “Phase three is at the completion of the project. At that point the project is substantially complete, there may still be punch list items. But it is making the determination that we feel the security is adequate for occupancy of the building.”).

Q Has it been previously scheduled?

A Yes.

Q When was it originally scheduled?

A I was going to say it was originally scheduled to be in the November [2016] time frame.

Q But that's not going to happen?

A That will not happen.

Q Do you have any guess on when it might happen?

A Not at this time. I would choose not to form an opinion on that until we have resolved the materials issues and know the full extent and scope of them.

Q So you're still learning the extent and scope of the materials issues?

A I was going to say we still have an ongoing review of the materials issues associated with that project to ensure that at the end of the project we can confirm the integrity of that project, yes.<sup>277</sup>

A typical new construction project has three or four accreditation inspections at various intervals in the construction process, called phase one,<sup>278</sup> phase two,<sup>279</sup> and phase three or final accreditation.<sup>280</sup> The London NEC has already had three visits for phase two alone, with at least one more phase two visit contemplated. As Deputy Assistant Secretary Ashbery testified:

---

<sup>277</sup> *Id.* at 157-58; *see also id.* at 114 (“Q Is the issue about the fabricated materials of concern to you at this point? A Yes. Q So I’m sorry, let me rephrase the question. The issue that was identified in this bullet, which continues, ‘Materials are specifically fabricated locally for the London project and sent to site for random selection or inspection. REMEDY: SM will notify DS of the deviation to Division 1 section 01141, 3.11 A. and will request the appropriate mitigation,’ to your knowledge, has that issue been addressed or resolved? A I was going to say, not in its entirety. Q Do you have any reason to believe that this issue will not be fully addressed and resolved? A I have no reason at all to believe it will not be resolved. I am confident that we will resolve it. But it is not yet resolved.”).

<sup>278</sup> *Id.* at 80 (“Phase one, it occurs very early in the construction progress, generally before any of the building structures have been erected.”).

<sup>279</sup> *Id.* at 80-81 (“[P]hase two is midway between the construction project, it is generally when the sensitive portions of the building are under construction but have not been closed in so that the building systems are accessible and visible. It allows us to look at a lot of the detail work that we need to understand that may be hidden during the final construction.”).

<sup>280</sup> *Id.* at 79 (“Q Can you describe your accreditation process? A Sure. At multiple times during the course of a construction project we send a team of security experts out to review the current status of the construction project and construction program to ensure that the work that is being done is being done in compliance with public law, [OSP] standards and construction security plan. Q How many times does it occur on a typical project? A On a typical project, it will occur three times— . . . . With time, that has evolved slightly to where it oftentimes actually involves four visits.”).

Q How many phase two visits are there typically, is there just one— . . .

A I was going to say, that typically there will be just one. On larger projects, we do more than one.

Q What's the highest number of phase two accreditation visits you're aware of?

A Three or four.

\* \* \*

Q How many has London had?

A At this point, London we've had accreditation teams out there three times as part of phase two.

Q Any further accreditation visits contemplated?

A Yes.

Q When?

A That will be dependent on powers of construction and remediation of some of the issues that are identified.

Q And to be clear these remain phase two?

A Yes, they would not be part of the final accreditation.

Q So London will have at least four phase two accreditations?

A Yes, it will.

Q Any chance it is more than four?

A Depending on the findings of the next team.

Q So the accreditation for the London facility is still up in the air, so to speak. Is that a fair statement?

A It is still in process, yes.<sup>281</sup>

Deputy Assistant Secretary Ashbery's testimony demonstrates that, rather than undergo final accreditation of the facility in November 2016 as originally contemplated for the required February 2017 move-in, the London NEC does not even have its final phase two inspection scheduled, let alone its final accreditation inspection. In fact, the issue of "trying to mitigate"

---

<sup>281</sup> *Id.* at 85-86.

improperly procured materials is “ongoing” as of mid-October 2016.<sup>282</sup> As a result, Deputy Assistant Secretary Ashbery agreed “it [is] unlikely that the building will be occupied by February” 2017, as contemplated by the agreement with the new owners of the current London embassy property in Grosvenor Square.

### 3. Security Failures by Onsite Management Have Been Approved by the OBO and DS Front Offices

**FINDING:** The London NEC project director and site security manager’s ad hoc approach to security is a vulnerability for the facility as the site team is failing to adhere to even basic elements of site security.

**FINDING:** Time pressures associated with required occupancy of the London NEC are likely driving OBO and DS management’s view of these failures, resulting in cutting corners to build an insecure facility.

According to the Department, “the current terrorist threat level for transnational terrorism is rated ‘severe’ throughout the UK. The Department rates London as being at a ‘high’ threat for terrorism . . . .”<sup>283</sup> In addition to the counter-terrorism threat, the counterintelligence threat in London is not insignificant.<sup>284</sup>

Despite the cost and the years-long congressional scrutiny of the London NEC project,<sup>285</sup> there remain issues with the onsite project team’s adherence to security requirements. A regularly scheduled construction security review found the project team onsite was failing in five key elements:<sup>286</sup>

- Failure to screen uncleared foreign nationals onsite;
- Failure to properly procure materials for the NEC’s classified space;

<sup>282</sup> *Id.* at 156 (“Q This procurement fabrication issue is ongoing today; is that correct? Trying to fix it, mitigate it? A Yes, trying to mitigate it is ongoing today, yes.”).

<sup>283</sup> U.S. Dep’t of State, Overseas Security Advisory Council, *The Terrorism Threat in the United Kingdom* (June 13, 2016), available at <https://www.osac.gov/Pages/ContentReportDetails.aspx?cid=19863>.

<sup>284</sup> Richard Norton-Taylor, *Russian spies in UK ‘at cold war levels’, says MI5*, THE GUARDIAN (June 29, 2010, 5:24 PM), available at <https://www.theguardian.com/world/2010/jun/29/russian-spies-cold-war-levels> (“The number of Russian intelligence officers in London is at the same level as in Soviet times”, MI5 says on its website. It does not say how many there are but counter-intelligence officers have told the Guardian that 30 agents are operating out of the Russian embassy and trade mission in London.”).

<sup>285</sup> The London NEC was discussed extensively during the Committee’s first hearing on this issue in July 2014. *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 113th Cong. (July 10, 2014). The Committee held a hearing specific to the London NEC in December 2015. *Review of the New London Embassy Project*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 114th Cong. (Dec. 8, 2015).

<sup>286</sup> OBO SM London Mem.

- Failure to secure communications cables;
- Failure to properly partition the construction area in the classified space; and
- Failure to ensure that a cleared American guard is posted at one of the entry points of the classified space.<sup>287</sup>

These issues were raised within OBO and DS following a March/April 2016 inspection (the 2016 Inspection) of the London NEC by OBO’s Security Management branch, the office charged with “ensur[ing] that the security guidelines are being adhered to at sites and ensuring that the SSM [site security manger] is implementing them.”<sup>288</sup> Deputy Assistant Secretary Ashbery testified Security Management “[a]bsolutely” “has a role to play in the construction of new facilities.”<sup>289</sup>

That 2016 Inspection trip report was memorialized in a memorandum<sup>290</sup> that “is designed to keep the director of OBO in the loop,” highlighting “issues the director needs to be aware of.”<sup>291</sup> Security Management is responsible for these inspections “because these projects are so complex and they do need a series of eyes on them.”<sup>292</sup> With respect to the 2016 Inspection, Deputy Assistant Secretary Ashbery testified that, because of the severity of the issues uncovered in the inspection, “[t]here were many discussions going on about this topic at the time” following the issuance of the trip report.<sup>293</sup>

#### *a. Failure to Screen Uncleared Foreign Nationals Onsite*

The 2016 Inspection revealed that “uncleared foreign nationals are still not being screened before accessing the site,” and “[t]here are currently seven OBO . . . personnel without a [security] clearance that are not being screened.”<sup>294</sup> The London CSP, SOPs, and 12 FAH-6

---

<sup>287</sup> OBO SM London Mem.

<sup>288</sup> Jones Tr. at 52; Capone Tr. at 28 (noting with respect to security management’s role with the CSP: “Q So they make it, they oversee it, and they implement it? A Yes.”); Bassi Tr. at 54-55 (“[A]ll elements of the construction security come from OBO. The funding, the resource requests, the construction security plans are written by the desk officers at the contract stage or the initiation of the project. And at the same time DS approves those plans to see that they conform with the accreditation side of the house.”).

<sup>289</sup> Ashbery Tr. at 78 (“Q Do you think security management has a role to play in the construction of new facilities? A Absolutely. Q You wouldn’t call them irrelevant? A Not at all.”).

<sup>290</sup> OBO SM London Mem.

<sup>291</sup> Bassi Tr. at 104-05 (“Q . . . I see here that this is an information memorandum. Can you explain for us just very briefly what an information memorandum is? A These memorandums are designed to keep the director of OBO in the loop. They’re loop memos is what they are. Each reporting officer and SM—OBO/SM [Security Management] has them come out, try to make it to a site four times a year. I instituted that when I was there. They weren’t going out enough. So the fact that I see [a named Security Management desk officer] at least four times a year is because I instituted that. And it’s really necessary because these projects are so complex and they do need a series of eyes on them, that this report is basically the highlights of issues the director needs to be aware of. And that’s what that is. It’s a snapshot of current issues for [Director Muniz] or whoever is in her position.”).

<sup>292</sup> *Id.* at 104-05.

<sup>293</sup> Ashbery Tr. at 84-85 (“Q Sir, when did you become aware of this memo? A Sometime in May 2016. Q Not long after it was issued? A Several weeks after it was drafted, but not long. Q How did you become aware of it? A I believe it was provided to me by OBO management. Q Do you recall who? A I don’t. It may also have been provided by my staff. There were many discussions going on about this topic at the time.”).

<sup>294</sup> OBO SM London Mem. at 1.

require screening of any person who does not possess a U.S.-issued security clearance, including passing a walk-through metal detector and an x-ray of the person's bags, before entering the site.<sup>295</sup> Despite attention from within the Department and scrutiny from this Committee, the site team still refuses to screen these seven people. As the site security manager testified:

Q . . . This screening issue has been raised several times since April of 2014. I understand there was disagreement. Are you screening these seven people today?

A No.<sup>296</sup>

OBO and DS staff onsite—particularly the project director and the site security manager—are permitting foreign nationals employed as locally engaged staff on the site without use of the walk through metal detector or the x-ray machine.<sup>297</sup> This violates the policies governing security of the London NEC site, including SOPs and the *Foreign Affairs Handbook*. The OBO Security Management inspector testified:

Q Is that a requirement?

A Yes.

Q Under the CSP?

A Under the SOP. The CSP does require that people be screened. The SOP further details the requirement.

Q SOP being standard operating procedure?

A Yes, sir.

Q And that's written down somewhere?

A Yes, sir.<sup>298</sup>

Another witness, from DS, stated:

Q Okay. What does this mean in laymen's terms?

A This means that the OBO staff at the project site are not getting screened when they come onto the overall construction site.

---

<sup>295</sup> Cotterman Tr. at 23 (“Q What are the requirements for screening personnel onsite? A Our requirements for screening are anyone without a U.S. Government-issued security clearance to be properly screened, which entails [specific screening methods redacted]. That is our standard screening package.”), 24-25 (noting this procedure is required by 12 FAH[-]6, the London CSP, and SOPs).

<sup>296</sup> Bassi Tr. at 115.

<sup>297</sup> *Id.* at 69-70 (naming and describing the roles of these locally employed staff).

<sup>298</sup> Jones Tr. at 20.

Q Is that in violation of the CSP?

A Yes.

Q Is that in violation of 12 FAH[-]6?

A Yes.<sup>299</sup>

It is also not a difficult policy to enforce; OBO sent a survey to “26 or 27” active projects to confirm that each project was implementing this requirement, and each of them was.<sup>300</sup> In fact, “because it’s in 12 FAH-6, . . . this is a requirement in every CSP,” according to one witness.<sup>301</sup>

In fact, the Director in OBO’s Office of Security Management made the point that enforcing the requirement is not difficult. In an August 2015 email discussing the survey sent to the other projects, she wrote in an email to the site security manager that he is “the embodiment of SM’s [Security Management’s] policies and procedures for London. You should set the example, rather than modify the procedures, especially when all eyes are on London.”<sup>302</sup> She also wrote:

It would not be a best practice to use the SOPs as suggestions and let the SSMs interpret them as they see fit. We can continue to debate the pros and cons, and authorities, but that isn’t in anyone’s best interest and is becoming a detriment to security and professional relationships with more debate. No one will benefit.<sup>303</sup>

The 2016 Inspection is not the first time uncleared foreign nationals were permitted onsite in London without full screening. In fact, the issue goes back more than two years and has been the subject of several previous inspection reports.<sup>304</sup> The trip report identifies this as an

---

<sup>299</sup> H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of Stanley Heisey at 30 (July 26, 2016) [hereinafter Heisey Tr.].

<sup>300</sup> Cotterman Tr. at 45 (“Q Have you seen this problem anywhere else? A We’ve had lapses along these lines as far as screening, but they were immediately corrected. Once we find out, we correct them immediately. We have—at the time of this particular incident . . . I believe it’s—at the time was . . . 26 or 27 other OBO projects underway that were in full compliance with this requirement. London was the only exception.”); Jones Tr. at 87 (“Well, the division chief said it’s not happening; we’re not going to lessen our requirement for just London when all other 27 other sites are in compliance.”).

<sup>301</sup> Cotterman Tr. at 46 (“Q And because it’s in 12 FAH-6, I assume that this is a requirement in every CSP, correct? A That is correct.”). Indeed, the project director for the Jakarta NEC—a location with higher terrorism rating than London—testified *every* employee goes through the screening. Capone Tr. at 26. When asked why, he testified “it’s just easier. Everyone just follows the same procedures, and there’s just no questions,” though he recognized “every site security manager has his own little quirks as to how he operates, and he may or may not do that.” *Id.* at 26-27. The Jakarta NEC project director unequivocally testified that it is “a part of the [CSP] that that screening take place.” *Id.* at 27.

<sup>302</sup> Email from Celia Moorhead, Director, Office of Security Management, Bureau of Overseas Buildings Operations, U.S. Dep’t of State, to Raymond Bassi, London NEC Site Security Manager, U.S. Dep’t of State (Aug. 10, 2015, 5:22 PM) (CDP-2016-00020-0000315).

<sup>303</sup> *Id.*

<sup>304</sup> OBO SM London Mem. at 1; Jones Tr. at 22 (“Q Further up in that bullet you write, ‘This was identified as an issue in April 2014.’ A Yes.”).

issue in April 2014, and March 2015, in addition to April 2016.<sup>305</sup> In the instances before April 2016, eight members of the project director and site security manager's team were not properly screened.<sup>306</sup> By March 2016, it was down to seven uncleared, unscreened local employees.<sup>307</sup> When asked about the identities of these unscreened personnel, the site security manager could name the ones who were the subject of the current report, but he could not name those covered by previous reports. He testified:

Q How was it [the April 2016 Inspection] different on the March 27 report 2015?

A I don't know. I'd have to look at the office staffing pattern. People have come and gone. My investigator, [name redacted], is no longer there. He retired.

Q Okay.

A [Employee name redacted] is no longer there. She moved back to the United States. Her husband was an American officer in the embassy. That's it.

Q Now, I believe the [C]ommittee's been told that, in earlier iterations of this—of these reports, I think at one point, the number of these folks was up to nine.

A Possibly, yes.

Q Do you recall the names of those other two?

A No, I don't.<sup>308</sup>

The site security manager also could not state with precision how many people have been barred from working on the NEC site because of issues with the person's background. He believes it is more than five people but was unable to provide any details and deferred to his deputy. He testified:

Q Let's focus on that piece of it. How many—when a check has come back, how many folks have you restricted from the site?

A I'd have to go to the files to check.

Q More than five?

A Yes. I believe so.

---

<sup>305</sup> OBO SM London Mem. at 1.

<sup>306</sup> Jones Tr. at 22.

<sup>307</sup> *Id.*

<sup>308</sup> Bassi Tr. at 70-71.

Q More than twenty?

A I'd have to check.

Q You can't give me any sort of ballpark other than more than five?

A I'd have to go to the files and check.

Q What kind of things came back in the checks?

A I'd have to review the files.<sup>309</sup>

Vulnerabilities exist by virtue of the failure to screen all individuals entering the site, particularly those who have not been vetted to the level of a U.S. security clearance. One of the inspectors agreed that she was concerned about these vulnerabilities. She stated:

Q Are you concerned about this?

A Yes.

Q Why are you concerned about this?

A Because it's a vulnerability.

Q Describe how.

A These people have access to workers who come within that office daily. And their bags aren't being screened. So we don't know what's within those bags.<sup>310</sup>

Another witness, with nearly 29 years of construction security experience at the Department,<sup>311</sup> elaborated on the vetting deficiencies. He stated:

Q What are your concerns?

A My concern is that it's a—presents a vulnerability to our security program for that particular project. There are multitudes of concerns that if we actually got into—would be considered classified. We have counterintelligence concerns. We have human interest concerns. Our concerns are that persons without a U.S. Government security clearance,

---

<sup>309</sup> *Id.* 82; *see also id.* at 84 (“A I can easily answer the question by collecting numbers, but my deputy handles the direct investigative program.”).

<sup>310</sup> Jones Tr. at 23.

<sup>311</sup> Cotterman Tr. at 49-50 (“Q And do you have any other specific experience in security? A My security experience has come with nearly 29 years with the Department of State.”), 138-39 (“Q Do you consider yourself an expert on security? A I do. Q How long have you worked in the field of security? A Coming up on 29 years. Q And that's all been more or less in construction security, right? A Correct. Q And the construction security that we're talking about is securing facilities as they're being built? A Correct. Q To avoid intrusion into those facilities? A Yes.”).

particularly in this case, the locally engaged staff that are not being screened present a hostile intel vulnerability. We—myself specifically think that these individuals would and could be considered soft targets and approachable to possibly do us harm.

\* \* \*

Q Okay. And without getting into classified information, the concern is that they could introduce contraband into the site?

A That is correct.<sup>312</sup>

A DS employee indicated that, without screening, an individual could introduce contraband to the site:

Q If someone were to enter unscreened without clearance would they be able to introduce contraband into the site?

A To the site, yes.<sup>313</sup>

He also testified:

Q Okay. So the potential threat is the introduction of a device for espionage purposes?

A Yes.<sup>314</sup>

As a result, the inspection team recommended to the site team screen that all those entering the site who do not have a U.S. security clearance should undergo screening, as required by the SOPs and the *Foreign Affairs Handbook*.<sup>315</sup>

These uncleared foreign nationals are assistants and other individuals who work for the project director and site security manager on the NEC site.<sup>316</sup> Given the layout of the London NEC site, these unscreened foreign nationals are not limited to the offices:

---

<sup>312</sup> Cotterman Tr. at 28-29; Jones Tr. at 83 (“[W]e don’t know what’s in their bags, we don’t know what they’re bringing on, we don’t know if there’s cameras, we don’t know if there’s knives, we don’t know if there’s things to be implemented within the building to pass off to a worker that they engage with during the day.”).

<sup>313</sup> Heisey Tr. at 33.

<sup>314</sup> *Id.* at 45.

<sup>315</sup> OBO SM London Mem. at 1 (“SSM to enforce the SOP and FAH [*Foreign Affairs Handbook*] and conduct screening of all local workers to include LES [Locally Employed Staff] staff through the Walk through Metal Detector (WTMD) and materials screened through the x-ray as previously reported.”).

<sup>316</sup> Jones Tr. at 21-22 (“Q Can you list out the names and positions for each of these seven people? A No, I just know that there’s seven. Q You don’t know their positions? A The assistants, and I don’t know their exact positions for the other ones. There are at least two assistants. Three assistants, actually. Q But each of these seven people work for the [project director’s] office or the site security manager’s office. A Yes. In some capacity. Yes, sir.”).

Q Are there any obstructions between that office and the site?

A No. There's a walkway as you come out of the ACF [access control facility, where the metal detector and x-ray machine are located] that you can either go right onto the site or you can go into the office.

Q And is there a guard or any sort of other mechanism to keep them from walking onto the site instead of turning left into the building?

A Not that I remember.<sup>317</sup>

Committee staff visited the London site, and there are no barriers between the OBO offices and the rest of the construction site, although there is an additional security checkpoint at the entrance to the classified space.

Moreover, it would not take long to breach the site and inflict harm. Earlier this year, several adventurers breached the site in broad daylight, climbed several floors up the construction crane, and were off the site in “[l]ess than seven minutes.”<sup>318</sup> The post-incident damage assessment concluded “[t]here [was] nothing” in the way of harm to the facility,<sup>319</sup> but it demonstrates how quickly a breach can occur.

During a visit to the London NEC site, the project director and site security manager told Chairman Chaffetz they rejected the inspection team's recommendation that these uncleared foreign national employees should be screened.<sup>320</sup> The site team's reasoning hinges on the distinction that these foreign nationals have a “security certification,”<sup>321</sup> but not a security clearance,<sup>322</sup> as required by the *Foreign Affairs Handbook*. A security certification is an investigation by the RSO in London, including a credit check, criminal check, and reference check.<sup>323</sup> A “security certification” does not grant the holder access to classified information, however. A DS witness testified:

Q Can you explain the difference [between a security clearance and a “security certification”]?

---

<sup>317</sup> *Id.* at 101.

<sup>318</sup> Bassi Tr. at 33-35.

<sup>319</sup> *Id.* at 114.

<sup>320</sup> U.S. Dep't of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform, London NEC (June 12, 2016); *see also* Jones Tr. at 23-24 (“Q What was their reaction? A They weren't interested in doing this. Q Were not interested? A No.”). The witness testified the site security manager “just said he wasn't doing it.” *Id.* at 24.

<sup>321</sup> One witness described the difference between a security clearance and a security certification as follows: “I can only explain that a security clearance means that you actually have access or would be authorized access to classified information; where a security certificate does not give you actual authorization to get classified information.” Heisey Tr. at 34.

<sup>322</sup> U.S. Dep't of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform, London NEC (June 12, 2016).

<sup>323</sup> Jones Tr. at 80-81 (describing the process for a security certification); Bassi Tr. at 51 (noting the regional security officer concurred in this approach), 86-87 (describing the regional security officer's approach to screening these people).

A I can only explain that a security clearance means that you actually have access or would be authorized access to classified information; where a security certificate does not give you actual authorization to get classified information.<sup>324</sup>

Deputy Assistant Secretary Ashbery “emphatically” agreed that a security certification is not the equivalent of a security clearance, and that a security clearance is a specific term of art. He stated:

Q In your mind is there any difference between a security certification and a security clearance?

A There is absolutely a difference, yes.

Q What is the difference?

A I was going to say, a security clearance is what is given to American personnel that allows them access to classified information.

Q So you wouldn’t say these [unscreened] people have a security clearance, they just have a—

A They do not have a security clearance. I would emphatically say they do not.

Q So if 12 FAH[-]6 used the term security clearance, it’s a term of art, isn’t it?

A A security clearance refers to something very specific.

Q An ability to receive and access classified information?

A Yes.<sup>325</sup>

The site team interprets the CSP, the SOPs, and the *Foreign Affairs Handbook* as requiring screening only for “construction workers,” and not locally employed staff with a security certification.<sup>326</sup> The London site security manager affirmed that “according to [DS], 12 FAH[-]6 only applied to construction workers,” and with respect to “office workers, 12 FAH[-]6 wouldn’t apply to these seven local employed staff.”<sup>327</sup> Members of the team charged with

---

<sup>324</sup> Heisey Tr. at 34.

<sup>325</sup> Ashbery Tr. at 101.

<sup>326</sup> U.S. Dep’t of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, London NEC (June 12, 2016); Bassi Tr. at 68 (calling the inspection team’s report on this issue “inaccurate,” because “it is not a violation of 12 FAH and it[’]s an issue that was already determined by DS to be a non[-]issue. So it’s inaccurate to say it is a violation of 12 FAH, it is not”), 77 (“as far as FAM [*Foreign Affairs Manual*] and FAH [*Foreign Affairs Handbook*], from what I can see, it’s for construction workers”).

<sup>327</sup> Bassi Tr. at 95 (“Q So according to Diplomatic Security, 12 FAH[-]6 only applied to construction workers, correct? And so therefore its office workers, 12 FAH[-]6 wouldn’t apply to these seven local employed staff. Is that

inspecting the London NEC for compliance with the construction security directives said, however, the presence of a “security certification” did not change their analysis that this violated the SOPs and the *Foreign Affairs Handbook*. A DS inspection team witness stated:

Q They had security certifications, though. Correct?

A Yes.

Q Okay. Was the security certification that they had sufficient in order to satisfy the requirement that allowed them not to go through the WTMD [Walk-Through Metal Detectors] or to have their baggage screened?

A Not based on my interpretation of the FAH.<sup>328</sup>

Deputy Assistant Secretary Ashbery testified, “the embassy employees that were working on the—in the OBO offices at the discretion of the site security manager, the RSO and in proxy the emergency action committee and the chief of mission could be permitted on site without physical screening.”<sup>329</sup>

When asked, Deputy Assistant Secretary Ashbery confirmed that with regard to implementing 12 FAH-6, as specified in a particular site’s CSP, and DS management, both OBO Security Management and DS are working toward the same goal of construction security. He stated:

Q Would you consider these folks [OBO Security Management team members] to be rogue employees?

A No, not at all.

Q They are just somebody that has a good faith disagreement on what the policy means?

A Yes.<sup>330</sup>

Testimony shows the site team did not take the inspection team’s criticism well. During discussions with the inspection team, the project director and site security manager yelled at the team, and the project director cursed at the inspector.<sup>331</sup> The site security manager called the screening requirement “stupid.” An OBO Security Management witness stated:

---

correct? So when— A Yes.”); 96 (“Q According to Diplomatic Security, there has been no violation of 12 FAH[-]6 with regards to the seven locally employed staff. A That’s correct.”).

<sup>328</sup> Heisey Tr. at 32; Jones Tr. at 37-38 (same); Cotterman Tr. at 70 (same).

<sup>329</sup> Ashbery Tr. at 105.

<sup>330</sup> *Id.* at 91.

<sup>331</sup> Jones Tr. at 31-32; *see also* Cotterman Tr. at 33 (discussing a “very pointed conference call” with the project director and the site security manager).

Q Okay. And have they expressed to you why they are not doing that?  
Have they ever stated to you a reason for why they are not doing that?

A [The site security manager] has expressed to me that it's stupid.<sup>332</sup>

Another witness told Committee staff in an interview that the site security manager did not require screening for these individuals because "it was a morale issue," and "the morale issues were related to the un-cleared locally engaged staff, that if we screen them—that they felt that they were above being screened is what it was essentially stated."<sup>333</sup> One of the Security Management inspectors said this issue was "always an argument" with the site team.<sup>334</sup>

The site security manager told the Committee these seven uncleared and unscreened people "are trusted employees who we have allowed to participate in the project on the inside."<sup>335</sup> If they were intent on doing damage, he testified, they could alter investigative files for people seeking to work on the embassy.<sup>336</sup> He stated:

So if we don't trust them, if we can't trust them to do their unclassified job, then, in my opinion, we shouldn't be hiring them. We shouldn't be using locals anywhere in the world, if that's the case.<sup>337</sup>

He also claimed x-ray screening would not serve a counterintelligence purpose,<sup>338</sup> although that contradicts his later testimony that he installed an additional x-ray machine onsite at a checkpoint before one enters the facility's classified space.<sup>339</sup> The site security manager's rationale, however well intentioned, is contrary to the requirements of the governing rules.

When this issue first arose, OBO and DS management discussed whether the standards should be changed for the London NEC to accommodate the London site team's ad hoc approach.<sup>340</sup> Those standards have not been changed, however, and it is within DS's purview to

---

<sup>332</sup> Jones Tr. at 84.

<sup>333</sup> Cotterman at 31-32.

<sup>334</sup> Jones Tr. at 32.

<sup>335</sup> Bassi Tr. at 150.

<sup>336</sup> *Id.* ("If he's a problem, he's not going to come in with one device and do something with it when he has access to 6,500 investigations that could be altered.")

<sup>337</sup> *Id.*; *see also id.* at 150-51 ("Q So what I'm hearing is, and it's uncomfortable to maybe put it in this way, but we've already entrusted them in a way that they could harm us much more significantly in other ways already? A Exactly. They could walk into the embassy every day and do something there, if that's the case. But, again, these people are screened to a level—again, it's environmental too. You look at who—what I made the analysis of it, I looked at we're in the U.K., what's their, you know, background, citizenship. Here we are, what's the environment, what's our relationship. There's a whole bunch of factors involved in that. And then you look at, okay, what's—what's the purpose? We have a cleared—I'm sorry. We have a local guard force that's a contract force doing the screening on the workers. So there's something that rubs me in the fact that I'm going to have a contract guard force screening a local worker who's been vetted at a level similar to an American worker in the embassy. And this contractor—who's going to screen the contractor?")

<sup>338</sup> *Id.* at 152-53 (calling it a "fallacy" if "somebody was expecting that that's [the metal detector and x-ray machine] where the chokepoint is for counterintelligence types of things").

<sup>339</sup> *Id.* at 154 ("That's why I installed the X ray at [another location on the site], with much argument from Washington saying what the—again, the book—the CSP did not call for it. I said, I'm not—I'm ignoring it. I'm going—you can't stop me from going above standards, so I'm going above standards. It's my call.")

<sup>340</sup> Heisey Tr. at 39-40.

change the *Foreign Affairs Handbook* if it believes the London site team's actions are consistent with the security of the site. A witness stated:

Q Okay. So it wouldn't surprise you that that very well could be the position of [DS], that they agree with the procedures going on at the London new embassy compound?

A No, it wouldn't surprise me that that was Mr. Ashbery's view in speaking with the new London Embassy on that specific issue; Mr. Ashbery's view, not DS's view.

Q So you think that Mr. Ashbery's view is different from DS's overall view on this issue?

A I can tell you that if that is Mr. Ashbery's overall opinion, that that is not what planning and policy within DS stated, who actually changes or gives interpretations to the 12 FAH[-]6.<sup>341</sup>

After OBO senior management suggested changing the standards, the OBO Security Management Division Chief refused to lower the standards when other facilities are in compliance with the screening requirement. An OBO Security Management inspector stated:

Q Okay. So they expressed that they believe the SOP should be changed to reflect the practices that were currently going on in London. What was the division chief and branch chief's response to that?

A Well, the division chief said it's not happening; we're not going to lessen our requirement for just London when all other—27 other sites are in compliance.<sup>342</sup>

During his transcribed interview, Deputy Assistant Ashbery stated that DS is working to change the *Foreign Affairs Handbook* to clarify DS's interpretation that screening applies only to construction workers, but there is no estimated time for completion of the revision. He testified:

Q You drew a distinction at workers?

A Yes.

Q Why?

A Because very specifically that is the intent of that standard. That standard is written very specifically to apply to the contractor's construction workers as they enter the construction site.

---

<sup>341</sup> Jones Tr. at 128-29; Bassi Tr. at 56-57 (noting DS has ownership of this area).

<sup>342</sup> Jones Tr. at 87; Bassi Tr. at 108 (noting an OBO managing director "asked them to rewrite the SOP to be reflective of the DS interpretation [regarding screening of uncleared foreign workers], and that wasn't carried out").

- Q So persons in an office are not considered workers?
- A That standard is not intended to apply to U.S. Government employees.
- Q That's not what I asked. Persons in offices are not considered workers?
- A Persons in offices that work for the contractors may be considered workers in the terms of how that standard is written.
- Q But if it has the definitional narrowness, to which you [a]scribe, why not [say] construction workers or contract employees?
- A I would say that was an omission that, many times when people are writing standards, there are a level of vagueness that occurs, sometimes not intentionally.
- Q So why has this festered on for more than 2 years?
- A I would say because there's a disagreement between individuals on that interpretation.
- Q Right. But if DS, as you say, is the policymaker. Why not change the FAH? You said these three employees have good faith disagreements?
- A Yes.
- Q Why not change the FAH?
- A I was going to say it is our intention to amend the FAH to provide that level of clarification.
- Q When do you intend do that?
- A It is in the process of being done.
- Q Do you have an ETA of completion?
- A I do not. I was going to say mostly because I— I cannot give an estimated completion on how long it takes to process a FAH change.<sup>343</sup>

During the meeting with the site team to discuss the inspection, one inspection team member told the site security manager: “tell Wayne Ashbery to put it in writing and I will attach it to my report.”<sup>344</sup> According to that witness: “That never happened.”<sup>345</sup>

---

<sup>343</sup> Ashbery Tr. at 92-93.

<sup>344</sup> Jones Tr. at 130.

<sup>345</sup> *Id.* at 133; *see also* Heisey Tr. at 42 (noting that even Deputy Assistant Secretary Ashbery cannot make this decision alone, and “it’s not that one person gets to just make an interpretation decision. They [DS] get to make the decision on what they decide to do”).

The site security manager testified that DS did put that requirement in writing,<sup>346</sup> but he also testified that the DS memorandum was never circulated within Security Management, the very organization responsible for inspecting the London NEC.<sup>347</sup> Deputy Assistant Secretary Ashbery also testified he believed there was a written directive that DS did not believe the seven uncleared foreign nationals should be screened.<sup>348</sup> During his transcribed interview, Deputy Assistant Secretary Ashbery reviewed a memorandum to the file from the London NEC project director, in which the project director explained his rationale in not requiring these seven uncleared foreign nationals to be screened, including an email from Ashbery's deputy, noting Ashbery concurs.<sup>349</sup> As part of his analysis, the project director noted a conversation he had with the deputy site security manager for the Beijing NEC built in the mid-2000s.<sup>350</sup> The London NEC project director writes:

Additionally, and it seems unbeknownst to OBO/SM, other OBO construction sites around the world do not X-Ray and Mag [the walk-through metal detector] OBO LES [locally employed staff]. As directly related from the former D/SSM [deputy site security manager] for the Beijing project, this included the Beijing NEC project, a project at significantly higher threat ratings. As stated by him, LES from the Beijing Mission were not screened via X-Ray and Mag.<sup>351</sup>

Deputy Assistant Secretary Ashbery was the Senior Site Security Manager at the Beijing NEC,<sup>352</sup> and he testified that was inaccurate. He stated:

Q Okay. Have you ever seen this memo before?

A I have not.

Q The DS SM for the Beijing project, does that refer to you?

A It does not.

Q Who is that?

A This would be the deputy site security manager for the Beijing project.

---

<sup>346</sup> Bassi Tr. at 92 (alleging the 2016 Inspection report “doesn’t reflect the fact that . . . DS, in January or February [2016], had issued a written correspondence to OBO/SM [Security Management] indicating, once and for all, that they had viewed this [not screening uncleared foreign nationals], looked at it, researched it, and that DS was satisfied on all fronts that the procedures were fine,” as well as DS’s conclusion “that the FAH was intended for construction workers, and that they would proceed to have that clarified and rewritten into the FAH so that it was clearer”).

<sup>347</sup> *Id.* at 93 (“Q So there was an official [DS] memorandum [that was supposed to clarify their judgment on the issue, but it was just never distributed to those in security management? A That’s my understanding.”).

<sup>348</sup> Ashbery Tr. at 103-04.

<sup>349</sup> Ashbery Tr., Ex. 3, Memorandum to File from Rodney Evans, Project Director, London NEC, U.S. Dep’t of State (Apr. 2, 2015) (CDP-2016-00020-0000005).

<sup>350</sup> *Id.*

<sup>351</sup> *Id.*

<sup>352</sup> Ashbery Tr. at 10, 72.

\* \* \*

Q Were you aware that the Beijing NEC was not screening locally employed staff?

A I believed Beijing NEC was screening locally, and paid staff.

Q So are these two sentences inaccurate?

A I with say [sic], yes, based on my knowledge of the Beijing NEC project.

Q Having worked there?

A Having worked there for the construction of the security transfer project, yes.

Q As the site security manager—the senior site security manager?

A Yes.<sup>353</sup>

He testified, with respect to the Beijing NEC project, “I can state that any locally engaged staff that entered the construction project for the Beijing secure chancery project were, in fact, screened with x rays and magnetometers.”<sup>354</sup>

The site security manager in London knows what can happen when security is not paramount at a project, as he was aware of a breach at another site.<sup>355</sup> Because that incident remains classified, this report will not detail it, but one witness testified that “something . . . was found in the wall” at that site.<sup>356</sup> As a security management witness testified:

Q Since the time that you’ve been working for OBO, have there been sites that have . . . been compromised because contraband has been brought onto those sites [by] uncleared individuals?

A Yes.

\* \* \*

Q Where were those sites?

A I’m not at liberty to say. However, I do know of one in particular that Mr. Bassi is aware of where some items were found.

---

<sup>353</sup> *Id.* at 104-05.

<sup>354</sup> *Id.* at 124.

<sup>355</sup> Jones Tr. at 29-30.

<sup>356</sup> *Id.* at 29.

Q Would you be at liberty to say in a classified setting?

A Yes.

[Committee Counsel]. Can you tell us what kind of items?

[Witness]. It was just something that was found in the wall.

[Committee Counsel]. Okay.

[Committee Counsel]. And you said Mr. Bassi was involved?

[Witness]. He's aware of it. I believe he was working at the post at that time.

[Committee Counsel]. Can you tell me what the item was that was found in the wall, or is that classified?

[Witness]. I don't know.

[Committee Counsel]. Okay. That's fine.<sup>357</sup>

That witness also testified she believed Mr. Bassi was the RSO at the compromised post.<sup>358</sup>

In addition, the current site security manager in London "is the one who signed off on the SOP when he was our division chief" in Security Management.<sup>359</sup> He testified the SOPs are "a guideline" that "could work in tandem with the CSP" in order "to create some type of baseline that SSMs [site security managers] would have to look at how the project should go forward."<sup>360</sup> He also stated there was an undocumented understanding about screening of uncleared personnel and that the site security manager would have control over the issue. Specifically, he testified:

And there's an SOP that says you have to do it [screen uncleared personnel]. And then we had a continuous discussion about that SOP. And I said: [OBO employee redacted], if you remember, when that SOP went on the screen in the conference room, when I was reviewing them, I said that's a problem overseas. It's an operational issue overseas. Put a caveat, and it wasn't directed at [OBO employee redacted], it was directed to the group, *I said: Put a caveat in there that allows the SSM to come back and discuss it so that if it's a problem at that post, then it*

---

<sup>357</sup> *Id.*

<sup>358</sup> *Id.* at 102 ("Q And you said Mr. Bassi was involved there as well. A I believe he was the RSO there at the time.").

<sup>359</sup> *Id.* at 85; Bassi Tr. at 91 ("Q Okay. Okay. But did you sign off on the standard operating procedures? A Yes, I did.").

<sup>360</sup> Bassi Tr. at 65 ("Q So when I asked earlier whether this was a separate document, you said no? A It is a separate document, it is not part of the CSP. Q But it works in tandem with the CSP, does it not? A It is a guideline. It is guidelines. It could work in tandem with the CSP, yes. It is a separate document that is an office created document soliciting various information from various locations to create some type of baseline that SSMs would have to look at how the project should go forward.").

*can be looked at. And I signed the SOPs. I never reviewed if that caveat had been put in. And it wasn't.*<sup>361</sup>

The site security manager's testimony about the "intent" of the SOPs—in which he stated "there was nothing that said that an SSM [site security manager] couldn't have a dialogue about it, couldn't come back and talk about his project and say, I have a different ground perspective here, can we adjust this"<sup>362</sup>—does not account for what the SOP does say. Undocumented understandings are inadequate for keeping facilities secure.

The site security manager further testified that he would expect to see a revision of the SOPs had they been modified, and the London NEC SOPs had not been. He stated:

Q And has this document [the SOPs] been changed since 2011?

A I don't know. I haven't seen it.

Q You haven't seen it?

A I haven't seen the revised.

Q Is that something as a site security manager you would expect to see?

A A revision on those?

Q Yes.

A I would expect to see that they should be updated by now, yeah, because things change, technology changes. Some of our concern about prohibited and non[-]prohibited items to come on site, changes technology, changes they should be revised. The whole purpose was to have an acting document that could be quickly revised and changed.<sup>363</sup>

In this situation, the person who approved the security requirements for the London NEC—which requires screening of uncleared persons entering the site—is the very person accused of not adhering to the requirements, even when he has seen the result of security failures before.<sup>364</sup> During a transcribed interview, when asked "[w]ould you take this approach in a place like Moscow" with respect to the unscreened personnel, he replied, "[n]o. Absolutely not."<sup>365</sup>

The site security manager in London testified that he has done some beneficial things.<sup>366</sup> One of those things includes the placement of an additional x-ray machine: "[T]he CSP did not

---

<sup>361</sup> *Id.* at 89-90 (emphasis added).

<sup>362</sup> *Id.* at 66.

<sup>363</sup> *Id.* at 66-67.

<sup>364</sup> *Id.* at 79.

<sup>365</sup> *Id.*

<sup>366</sup> *Id.* at 19-20 (discussing perimeter security enhancements), 53 (testifying that "[t]he accreditation team is really impressed with my CSTs [construction surveillance technicians] documentation," and noting an innovative way to keep track of each CST's location), 80 (describing additional screening at a post in Africa due to local conditions).

call for it. I said . . . I'm ignoring it. I'm going—you can't stop me from going above standards, so I'm going above standards. It's my call."<sup>367</sup> The difference in that case, however, is that the enhancement went *above* the mandated requirements. The issues discussed in this report and the 2016 Inspection pertain to the site security manager's actions that fall *below* the requirements in 12 FAH-6, the CSP, and the SOPs.

The Department and the public have seen the results when security is not stringent at construction sites for diplomatic facilities abroad. In the late-1980s, the Department built a new embassy in Moscow that was “infested with spying systems planted by Soviet construction workers.”<sup>368</sup> In Moscow, as in London, OBO's predecessor, “already under pressure from Congress because of cost overruns and poor results in construction projects in other capitals, was pushing to move the job along.”<sup>369</sup> As with the London NEC, the embassy in Moscow “was to be the most elaborate and expensive United States embassy ever.”<sup>370</sup> The government spent twice the construction amount on remediation, seeking to rid the facility of the bugs that allowed the Soviets to “transform it into a giant antenna capable of transmitting written and verbal communications to the outside.”<sup>371</sup> “At the time,” a report from the Senate Select Committee on Intelligence noted, “U.S. intelligence agencies believed they could neutralize any bugs they might find.”<sup>372</sup> The report continued: “Unlike the Soviets, however, the United States did not employ a systematic, stringent security program to detect and prevent Soviet penetration efforts.”<sup>373</sup> As with the current London project, the Moscow embassy used components that “were fabricated by [locals] off-site, with no U.S. supervision,” and:

The Soviets inspected all materials on site before allowing their use in construction, frequently calling off construction if there were questions. The United States had a less exacting inspection system and was not willing to put security ahead of maintaining the pace of construction.<sup>374</sup>

---

<sup>367</sup> *Id.* at 154 (“Q —but essentially, what I’m asking is would a metal detector prevent someone from— A No. Q —entering in a bug or— A No. Q —spying? A It’s a weapons item. The X ray would. That’s why I installed the X ray at [another location on the site], with much argument from Washington saying what the—again, the book—the CSP did not call for it. I said, I’m not—I’m ignoring it. I’m going—you can’t stop me from going above standards, so I’m going above standards. It’s my call.”)

<sup>368</sup> Elaine Sciolino, *The Bugged Embassy Case: What Went Wrong*, N.Y. TIMES (Nov. 15, 1988), available at <http://www.nytimes.com/1988/11/15/world/the-bugged-embassy-case-what-went-wrong.html?pagewanted=all>. It bears mention that approximately 40% of the construction workers on the London NEC site are from non-U.K. countries in the European Union, “[m]any of them from Eastern Europe.” Bassi Tr. at 74 (“Q The 40 percent or so non U.K./EU folks— A No. Yeah, they’re—yeah. They’re EU folks, yes. Q But non U.K.? A Non U.K.—non U.K. citizens, yes. Q Many of them from Eastern Europe? A Yes.”).

<sup>369</sup> Elaine Sciolino, *The Bugged Embassy Case: What Went Wrong*, N.Y. TIMES (Nov. 15, 1988), available at <http://www.nytimes.com/1988/11/15/world/the-bugged-embassy-case-what-went-wrong.html?pagewanted=all>.

<sup>370</sup> *Id.*

<sup>371</sup> *Id.*

<sup>372</sup> S. Rep. No. 100-154, at 6 (1987), available at <http://www.intelligence.senate.gov/sites/default/files/publications/100154.pdf>.

<sup>373</sup> *Id.*

<sup>374</sup> *Id.*

Given the scope of the breaches, the Senate Select Committee on Intelligence recommended the building “be destroyed and that planning be started to construct a secure facility.”<sup>375</sup>

Notwithstanding the lessons from Moscow, to date, the London site team has not aligned its policy to comply with the SOPs for the London NEC and the *Foreign Affairs Handbook* to require these seven non-cleared employees to proceed through screening. In fact, while on a staff trip to London to inspect the NEC site, one of the Committee’s staff members, who lacked a security clearance, was required to undergo the screening, including use of the walk-through metal detector and x-ray machine. That is as it should be, given the requirements of 12 FAH-6, the CSP, and the SOPs.

If the London NEC site team believes uncleared foreign nationals should be allowed to enter the site without screening, it should do so through an amendment to the SOPs and the *Foreign Affairs Handbook*. To permit the site security manager to make ad hoc exceptions only risks exposing the U.S. Government to another Moscow-type breach.

*b. Failure to Properly Procure Materials for the NEC’s Classified Space*<sup>376</sup>

**FINDING:** The London NEC site team’s significant procurement failures potentially compromise classified spaces in the NEC.

The 2016 Inspection also concluded that the Department obtained materials for the classified space in a way that exposes the facility to bugging.<sup>377</sup> A DS inspector called this “[t]he primary issue” with the inspection<sup>378</sup> and something he has not seen “on this level.”<sup>379</sup> Deputy Assistant Secretary Ashbery said the 2016 Inspection report “was the trigger for [DS and others] investigating” the issue.<sup>380</sup> The CSP for the London project lays out how the Department is to procure materials for classified spaces.<sup>381</sup> In short, there are three ways the Department may obtain much of the standard materials for the classified spaces: (1) random procurement of a

<sup>375</sup> *Id.* at 9.

<sup>376</sup> This report does not take a position on where in the acquisition lifecycle the errors occurred. The contractor for the London NEC “is confident that it did follow the procurement specifications in its contract, and [the contractor] believe[s] the [Committee’s] report correctly does not assert otherwise.” Email from Vice President, B.L. Harbert Int’l, to Majority Staff, H. Comm. on Oversight & Gov’t Reform (Dec. 1, 2016, 11:51 AM) (on file with Committee staff).

<sup>377</sup> OBO SM London Mem. at 1 (“Materials are specifically fabricated locally for the London project and sent to site for random selection or inspection.”).

<sup>378</sup> Heisey Tr. at 14 (“Q What issues did you identify? A The primary issue was an issue concerning material procurement methods and that they were being fabricated or made at locations out or off the embassy compound at local facilities without any construction security measures, CAGs, cleared American guards, or construction surveillance technicians.”); Cotterman Tr. at 21 (listing this issue and several others as his “primary elements of concern”).

<sup>379</sup> Heisey Tr. at 48 (“Q Okay. Is the fabrication issue one that you’ve never seen before? A Not on this level.”).

<sup>380</sup> Ashbery Tr. at 127 (“Q So you were unaware of any procurement or fabrication issues before this memo [the 2016 Inspection report]; is that correct? A We were not. This was the trigger for us investigating that.”).

<sup>381</sup> *Id.* at 125 (“Q Why is that inappropriate? A The construction security plan . . . prohibits off site prefabrication of material. Q Material for the CAA space? A Material for the secure portions of the embassy, yes, for the CAAs.”).

certain percentage of off-the-shelf-type materials; (2) blind procurement, where the manufacturer does not know the destination of the materials and the materials are shipped securely by the contractor; and (3) procurement with inspection, when permitted.<sup>382</sup> When an item is required to be custom-made, the materials must either be built offsite (but under surveillance) or fabricated onsite by U.S. citizens with appropriate security clearances, depending on where in the classified space the materials are to go.<sup>383</sup>

There are two types of classified space, called Controlled Access Area (CAA): (i) restricted and (ii) core.<sup>384</sup> In CAA restricted space, the material may be fabricated by individuals without a security clearance and uncleared workers can install the materials under the watch of a construction surveillance technician who has a security clearance. A witness testified:

Q Okay. What are the labor requirements for the fabrication of materials if you know for CAA restricted and CAA core?

A The fabrication of CAA restricted materials can be done under—by uncleared people with surveillance by construction surveillance technicians. If it's a core area material, the requirement is fabrication by secret-cleared U.S. citizen labor.

Q Okay. And again, this is a requirement of 12 FAH-6 and the CSP, correct?

A Yes.<sup>385</sup>

Deputy Assistant Secretary Ashbery agreed. In his transcribed interview, he agreed that the procurement issues at the London NEC violate the FAH and the CSP. He testified:

Q Is that a contractual requirement? Is it a FAH requirement? A FAM requirement? Something else?

A Yes to both.

Q Yes to contractual and to FAH?

A Yes.

Q Okay.

---

<sup>382</sup> Heisey Tr. at 88-93 (describing the different procurement methods for CAA space).

<sup>383</sup> Jones Tr. at 39-40 (“Q And you said the construction security plan . . . requires that any material for the CAA [classified] space not be fabricated off site? A Any fabricated material. The difference is fabricated is items that are specifically made. Materials that are purchased off the shelf, are different, because you can purchase many of those and then use a percentage of those in the CAA.”).

<sup>384</sup> Ashbery Tr. at 165 (describing differences between CAA restricted space and CAA core space).

<sup>385</sup> Cotterman Tr. at 94; Jones Tr. at 43 (“The installation for those items, for CAA restricted, is uncleared [workers] under CST [construction surveillance technicians] or secret [cleared workers], which is above the standard. For CAA core, it is secret [cleared workers] only.”); *see also* Heisey Tr. at 51 (same).

A I was going to say, it's included in both. It is a FAH/FAM requirement that has been captured in this construction security plan which is part of the Division 1 language of the contract.<sup>386</sup>

In CAA core space, as required by the FAH and the CSP,<sup>387</sup> only American workers possessing a security clearance may fabricate material for the space and only cleared American workers may be in the space after the building's structure is complete and interior finishing work has begun. A witness testified:

Q And if any foreign national was doing any work in the core space, would that be a problem?

A Yes.

Q Would you classify it as a significant problem?

A Yes.<sup>388</sup>

In the London NEC, there are at least seven items that do not meet the security requirements.<sup>389</sup> These items fail to meet the security standards because uncleared personnel were involved in procuring these items, which were to be installed in the CAA space.<sup>390</sup> Some of these materials are custom items and were fabricated by a foreign company, and that company has knowledge that at least some of the material is to go in the CAA core and restricted space at the London NEC.<sup>391</sup> A witness stated:

Q Okay. And in this particular instance the contractor, a subcontractor was going to a local company?

A Yes.

Q In the U.K.?

---

<sup>386</sup> Ashbery Tr. at 138.

<sup>387</sup> *Id.* at 166 (“Q Okay. What governs foreign nationals’ access to CAA space? Is it the FAH? A Yes.

Q Anything else? A Construction Security Plan.”).

<sup>388</sup> Cotterman Tr. at 94; Jones Tr. at 113; Heisey Tr. at 16-17 (“Q Thank you. The [certain finish work redacted], was that in the core or restricted? A The [certain finish work redacted] was applied in both restricted and core. . . . The standards allow for that type of work to be done in restricted CAA by uncleared personnel under CST. In core CAA, it’s required that any type of finish work be done by cleared Americans only. Q Those cleared Americans have to have what level of clearance? A A minimum secret clearance.”).

<sup>389</sup> Ashbery Tr. at 125-27 (listing items); Jones Tr. at 45 (“Q Now, for these materials, they were fabricated somewhere off the NEC site? A Yes, sir. Q And that was the problem? A Yes, sir. Q And that was the problem for all of them? A Yes, sir. Q All of that material was going into the CAA space? A Yes, sir.”). Because of the security implications of this issue, this report will not detail the items or where they are to go in the NEC.

<sup>390</sup> Heisey Tr. at 23 (“Q And what is the requirement in question that was violated? A Having uncleared personnel involvement with the procurement. The DD 254 states that only secret cleared Americans can be involved with the procurement of controlled access area materials. Q So uncleared workers were procuring these materials? A Yes.”).

<sup>391</sup> Ashbery Tr. at 128-33 (discussing particular items’ fabrication by offsite and without proper supervision by a cleared American), 134-36 (describing particular items improperly fabricated for the London NEC).

A Yes. And as I understand it, other locations.

Q And they were providing schematics of the area?

A My—

Q I'm sorry, blueprints of the area?

A My understanding is they were providing shop drawings of the . . . destination disclosed and in some cases specific locations within the facility disclosed.<sup>392</sup>

Because some of these materials are destined for the CAA core space, they are required to be made by cleared American workers.<sup>393</sup>

There is no question the procurement issues with respect to the London NEC are serious. Deputy Assistant Secretary Ashbery called it “a significant problem.”<sup>394</sup> During his transcribed interview, he stated:

Q In the last hour, I believe you called the fabrication, what I'll call the fabrication procurement issue, significant.

A Yes. I was going to say, I do consider it significant.

Q Do you consider it a big problem?

A I guess I would ask you to define “big.” It's a significant problem and one that we continue to work.

Q Where is this on your ranking of priorities in terms of issues you're dealing with? I understand you have a vast portfolio.

A Yeah, it's pretty high.

Q Pretty high?

A Yes.<sup>395</sup>

He also testified he works on “some aspect” of these procurement issues “[e]very week.”<sup>396</sup>

When confronted with the improper procurement issues, the site team asked whether some of the compromised material could merely be inspected, and the DS representative on the

---

<sup>392</sup> Cotterman Tr. at 88; Heisey Tr. at 101-02.

<sup>393</sup> *Id.* at 94 (“The fabrication of CAA restricted materials can be done under—by un-cleared people with surveillance by construction surveillance technicians. If it's a core area material, the requirement is fabrication by secret-cleared U.S. citizen labor.”).

<sup>394</sup> Ashbery Tr. at 139.

<sup>395</sup> *Id.*

<sup>396</sup> *Id.*

inspection team told the site team “don’t even ask,” according to a witness.<sup>397</sup> The site team nevertheless “inspected it to try to figure out if there was anything wrong with it and kept it and used it.”<sup>398</sup> Some of the material was “absolutely not inspectable because of the electronics in them” and was required to “be returned to the contractor.”<sup>399</sup> When a DS member was asked why some of the compromised materials were not simply removed and replaced with non-compromised materials, the DS employee stated he was told “[s]chedule,” by “[m]ore than likely, the project director.”<sup>400</sup> The DS witness testified:

Q Let me move on to your second inspection in just a moment.

With respect to the items that you have identified . . . is there any reason that they didn’t strip that out and install the materials properly rather than request an exception, if you know?

A I don’t know.

Q Did you ask the question?

A Yes.

Q And what response were you given?

A Schedule.

Q And who gave you that response?

A More than likely, the project director.

Q Rod Evans?

A Yes.

Q Because you had to stick to the schedule?

A Yes.<sup>401</sup>

The site security manager stated that the contract for procuring these materials was “ambiguous, at least in certain areas,” and there is potential for debate “whether something is fabricated, manufactured, or produced.”<sup>402</sup> Nevertheless, he testified that one “could be alarmed

---

<sup>397</sup> Jones Tr. at 46-48.

<sup>398</sup> *Id.* at 48 (“Q They inspected it to try to figure out if there was anything wrong with it and kept it and used it. A Yes.”).

<sup>399</sup> Ashbery Tr. at 132 (“Q And the [item redacted], those are noninspectable, or are they inspectable? A They are absolutely not inspectable because of the electronics in them. Q Okay. So what happens with those? A They will be returned to the contractor and [item redacted] will be procured and installed by the contractor.”).

<sup>400</sup> Heisey Tr. at 72.

<sup>401</sup> *Id.* at 72-73.

<sup>402</sup> Bassi Tr. at 100 (“Q And, you know, I’m going to confess, even now it’s hard to read the specific concerns in this way and have a good concept of how significant or not significant they are, how common they are or not. So I

in, for example, the fabrication issue.”<sup>403</sup> He took credit for the mitigation,<sup>404</sup> but stated that two items for the CAA space that were fabricated improperly and those “were a concern and a big concern, and I’m not going to diminish that whatsoever.”<sup>405</sup>

Not long after the 2016 Inspection report, 13 OBO and DS employees traveled to London to inspect the compromised materials and attempt to remediate the issues.<sup>406</sup> Deputy Assistant Secretary Ashbery testified in a transcribed interview that, as a result of the 2016 Inspection, OBO and DS “agreed that a member of countermeasures directorate, my staff, a member of ODNI staff, and a member of OBO SM [Security Management] staff would go out to support the project.”<sup>407</sup> Deputy Assistant Secretary Ashbery himself went out there, as well, which he agreed was “unusual for the deputy assistant secretary for countermeasures to go out to a facility after a trip report from security management.”<sup>408</sup> He had never traveled to a construction site “as a result of a trip report.”<sup>409</sup> The Principal Deputy Director of OBO, Casey Jones, also traveled to London with Deputy Assistant Secretary Ashbery.<sup>410</sup> Ashbery elaborated in his testimony:

Q Let me ask you a broader question then, is it unusual for the deputy assistant security for countermeasures, the principal director of the [B]ureau of [O]verseas [B]uildings [O]perations, and two folks from ODNI to travel out to a construction site after receiving a trip . . . report?

A I was going to say it is not what I consider the normal process, no.

Q Can you expand on that a little bit. Why not?

A We chose to travel together because we felt there were issues identified in the trip report in the follow on accreditation team that required attention at that level. As I said, [ODNI staff member name redacted] accompanied me at my suggestion.<sup>411</sup>

---

guess for any of the issues identified in the bullets in this memorandum, are any of them ones that we should be alarmed that happened in the first place at all? A Well, you could be alarmed in, for example, the fabrication issue. The fact that the contract, the way it’s written, it’s ambiguous, at least in certain areas, and the sequence of how it’s written. At the same time, the project is so immense that whether something is fabricated, manufactured, or produced, that’s debatable. And there’s a lot of argument over the true definition. And it doesn’t appear anywhere that anyone can find exactly that I know of, but everyone has their opinion or idea what fabrication is.”)

<sup>403</sup> *Id.*

<sup>404</sup> *Id.* at 101 (“How that came in and the reason why the mitigation went so well quickly without impact is because the CSTs [construction surveillance technicians], my staff, actually followed exactly the CSP in the order of things they were supposed to do and did it 100 percent. So when the mitigation came, it was a recheck and a validation, and then they examined what was the contractor doing and how did this happen.”)

<sup>405</sup> *Id.*

<sup>406</sup> Jones Tr. at 51 (“Q Thirteen folks went out to attempt to remediate this? A Yes, sir.”).

<sup>407</sup> Ashbery Tr. at 76.

<sup>408</sup> *Id.* at 87.

<sup>409</sup> *Id.*

<sup>410</sup> *Id.* at 88.

<sup>411</sup> *Id.* at 88-89.

Another witness testified that, as of August 2016, there were “probably 20 to 30” individuals in London working on remediation of the issues contained in the 2016 Inspection report. He stated:

Q How many people have been over there trying to mitigate these issues?

A I’ll give you a ballpark as to—I don’t know.

Q Ballpark—

A Many.

Q More than 10?

A I would say significantly more than 10.

Q More than 20?

A I would say more than 20, probably 20 to 30.<sup>412</sup>

He further testified that each person on the mitigation team “are all people that have to be flown to London,” “have to be housed in London,” “have to be transported around London,” and “have to be paid per diem for every day that they are there,” including weekends.<sup>413</sup>

DS ultimately recognized the problem with these improperly procured items, concluded that inspection alone would be insufficient, and asked the OBO Security Management inspector to draft a request for an exception to the requirements of the *Foreign Affairs Handbook*.<sup>414</sup> An exception is a request to deviate from security requirements contained in the *Foreign Affairs Handbook* and/or the CSP,<sup>415</sup> which, if approved, will permit the compromised items to remain in the space. There was a “multifaceted” exception request for some of the compromised materials, which was approved by DS Assistant Secretary Gregory Starr.<sup>416</sup> Deputy Assistant Secretary Ashbery testified he “presume[s] there will be an additional one” for other items.<sup>417</sup>

---

<sup>412</sup> Cotterman Tr. at 162.

<sup>413</sup> *Id.* at 162, 163 (“Q Including weekend days that they have to be there? A Right.”).

<sup>414</sup> Jones Tr. at 42 (“Q Did anyone ask you to draft the waiver, or the exception, rather? A Yes. Q Who was that? A . . . DS.”), 103, 143.

<sup>415</sup> Cotterman Tr. at 91; Ashbery Tr. at 150 (“Q What’s an exception? A An exception is when the Overseas Security Policy Board standards are not met, and the exception is a process where a formal decision is made as to— to allow the deviation from the Overseas Security Policy Board standards.”).

<sup>416</sup> Ashbery Tr. at 152 (“Q How many exceptions requests are there for the London embassy? A To the best of my knowledge, there is one, and it is a result of the problems associated with this. It’s multifaceted. Q Has it been resolved? A It was approved. Q Approved. In full? A Yes.”).

<sup>417</sup> *Id.* at 152-53.

The problem with these improperly procured materials is that the manufacturers knew they were destined for the classified space for the London NEC.<sup>418</sup> An OBO Security Management witness testified:

Q What's the issue? Why is it a problem?

A Because the amount of time on target, knowing where it may be going, anything can be done to that piece of material. We would never know.

Q Like what? What are the vulnerabilities?

A Any technical or vulnerability where you can stick a bug in it or it wouldn't be found otherwise. And that's just one item. I'm sure there's other things could become an antenna. We don't know.<sup>419</sup>

The site security manager testified, with respect to this procurement issue:

In this case, the items had markings on them indicating that the manufacturer had knowledge of where they're going [in the CAA space]. And he would have knowledge of where they're going because the plans that he was using were not classified plans. Some of the plans that are on the classified floors are actually mechanical plans and it is marked [for particular floors of the CAA space], and that stuff—those materials appear on the unclassified side. So the contractor can use that and give that to a company and they can make the product and send it.

Somewhere, and I don't know exactly, they were looking at it, exactly how it happened, but somehow [the contractor] transmitted either more information than should have gone or whatever. The product came in marked for the [a specific floor in the CAA space], which indicated the fact you knew it was going to the [that specific CAA] floor in the building. The [specific CAA] floor can also mean the [same] floor of the other areas of the building, because the central core of the building is huge and it's a building in itself. That's also the [floor level redacted], so it says level [redacted].

But if you peel that back a little more, the contractor made a very specific ductwork plan that follows, so he knows it's going in that area.<sup>420</sup>

---

<sup>418</sup> Jones Tr. at 48-49 (“Q So what's the risk in all this? A Time on target. Q What does that mean? A The individuals that had the information knew it was for the new London Embassy. And the procurement process did not seem to be in line with the construction security plan. Q So I'm clear, the individuals who had the knowledge, you're referring to the vendors? A Yes, sir.”); Bassi Tr. at 120-22 (detailing compromised items, including one set of items “that were being made that were specific to a location [in the CAA space] and only could wind up in the location”), 125-26 (same).

<sup>419</sup> *Id.* at 43-44.

<sup>420</sup> Bassi Tr. at 102-03.

The site security manager is the person “on the site at all times who would ensure that fabrication standards were met for products, items that were going to go into the CAA restricted space.”<sup>421</sup> To its credit, after the procurement issues came to light, the Department assigned a third site security manager to the London NEC,<sup>422</sup> though two are deputies.<sup>423</sup> When asked “[i]s it usual to have three site security” managers, the site security manager stated: “[i]t’s unusual even to have two.”<sup>424</sup>

DS management had several discussions with the site security manager, one of which was “rather heated.”<sup>425</sup> Deputy Assistant Secretary Ashbery testified the site security manager played a “minimal” role and should have been “more pivotal” in identifying the procurement issues, and that became a source of tension between the site security manager and DS management. Ashbery testified:

Q What was his [the site security manager’s] role in identifying the issue?

A I would say his role in identifying the issue was minimal. I conveyed my expectation that the— that he should have had a more pivotal role in identifying the fact that items were being fabricated off site and delivered to the site.

Q Was that discussed in all three of your conversations with Mr. Bassi?

A To the best of my recollection, yes.

Q What was his reaction?

A I would best say his reaction was somewhat defensive.

Q How did that manifest itself?

A I was going to say, it resulted in a rather heated discussion between the two of us during the first meeting. He raised some points that— at that point, which also justified some further looking into it and necessitated

---

<sup>421</sup> Heisey Tr. at 56 (“Q Okay. . . . Should there have been somebody on the site at all times who would ensure that fabrication standards were met for products, items that were going to go into the CAA restricted space? A Yes. Q Who would that have been? A The site security manager.”); Bassi Tr. at 15 (London NEC site security manager testifying that “[t]he site security manager is responsible for implementing and many times creating the program necessary to keep the project secure . . .”), 17 (the site security manager “is the senior security implementer . . . for the construction project, it’s the security side of implementing it”).

<sup>422</sup> Bassi Tr. at 29-30 (when asked why a second deputy site security manager was assigned, the witness responded: “After we had looked at the procurement, fabrication problem at the site with the particular items, they looked at the sheer size of the project and the potential for other things like that to happen. Outside of our control, you know, part of the contract, we can’t predict and everything, we cannot predict. So [the Deputy Assistant Secretary for Countermeasures], basically in conversation, said we’re going to give you support—send you an enhanced support group for the duration of the project, and they report to you.”).

<sup>423</sup> *Id.* at 27 (“Q Do you have any deputies as site security manager? A I have two.”). The second deputy arrived in approximately July 2016. *Id.*

<sup>424</sup> *Id.*

<sup>425</sup> Ashbery Tr. at 141.

the additional conversations later in the week [when Deputy Assistant Secretary Ashbery was in London with the ODNI team in June 2016].<sup>426</sup>

Another DS witness testified the site security manager was aware of the procurement issues, but he apparently did nothing to stop it.<sup>427</sup> The site security manager is the person who is charged with ensuring that the required security procedures are followed;<sup>428</sup> indeed, he signed off on the SOPs for the London NEC.<sup>429</sup> For his part, when asked “[w]ho’s ultimately responsible for ensuring items are procured and fabricated manufactured properly,” the site security manager replied “I don’t know.”<sup>430</sup>

The site security manager also professed ignorance about how all of this will be fixed,<sup>431</sup> and he has not had a conversation—nor is he aware of any conversations—with the project’s contractor or subcontractor about how this could have happened in the first place.<sup>432</sup> He nevertheless testified that the project director and the site security manager are “at the top of the pyramid” on fixing the issues identified in the 2016 Inspection.<sup>433</sup>

---

<sup>426</sup> *Id.*

<sup>427</sup> Heisey Tr. at 60 (“I didn’t need to specifically ask him [the site security manager] because, as this came out, as this issue came out, it became apparent to me that he was aware of it.”).

<sup>428</sup> Bassi Tr. at 14-15 (“Q Would you describe the site security manager’s responsibilities? A Site security manager is one of three key positions in a project. . . . The site security manager is responsible for implementing and many times creating the program necessary to keep the project secure. . . .”); Heisey Tr. at 117 (“Q Okay. So you believe that it is a problem that the SSM [site security manager] is not following the SOP. A Yes. Q Do you know why the SSM is not following the SOPs? A I would be speculating if I said why. Q Did you discuss it with him as to why he has failed to follow SOPs? A No. Q But you believe that it is a problem. A Yes.”).

<sup>429</sup> Jones Tr. at 85 (the current site security manager in London “is the one who signed off on the SOP when he was our division chief”); Bassi Tr. at 64 (“Q Who crafts that guideline [the SOPs]? A OBO SM [Security Management]. I sign them. Q You signed this for the London project? A No. That is the misunderstanding. I signed them as the director of site security management. The division director—my signature is on there as the division director. Q Your signature, to be clear, your signature is on the standard operating procedures? A That’s right.”).

<sup>430</sup> Bassi Tr. at 128.

<sup>431</sup> *Id.* (“Q . . . So when this issue arose, the issue covered in exhibit 1 [the 2016 Inspection report], arose in late March, early April of this year on the materials, a team went out, began looking at ways to mitigate this. What happens in the paperwork end? For instance, we heard of exceptions, deviations. A I don’t know. Q You don’t know anything about that? A No. I see the drafts and I’ve seen some of the paperwork, but the process and the actions, I don’t know. Q You’re not involved in that at all? A No, no.”).

<sup>432</sup> *Id.* (“Q Did you have any conversations with either BL Harbert or Sir Robert McAlpine [the local subcontractor] about how this could happen? A No. Q Are you aware of any conversations along those lines? A No.”). He apparently has not asked that question of DS, either. Ashbery Tr. at 145 (“Q Did Mr. Bassi ever ask that question [how this could happen], to your knowledge, or anything similar to it? A Not to my knowledge. Q Never to you? A Yeah, never to me, no.”).

<sup>433</sup> Bassi Tr. at 156 (“Q Who’s the person in charge of fixing all of the issues identified in exhibit 1 [the 2016 Inspection report]? . . . A It comes from the—well, the PD [project director] is responsible for implementing it. . . . Then it’s delegated to the site security manager to execute it. The reality is that some of these things have different action personnel to carry them out if it’s technical. Q But in terms of the top of the pyramid. A The top of the pyramid is the PD [project director] and the SSM [site security manager], yeah.”), 157 (“Q No. I’m asking who’s in charge of fixing the items identified in— A Oh. Q —fixing the issues identified in exhibit 1? A Well, at the site, PD and the SSM.”).

When asked whether he blamed the site security manager and the project director for the procurement failures, Deputy Assistant Secretary Ashbery testified:

Q Do you blame Mr. Bassi for any of these issues?

A I believe that there are steps that he could have taken that would have allowed these items to have been identified earlier; and the earlier you identify something, generally the easier it is to resolve. I don't think in any fashion he is entirely to be blamed for any of them, but I think he—as stated earlier, I believe he could have been more pivotal in identification of the issues so that they could be resolved quicker.

Q How about Mr. Evans; is he to blame for this?

A As the OBO project director on a project, he is the penultimate government representative on the project, so authority lies with him. I was going to say, I think it's unrealistic to expect the project director on a project of this size and scope to have insight into the minute details of each individual item. So, again, I was going to say, I think there was some responsibility there, not specific blame, per se.<sup>434</sup>

Yet again, the experience with the embassy in Moscow is instructive. There, construction of the materials in the new embassy in Moscow, as in London, was done “in their [the Soviets'] own factories, out of view of American security experts.”<sup>435</sup> Department personnel relied on its perceived ability to inspect the pieces.<sup>436</sup> The Department failed. With respect to the London NEC, Deputy Assistant Secretary Ashbery testified about the amount of potentially compromised material for the CAA space: “I wouldn't consider it a small amount of material, no.”<sup>437</sup> He expanded on his testimony:

Q Have you ever seen this procurement issue or anything like this somewhere else?

A Yes.

Q Where?

A At different times on different projects we've had individual items where such things have occurred.

Q Multiple items or singular items?

---

<sup>434</sup> Ashbery Tr. at 144.

<sup>435</sup> Elaine Sciolino, *The Bugged Embassy Case: What Went Wrong*, N.Y. TIMES (Nov. 15, 1988), available at <http://www.nytimes.com/1988/11/15/world/the-bugged-embassy-case-what-went-wrong.html?pagewanted=all>.

<sup>436</sup> *Id.*

<sup>437</sup> Ashbery Tr. at 148.

A Oftentimes it tends to be a batch of items where a series of things something occurred to.

Q How frequently does this occur?

A I would say not frequently, but it has happened.

Q Ten percent of the projects? Less?

A I would probably say 10 percent is probably an accurate number. What it is not reflective of is the percentage of materials involved in a project. It usually has typically only been very small amounts of materials.

Q And this is not a very small amount of material?

A I wouldn't consider it a small amount of material, no.

Q Is this the most significant you've ever seen in terms of a procurement compromise— procurement allegation compromise?

\* \* \*

A It is definitely one of the largest, yes.

Q Can you think of a larger one?

A I mean, of course, the flaming example is the original embassy construction in Moscow; but that was before most of these policies and procedures existed, so it's not an appropriate reflection.

Q So [since] Moscow, have you seen anything on this level?

A I don't believe so.<sup>438</sup>

Like it tried in Moscow, the Department is counting on its ability to inspect much of the compromised materials in London, and the site security manager has told the DS team that the compromised materials “should be inspectable.”<sup>439</sup> That was not true, as Deputy Assistant Secretary Ashbery testified that many of the items were not inspectable.<sup>440</sup> In fact, many of the

---

<sup>438</sup> *Id.* at 147-48.

<sup>439</sup> Heisey Tr. at 81 (“Q And how did [the site security manager] respond? A A similar responses to other times. It was just—it’s—it should be inspectable, so it shouldn’t be an issue type response. Q Did you explain to him that just because something is inspectable doesn’t mean that it satisfies the standard? A Yes.”).

<sup>440</sup> Ashbery Tr. at 141-42 (“Q What were the points you raised that required further looking into it? A The points he [the site security manager] raised are that there was a document that is referred to as a bill of materials that is a list of the project materials that will be used on a project, and it identifies in them whether or not a specific item is to be considered inspectable or noninspectable. It’s a very lengthy document with some 10,000 plus items listed on it, all the different parts and pieces that might go into a U.S. embassy. And his points were that a number of the items that were in question were listed on that bill of materials as being inspectable; and that, as such, he and his team received the products on site, inspected them, and moved forward. Q And you disagreed that that was the proper

security requirements in the *Foreign Affairs Handbook*, as well as site CSPs and SOPs, are “[l]esson[s] learned” “to prevent exactly what happened in Moscow.”<sup>441</sup> A Security Management witness testified:

Q And in fact that’s why we have these rules, right?

A Yes.

Q The rule against local fabrication is to prevent exactly what happened in Moscow?

A Yes.

Q Lesson learned?

A Yes.

Q Just like the SOPs that you were talking about?

A Yes.<sup>442</sup>

Deputy Assistant Secretary Ashbery reinforced this point with the site security manager, who became “quite defensive.”<sup>443</sup> It is significant, that the result in Moscow was to tear down and rebuild significant portions of the embassy, at a cost of \$240 million (in 1990s dollars) and nearly 15 years of delay.<sup>444</sup>

### *c. Failure to Secure Communications Cables*

The 2016 Inspection also revealed the site team’s failure to secure communications cables properly, and the fact that “[s]everal floors have security cables transiting through telecom rooms that are not secured.”<sup>445</sup> The security requirements mandate that “[o]nce cables are pulled within those rooms, [construction surveillance technicians] are supposed to surveil those rooms when there [are] any uncleared workers in there.”<sup>446</sup> If there are uncleared workers “working within the telecom room, [the contractor] is required to provide a cleared American to be there

---

approach? A Yes. Q Why? A Because of my subject matter expertise in the inspection of materials, I felt that we typically do not consider some of those items inspectable, and that they should not have been identified as inspectable. So that’s why I disagreed with it.”)

<sup>441</sup> Cotterman Tr. at 90.

<sup>442</sup> *Id.*

<sup>443</sup> Ashbery Tr. at 148 (“I did reflect to Mr. Bassi that the core precept of no off site fabrication dates back to Moscow. Q What was his reaction to that? A At that point, his reaction, again, was quite defensive.”)

<sup>444</sup> Kathy Lally, *Bug-free U.S. Embassy building in Moscow opens for business*, BALTIMORE SUN (July 7, 2000), [http://articles.baltimoresun.com/2000-07-07/news/0007070212\\_1\\_embassy-building-american-embassy-new-embassy](http://articles.baltimoresun.com/2000-07-07/news/0007070212_1_embassy-building-american-embassy-new-embassy).

<sup>445</sup> OBO SM London Mem. at 2.

<sup>446</sup> Jones Tr. at 104.

while any finish work is going on in a telephone room.”<sup>447</sup> One witness told Committee staff “[e]very floor had that problem,” and none of the telecom closets were secure.<sup>448</sup>

While the cables remained unsecured for a period of time, the rooms were secured sometime in late-May or early-June 2016.<sup>449</sup> The doors are now locked and alarmed, as required by the relevant policies. Nothing in the inspection team’s report or in the Committee’s interviews with relevant witnesses indicates foreign workers were handling telecom cables without the required surveillance.

#### *d. Failure to Properly Partition the Construction Area in the Classified Space*

The inspection team also found the classified space was not properly secured and partitioned before the start of finish work, as required by the CSP.<sup>450</sup> Finish work refers to anything in the construction process coming after the structural portion is complete.<sup>451</sup> The CSP requires: “In order to install the finish work in a CAA core area [the most restricted portion of the classified space], the room must be enclosed before you can start that, so that no one sees the finished product within that space.”<sup>452</sup>

There are very specific rules governing who may be in the classified space. As noted above, the policies permit foreign workers to complete assigned tasks in CAA restricted space under the surveillance of cleared American surveillance technicians.<sup>453</sup> For CAA core space, no foreign workers are permitted in the space once finish work has begun, even with surveillance.<sup>454</sup>

The inspection team discussed the failure to properly partition the CAA space with the site team, and, according to one witness, “[e]veryone knew it was an issue.”<sup>455</sup> One member of the inspection team agreed that “if any foreign national was doing any work in the core space,” it would be “a significant problem.”<sup>456</sup> The site security manager said the failure to install the

---

<sup>447</sup> *Id.* at 104-05; Cotterman Tr. at 112-13 (“the contract requires the general contractor to provide secret cleared escorts . . . for access to these rooms, these telecom rooms,” and “Q That’s part of the CSP then, right? A Yes.”).

<sup>448</sup> Jones Tr. at 106.

<sup>449</sup> *Id.* at 107; Bassi Tr. at 133-35; Ashbery Tr. at 115 (“To my knowledge, it has, since this point in time, been resolved and the telecom rooms are being secured properly.”); U.S. Dep’t of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, London NEC (June 12, 2016).

<sup>450</sup> OBO SM London Mem. at 2.

<sup>451</sup> Jones Tr. at 111 (“In construction, there’s general construction and there’s finish work. General construction is you put the shell up and you get, you know, the base of the building up. Finish work is anything after that, to include windows.”).

<sup>452</sup> *Id.*

<sup>453</sup> *Id.* (“Q And what are the rules of having foreign nationals in the CAA space? A CAA restricted, uncleared under CST [construction surveillance technician] for any given item that needs to be completed in there as far as finish work goes.”).

<sup>454</sup> *Id.* (“And CAA core, once general construction is done and the partitions are up, they no longer have access to those areas.”).

<sup>455</sup> *Id.* at 112.

<sup>456</sup> *Id.* at 113 (“Q And if any foreign national was doing any work in the core space, would that be a problem? A Yes. Q Would you classify it as a significant problem? A Yes.”); Bassi Tr. at 140 (“Q Is it generally a problem if foreigners are in CAA core space? A Absolutely.”).

partition “was a definite mistake by” the contractor and was based on a misreading of the plans.<sup>457</sup>

The London site team permitted uncleared foreign nationals to have access to the core space on several occasions. The site team permitted local employees to install “a fireproofing type material” over beams in both the CAA core and restricted space under surveillance.<sup>458</sup> The DS inspector told Committee staff: “Under the construction security requirements for [CAA] core [space] it’s not allowed.”<sup>459</sup> The site security manager recognized this was “a vulnerability,” but contends “it was mitigated.”<sup>460</sup> When asked why cleared American workers did not spray on the fireproofing material, Deputy Assistant Secretary Ashbery said he did not know the reason and the project director and site security manager made the decision.<sup>461</sup> The site team repeated the error by allowing uncleared workers to install certain electronic lighting and shade control systems in the CAA core space.<sup>462</sup> That work was required to be completed by secret-cleared American personnel.<sup>463</sup>

The site team also allowed foreign workers to view the core space while installing and replacing panels of the building’s curtain wall façade.<sup>464</sup> The project director told Chairman Chaffetz that foreign workers completed this task in the core space because there was insufficient

---

<sup>457</sup> Bassi Tr. at 136.

<sup>458</sup> Heisey Tr. at 15 (“Q Any other issues that you identified? A And there was also an issue with a fireproofing type material that was applied over the beams. The requirement states that in core controlled access area, or CAA, that that type of work be done by secret cleared Americans. That work was done in this case by local employees under CSTs [construction surveillance technicians].”); Bassi Tr. at 141 (when asked whether foreign nationals are “applying fireproofing material in the CAA [space], both core and restricted,” the site security manger replied “[a]bsolutely”).

<sup>459</sup> Heisey Tr. at 18; *see also id.* (“Q So that was in contravention of both the CSP and 12 FAH[-]6? A The finish work that took place in the core CAA, yes.”). The site security manager noted there is some disagreement whether this is structural or finish work, but noted “[s]ecurity says it’s finish work” and therefore should not be applied by foreign workers. Bassi Tr. at 141 (“Q Is there any issue with foreign workers applying fireproofing material in the CAA, both core and restricted? A That’s an ongoing argument between architects and engineers and security types. . . . Security says it’s finish work, architects and engineers say it’s part of general construction.”).

<sup>460</sup> Bassi Tr. at 141-42 (describing why foreign national workers were involved with applying the fireproofing material: “A Because there wasn’t even a window up, because this stuff’s nasty and it spreads all over the place. So it was pure nothing, *but there’s a vulnerability. And as this came up—and it was mitigated.* There’s a mitigation process for this, it was mitigated. But my comment to everyone concerned was, okay, you need to stop the argument. Put it in the contract, put it in the book that you—that DS says it’s finish work, end of story. But right now, when there’s no reference to it, the engineers are defaulting to the industry.”) (emphasis added).

<sup>461</sup> Ashbery Tr. at 168 (“Q Okay. To your knowledge, why didn’t the project just have cleared Americans spray the fireproofing on? A I don’t know. Q Who would know? A I would presume that the on[-]site individuals would know what the rationale was. Q Mistrs Evans and Bassi? A Yes.”).

<sup>462</sup> Heisey Tr. at 18-19.

<sup>463</sup> *Id.* (“The standards require that that work be completed by minimum of secret cleared personnel because the systems include—they’re computer networked systems.”).

<sup>464</sup> U.S. Dep’t of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, London NEC (June 12, 2016); Bassi Tr. at 137-38 (“And the windows are considered finish work in every other project. In this project, they’re finish work, but they had to be put in because of the actual wall structure of the building, it’s the curtain wall. They had to be installed by Italian technicians from the company that designed the curtain wall. There’s a very specific engineering part that has to be done by them. Everyone agreed it had to be done by them or else the building—it wouldn’t work.”).

time, given the project schedule, to obtain cleared American workers to do the installation.<sup>465</sup> Deputy Assistant Secretary Ashbery testified an additional reason uncleared foreign workers were permitted to install curtain wall panels in the CAA space was because of concerns about voiding the manufacturer's warranty.<sup>466</sup> Recognizing the scope of the problem,<sup>467</sup> DS approved an exception request for the foreign workers replacing damaged windows.<sup>468</sup>

As with the issue of uncleared foreign persons onsite, there is a historical example of what can go wrong when the classified space is not protected adequately. On another project, work in the core space was completed by uncleared workers while under the watch of a construction surveillance team.<sup>469</sup> After the issue was discovered, the Department "had to remove everything within that space and do max demolition and redo the space over."<sup>470</sup> "Max demolition" means "[e]verything comes out."<sup>471</sup> That was, one witness affirmed, "a big deal."<sup>472</sup> She testified:

Q Have you seen the issue of uncleared foreign nationals in the core space before?

A Yes, we did have an issue.

Q The one to which you referred earlier?

A No. A different one.

Q Different one. Do you recall where that was?

A Djibouti.

Q What was the issue?

---

<sup>465</sup> U.S. Dep't of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform, London NEC (June 12, 2016).

<sup>466</sup> Ashbery Tr. at 153 ("Q Describe that, if you would. A A piece of glass had been damaged on the curtain wall as part of installation and needed to be replaced. The construction security standards that applied to that specific location would have required that work to be done by cleared Americans. The work could not be done by cleared Americans for a variety of technical and warranty reasons. So a procedure on how to do the work using cleared Americans to surveil the curtain wall manufacturer's installers while they were doing the installation was agreed upon, approved, and implemented. Q So I assume you're referring to the CAA space? A Yes. Q So there was a concern that it would void the warranty if we didn't have cleared Americans installing this? . . . A And if the manufacturer doesn't do it, they won't touch it. And given the concerns about water integrity and ensuring that that individual item didn't get broken again during the installation process, it was deemed that the people who do it for a living were best suited to do that work.").

<sup>467</sup> Heisey Tr. at 69 ("Q Okay. So did the glass have to be—I'm sorry. How did you find out that the glass had been installed by individuals who were non[-]cleared Americans? A The glass had not been installed yet. I was there and sitting in on the security planning brief with the site security manager when the plan came up. Q And did you say, you can't do that? A Yes. Q And what kind of response did you get when you said that? A After explaining reasons why, they didn't have a lot to say.").

<sup>468</sup> *Id.* at 67-69; Cotterman at 109; Bassi Tr. at 140.

<sup>469</sup> Jones Tr. at 113-14.

<sup>470</sup> *Id.* at 114.

<sup>471</sup> *Id.*

<sup>472</sup> *Id.*

A The core space, the work was done by uncleared [workers] under CST [construction surveillance]. And that was caught during an inspection, I believe, by the tenant that was in— that came to visit that space.

Q So it wasn't security management who caught it, it was a tenant?

A Yes.

Q What was the remediation there?

A They had to remove everything within that space and do max demolition and redo the space over.

Q What is max demolition?

A Everything comes out.<sup>473</sup>

The witness recalled when it happened and agreed “it was a big deal,” and DS made the decision to remove the compromised material:

Q Do you recall that happening in real time?

A Yes.

Q Is it fair to say it was a big deal?

A Yes.

\* \* \*

Q How long did it take to do the maximum demolition?

A I don't know.

Q Who made the recommendation to do max demolition?

A DS.

Q Do you recall who at DS?

A No.

Q . . . To your knowledge, was the issue well known within OBO that there was a problem in Djibouti?

A Yes.<sup>474</sup>

---

<sup>473</sup> *Id.* at 113-14.

<sup>474</sup> *Id.* at 114-15.

In remediating this issue on the earlier project, the Department did the right thing: it removed any compromised material and “relieve[d] both the site security manager and the project director on that project”.<sup>475</sup>

[Committee Counsel]. We’re talking about Djibouti?

[Witness]. Yes, sir. They did relieve both the site security manager and the project director on that project.

[Committee Counsel]. Because of this issue?

[Witness]. They were curtailed.

\* \* \*

Q The phrase you used was “curtailed”?

A Yes. They were curtailed.

Q Is that a euphemism for they were removed?

A [Nonverbal response.]

\* \* \*

[Department Counsel]. That’s a defined personnel

[Witness]. Yes.

[Department Counsel]. —term in the FAM for the early—the posting back from an assignment before the original end date of the posting.<sup>476</sup>

That has not happened with the London NEC. One has to assume the reason is the time pressures associated with the London NEC project—including the penalty of tens of millions of dollars to the purchaser of the current embassy site in Grosvenor Square if the facility is not turned over—the fact that this is “the showpiece of OBO right now,” and one of the biggest projects OBO has ever undertaken,<sup>477</sup> have presumably caused OBO and DS to stop short of “max demolition.”

*e. Failure to Ensure that a Cleared American Guard is Posted at One of the Entry Points of the Classified Space*

The inspection team also found the site team failed to ensure that one of the entry points to the CAA space had a guard present.<sup>478</sup> The relevant security requirements mandate the

---

<sup>475</sup> *Id.* at 116; Cotterman Tr. at 163-64.

<sup>476</sup> Jones Tr. at 116.

<sup>477</sup> Cotterman Tr. at 165.

<sup>478</sup> OBO SM London Mem. at 2.

Department to “post a CAG, a cleared American guard, to control access within the CAA.”<sup>479</sup> The purpose for this requirement is to ensure “no one can go into the CAA without going through this individual,” and those entering the CAA space “sign in, they exchange a badge there so that we know, for accountability, as to who is in the space,” which is required “any time the CAA is accessed.”<sup>480</sup>

The issue raised by the inspection team concerns a one-time incident where the guard was dismissed while DS conducted particular inspection methods.<sup>481</sup> The reason the inspection team raised this issue was because “the concern was the post may be left open, somebody’s not there to make sure the door gets locked,” and the guard is not there “to walk through and ensure sure that the ID swap is complete and there’s nobody hiding out in the CAA space.”<sup>482</sup> The site security manager testified he reported it to Department leadership in advance.<sup>483</sup> Although he was told not to proceed this way, he testified his reaction was: “‘Sorry. I’m doing it this way. Field decision, my decision.’”<sup>484</sup> He stated:

A So these are local calls made by the person on the ground who’s assessing the situation in realtime there, expressing it back to them. They [Security Management] didn’t want to hear that. Follow the SOP, and I said no.

Q And when you said that to Washington, they said, follow the SOP—

A That’s right.

Q —you said no.

A That’s right.

Q What followed from that?

A That [referring to the 2016 Inspection report].<sup>485</sup>

The witnesses who testified in transcribed interviews did not appear to be concerned about this issue going forward, deeming it to be a problem when it occurred, but unlikely to reoccur in the future.

\* \* \*

---

<sup>479</sup> Jones Tr. at 117.

<sup>480</sup> *Id.*

<sup>481</sup> U.S. Dep’t of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, London NEC (June 12, 2016); Jones Tr. at 117 (“Q So to make sure I have this right, the concern you have in your memo is that this post was unmanned? A Yes, while the DS CAT team [responsible for mitigation] was there doing their inspection.”); Ashbery Tr. at 115-16.

<sup>482</sup> Jones Tr. at 117-18.

<sup>483</sup> Bassi Tr. at 146.

<sup>484</sup> *Id.* at 147 (“Q In advance it was reported? A Yeah. Q Okay. A Yeah. And the answer was, ‘No. Do it this way.’ And I said, ‘Sorry. I’m doing it this way. Field decision, my decision.’ And in this case, to do it what the—again, it’s the design of the building and the local condition.”).

<sup>485</sup> *Id.* at 149.

The Department is failing to adhere to some of the most basic security requirements for a project that will cost more than \$1 billion.

The Department's attitude with respect to the security failures in London conjures memories of a situation in Moscow nearly three decades ago, where technical security personnel raised concerns about security issues and "[t]hey weren't listened to."<sup>486</sup> Witnesses with the inspection team and above the team in the chain of command testified in agreement that these issues "would appear to be indicative of perhaps a larger issue with respect to the management of the site," and Security Management recommended removal of the site security manager.<sup>487</sup> OBO and DS management have disagreed with that recommendation.<sup>488</sup> DS has the ultimate sign-off authority for certifying the facility is safe,<sup>489</sup> and that final responsibility rests with DS.

To the extent Deputy Assistant Secretary Ashbery's agreement with the ad hoc security practices of the London NEC site team is the basis for disagreement, it raises a critical question: If there is indeed a disagreement on the proper interpretation of the *Foreign Affairs Handbook*, the London CSP, and its SOPs, why not amend those documents to conform with the site team's approach? That would, of course, require someone within DS management to sign off on the revisions and agree to accept responsibility should there be any damage from these security failures. Although that is apparently underway,<sup>490</sup> the Department should adhere to the existing requirements until any revisions are fully approved. These concerns are also underscored by the fact that the Department has seen similar failures before with compromised work and materials. As discussed above, in those instances, the Department undertook significant demolition and construction using uncompromised materials and workers.

Given the fact the London NEC is "the showpiece of OBO right now,"<sup>491</sup> there are multi-million dollar penalties should the Department fail to vacate the current embassy by early next

---

<sup>486</sup> Elaine Sciolino, *The Bugged Embassy Case: What Went Wrong*, N.Y. TIMES (Nov. 15, 1988), <http://www.nytimes.com/1988/11/15/world/the-bugged-embassy-case-what-went-wrong.html?pagewanted=all>. ("We started getting technical security people saying, "Hey, guys, you have problems,"" said a State Department official who was in Moscow at the time. "They weren't listened to."").

<sup>487</sup> Cotterman Tr. at 106 ("Q This seems like a big deal, and this would appear to be indicative of perhaps a larger issue with respect to the management of the site, would you agree with that? A I would agree with that.").

<sup>488</sup> *Id.* at 106 ("Q Do you know whether, in addition to recommending mitigation or setting up the exceptions package, that you or anybody else in SM or anybody else in CFSM [the Construction, Facility, and Security Management branch of OBO] has made any larger recommendations about the management of the site? A Myself and my management recommended curtailment of the SSM. Q What does curtailment mean in this context? A Removal. Q Okay. Has that happened? A No. Q Do you know why that didn't happen? A I was advised that DS—senior DS and OBO senior management decided that they would not be replacing staff . . . in London.").

<sup>489</sup> 12 FAM 312(b) (The Bureau of Diplomatic Security's "Office of Physical Security Programs, Physical Security Division (DS/PSP/PSD) ensures that all new construction and major renovation design plans comply with SECCA requirements and OSPB [Overseas Security Policy Board] physical security standards when applicable."); 12 FAM 361 – 363 (outlining certification process).

<sup>490</sup> Ashbery Tr. at 93 ("Q Right. But if DS, as you say, is the policymaker. Why not change the FAH? You said these three employees have good faith disagreements? A Yes. Q Why not change the FAH? A I was going to say it is our intention to amend the FAH to provide that level of clarification. Q When do you intend do that? A It is in the process of being done. Q Do you have an ETA of completion? A I do not. I was going to say mostly because I— I cannot give an estimated completion on how long it takes to process a FAH change.").

<sup>491</sup> Cotterman Tr. at 165 ("Q Okay. This is the showpiece of OBO right now, correct? A That's what I hear.").

year, and Congress is keeping a close eye on the facility, one can only suspect the Department is seeking to meet the deadline, no matter the dollar or the security cost.

Because these issues remain ongoing, the Committee will continue to investigate the remediation of the compromised materials, as well as the final certification and move-in of U.S. personnel to the London NEC.

#### 4. The Department Began Construction Before the DS-Required Blast-Testing was Complete

**FINDING:** OBO began construction of the London NEC before DS completed required blast testing, and failed to notify Congress that additional testing was needed. Although the curtain wall ultimately passed blast testing, had the system failed, taxpayers would potentially have been required to pay millions of dollars.

##### *a. The Department Certified the Safety of the Building to Congress before Conducting the Required Blast Testing*

Federal law requires the Secretary of State or his designee<sup>492</sup> to certify the safety or personnel and classified information in a facility “[b]efore undertaking any new construction or major renovation project.”<sup>493</sup> With respect to the London NEC, the Department certified to Congress on December 16, 2013 that:

(1) appropriate and adequate steps have been taken to ensure the security of the construction project (including an evaluation of how all security-related factors with respect to such project are being addressed); and

(2) *the facility resulting from such project incorporates*

*(a) adequate measures for protecting classified information and national security-related activities; and*

*(b) adequate protection for the personnel working in the diplomatic facility; and*

(3) a plan has been put into place for the continued evaluation and maintenance of adequate security at such facility, which plan shall specify the physical security methods and technical countermeasures necessary to

---

<sup>492</sup> “Pursuant to Delegation of Authority No. 198, then-Acting Secretary Eagleburger delegated to the Under Secretary for Management management-related functions vested in the Secretary of State, which include the authority to certify construction security projects.” Action Memo for Under Secretary Patrick Kennedy, Under Secretary of Management, U.S. Dep’t of State, from Gregory B. Starr, Assistant Secretary, Bureau of Diplomatic Security, U.S. Dep’t of State (Dec. 16, 2013), Tab 1 (on file with Committee staff).

<sup>493</sup> Pub. L. No. 100-204, § 160 (a), 101 Stat. 1356 (1987) (as amended).

ensure secure operations, including any personnel requirements for such purposes.<sup>494</sup>

That language tracks the statute.<sup>495</sup>

With this certification, the Department began what even it would concede is “construction” of the London NEC, notwithstanding the Department’s uncertainty that the building would survive a blast. The commencement of construction, however, followed pre-certification disagreements between DS and ODNI, on the one hand, and OBO on the other about the need for blast testing.

This premature certification followed DS’s warnings to OBO approximately one year before that it would not certify the curtain wall as then designed: “In November 2012 and April 2013, DS notified OBO of its concerns with the curtain wall design,” and DS “did not accept design completion packages submitted by OBO for certification review.”<sup>496</sup> DS performed a number of tests of components of the curtain wall system. Some of those components failed, and DS required a full mock-up blast test.<sup>497</sup> One DS R&D witness testified the particular design of the London NEC curtain wall “was something new to us,” noting DS “had never seen it,” and it was “[p]ushing the edge [of] . . . “[t]raditional blast design.”<sup>498</sup> The reason OBO offered this design was “[i]t’s an extension of the architectural look that OBO wanted.”<sup>499</sup>

According to the Department’s OIG, after “DS notified OBO [between June and July 2013] that it would not certify the design for NEC London because it still had concerns with the curtain wall design,” ODNI likewise “notified DS that it could not concur with the design of NEC London” one week before the certification to Congress.<sup>500</sup>

The day before the certification to Congress, Director Muniz sent an email to ODNI that the Department would nevertheless certify the building, and OBO has “assured DS, and now assure you, that if any revisions to the design or manufacture of the curtain wall system are required as a result of the FE/BR [forced entry/ballistic-resistant] and blast tests, they will be done to the satisfaction of DS before the final curtain wall system is installed.”<sup>501</sup>

---

<sup>494</sup> Action Memo for Under Secretary Patrick Kennedy, Under Secretary of Management, U.S. Dep’t of State, from Gregory B. Starr, Assistant Secretary, Bureau of Diplomatic Security, U.S. Dep’t of State (Dec. 16, 2013), Tab 4 (emphasis added).

<sup>495</sup> *Compare* Pub. L. No. 100-204, § 160 (a), 101 Stat. 1356 (1987) (as amended).

<sup>496</sup> OIG London Rep. at 10-11.

<sup>497</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (“Chairman Chaffetz. You had failures during these blast tests. Mr. Starr. No, sir. Chairman Chaffetz. You’re telling me there were no failures in these blast tests? Mr. Starr. I am telling you that. Chairman Chaffetz. No, were there any failures on these blast tests? Mr. Starr. Component tests, pieces of glass that we tested, including some that were less than what we were putting up, including some that were less, failed. Chairman Chaffetz. There you go.”); Norris Tr. at 86-90 (describing some of the reasons DS required a full-scale blast test).

<sup>498</sup> Norris Tr. at 49; *see also id.* at 74 (“Q Okay. How did you communicate your—strike that for just a moment. You’d said that this was different from a previous design? A This was different from any design that I had ever seen done in the Department of State.”).

<sup>499</sup> *Id.* at 77.

<sup>500</sup> OIG London Rep. at 11.

<sup>501</sup> *Id.*

This promise from Director Muniz was confirmed in a memorandum from ODNI to DS,<sup>502</sup> but that memorandum was never provided to Congress in the certification package.<sup>503</sup> Congress thus had no way to know the Department had yet to conduct blast testing on the curtain wall system and there were contingencies to ODNI's apparent approval. Inspector General Linick recognized the problem with the lack of transparency with Congress. He testified:

[W]hen Congress received the certification package in December, it's not clear to me what Congress knew, it's not clear to me that Congress realized that the Department was relying on an internal memorandum of understanding, which is not law. And, ultimately, we've got to rely on the laws and our official interpretations of them. That's the problem, from our point of view.<sup>504</sup>

The blast testing did not even begin until three months after the certification, and it was not complete until more than six months after the onset of construction. The OIG report succinctly explained the concern. Inspector General Linick testified at the Committee's hearing:

OIG is also concerned that the Department certified the safety of the project without obtaining blast testing results. The blast testing was not completed until May of 2014, more than 6 months after certification. As early as November 2012, DS notified OBO of its concerns with the curtain wall design and reiterated that a full blast test needed to be completed to ensure that the wall met standards.<sup>505</sup>

Assistant Secretary Starr called the certification "a promise to Congress" that, "in advance of starting the building of the building, that the facility resulting from the project is going to be safe and secure."<sup>506</sup> DS, however, had concerns about the safety of the building, but "changed course after the director of OBO [Director Muniz] provided a written assurance shortly before certification that it would address any issues should the

---

<sup>502</sup> Memorandum from J. Kevin Powers, Assistant Director, Center for Security Evaluation, Office of Director of National Intelligence, to O. Gentry Smith, Deputy Assistant Secretary for Countermeasures, Bureau of Diplomatic Security, U.S. Dep't of State (Dec. 12, 2013) (noting that "[s]hould blast and FE/BR [relating to the strength of doors and windows] testing highlight weaknesses in the design, Director OBO has confirmed in writing that all necessary steps will be taken to rectify the issues and comply with blast and FE/BR requirements").

<sup>503</sup> Email from Bureau of Legislative Affairs, U.S. Dep't of State, to Committee Staff, H. Comm. on Oversight & Gov't Reform (Dec. 9, 2015, 5:47 PM) ("During the December 8, 2015 HOCR hearing entitled, 'Review of the New London Embassy Project,' Representative Walker asked Diplomatic Security Assistant Secretary Greg Starr whether the ODNI Memo was included in the 2013 London certification package that was transmitted to Congress. The ODNI Memo was not included in the London certification package that was submitted to the Senate Foreign Relations Committee and the House Foreign Affairs Committee in December 2013.").

<sup>504</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015) (Inspector General Linick in response to a question from Rep. Hice).

<sup>505</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Steve Linick, Inspector General, Office of the Inspector General, U.S. Dep't of State).

<sup>506</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015) (Assistant Secretary Starr in response to a question from Rep. Walker).

test fail.”<sup>507</sup> Recognizing the blast testing was “a very high-profile, high-stakes test,” OBO sent its principal deputy director to New Mexico to witness the event.<sup>508</sup>

Congress should revise the certification requirements to ensure the Department explicitly states when there are any outstanding security-related contingencies. To its credit, DS may have learned its lesson and become self-regulating. With respect to the Beirut NEC, a DS memo notes: “The Congressional Certification process for the Beirut NEC project cannot proceed until the blast analysis and design is 100% complete for the project, along with completion of testing for all new FE/BR [forced entry/ballistic-resistant] designs.”<sup>509</sup>

***b. The Department Improperly Began Construction before the Blast Testing was Complete and then Argued it Was not Construction***

The Department flouted federal law and its own rules by awarding the contract for construction before certification to Congress,<sup>510</sup> let alone beginning construction.

---

<sup>507</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Steve Linick, Inspector General, Office of the Inspector General, U.S. Dep’t of State).

<sup>508</sup> Norris Tr. at 97.

<sup>509</sup> Memorandum from Bureau of Diplomatic Security, U.S. Dep’t of State, to Marcus Hebert, Bureau of Overseas Buildings Operations, U.S. Dep’t of State, regarding Beirut NEC 60% Design Submission (Dec. 28, 2015) (CDP-2016-00013-000022).

<sup>510</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Steve Linick, Inspector General, Office of the Inspector General, U.S. Dep’t of State).

This is what the London NEC site looked like two weeks before the December 13, 2013 certification:



Source: OBO Briefing to Committee Staff

The photo above shows a clear violation of the current statutory requirements. None of those vehicles of personnel should have been onsite. Inspector General Linick told the Committee: “The Department’s published interpretation and implementation of the statute is contained in the Foreign Affairs Manual,”<sup>511</sup> which “states that ‘no contract should be awarded or construction undertaken’” before certification.<sup>512</sup>

The practical effect of all of this, as Inspector General Linick told the Committee was that taxpayers were exposed to risk. Linick testified:

---

<sup>511</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Inspector General Linick).

<sup>512</sup> OIG London Rep. at 6 (quoting 12 FAM 361.1).

By initiating construction without first completing the blast testing, the Department committed itself to constructing a building that could have required significant redesign, potentially placing the Department and taxpayers at financial risk.<sup>513</sup>

The OIG report quantified that amount as potentially “hundreds of millions of taxpayer dollars.”<sup>514</sup>

Ignoring federal law<sup>515</sup> and its own published certification process,<sup>516</sup> the Department instead relied upon a draft 2003 memorandum between DS and OBO to guide the certification process and commencement of construction.<sup>517</sup> That memorandum conflicts with the guidance in the *Foreign Affairs Manual*.<sup>518</sup>

Pursuant to the practice in the 2003 unpublished draft memorandum—in contravention of the *Foreign Affairs Manual*’s prohibition on even awarding a contract—the Department issues “limited [notices to proceed or NTPs] authorizing construction contractors to begin limited tasks (*not* including foundation work) prior to certification.”<sup>519</sup> Making the point clear, OIG obtained slides prepared during its review noting “No certification = No foundation.”<sup>520</sup>

Director Muniz nevertheless testified that the 2003 unpublished draft memorandum controls OBO’s decisions about when to begin construction. During a hearing, Muniz stated:

Mr. Palmer. Before you go any further, are you saying this is the Department’s position, that setting the piles and doing the basic foundation work is not part of the construction?

Ms. Muniz. The Department—what I explained is that the Department has allowed for years, since 2003, the construction of piles

---

<sup>513</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Steve Linick, Inspector General, Office of the Inspector General, U.S. Dep’t of State); *see also* OIG London Rep. at 9 (same).

<sup>514</sup> OIG London Rep. at 9.

<sup>515</sup> *Id.* at 5 & n.11 (citing Pub. L. No. 100-204, the Foreign Relations Authorization Act for Fiscal Years 1988 and 1989, Section 160, as amended by Pub. L. No. 101-246, the Foreign Relations Authorization Act, Fiscal Year 1990 and 1991, Section 135 (22 U.S.C. § 4851 note)).

<sup>516</sup> *Id.* at 6 n.12 (citing 12 FAM 360 and 12 FAM 362.1).

<sup>517</sup> *Id.* at 6; *see also* *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Steve Linick, Inspector General, Office of the Inspector General, U.S. Dep’t of State) (“Notwithstanding [the Foreign Affairs Manual], since at least 2003 the Department has followed the practice of authorizing construction contractors to begin work prior to certification. In the case of the London compound, the contract award, site work, and construction began many months before the Department certified the project to Congress in December of 2013 as providing adequate security protection.”).

<sup>518</sup> OIG London Rep. at 6 (noting that the 2003 draft memorandum “does not comply with 12 FAM 361.1, which states that ‘no contract should be awarded or construction undertaken until the proponent of a project has been notified by the Department that the appropriate certification action has been completed,’ or 12 FAM 361.3, which states that ‘[t]he chief of mission is responsible for ensuring that no project subject to...certification...is initiated without certification...approval.’”).

<sup>519</sup> *Id.*

<sup>520</sup> *Id.* at 10 n.22.

up to pile caps in advance of certification. That has been common practice for over 10 years.<sup>521</sup>

Despite the prohibitions in the 2003 unpublished draft memorandum, the OIG report found the Department drove piles into the ground on the site of the London NEC more than a year before the Department certified the safety of the building to Congress.<sup>522</sup> “[C]onstruction of the piling foundation,” the OIG’s report observed, is what an industry group called “the most common type of deep foundation.”<sup>523</sup>

The Department should not even have awarded a contract for construction before certifying to Congress that the facility would be safe for personnel and classified information.

OBO itself was not certain the curtain wall would pass blast testing. A mere four days after the certification to Congress, “OBO tasked the design firm to develop solutions in the event that the curtain wall failed testing” and “to develop an ‘alternate curtain wall system.’”<sup>524</sup> That work cost an additional approximately \$1.7 million.<sup>525</sup> That redesign work also occurred in December 2013 and continued into April 2014, well into the blast-testing period.<sup>526</sup>

This is what the London NEC site looked like on May 3, 2014, before the required blast testing was complete:

---

<sup>521</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015); *see also id.* (Director Muniz testifying “[s]o what we have argued is that it has been common practice in the Department to award a construction contract, I’ll be very clear about that, for years, award a construction contract and to allow the beginning of the construction of the piles to the pile cap.”).

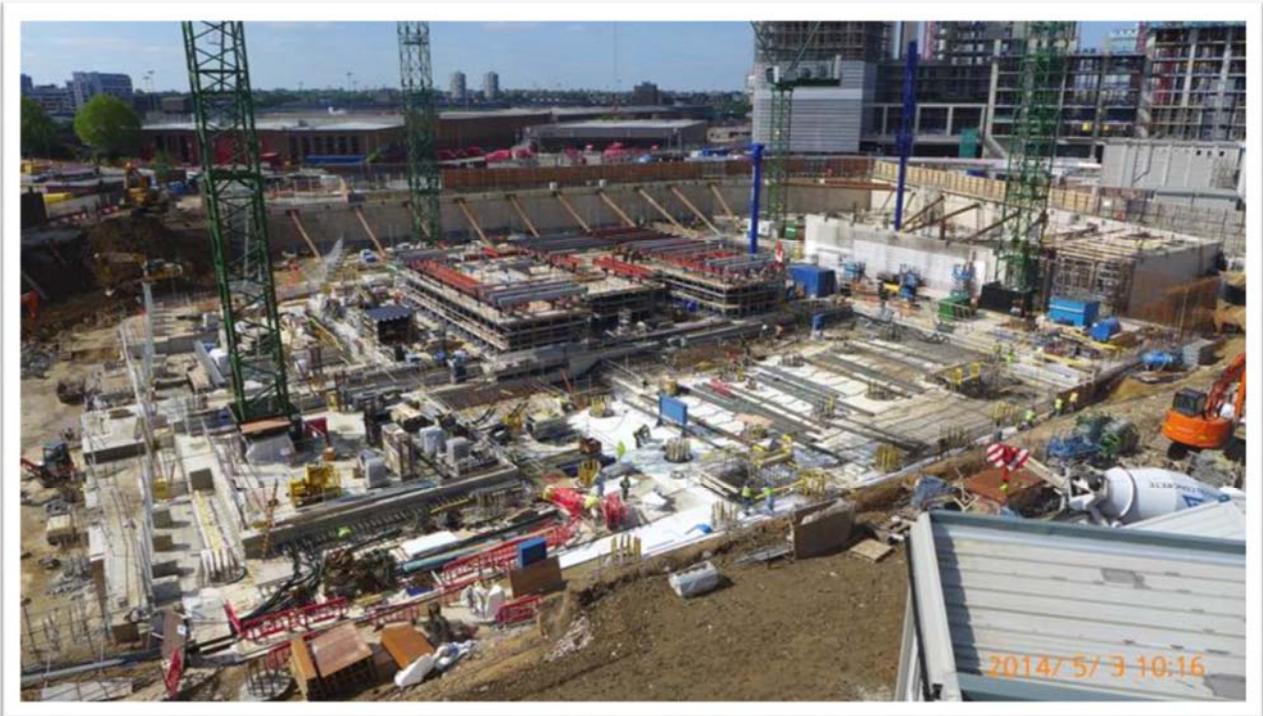
<sup>522</sup> OIG London Rep. at 15 (“OBO, in concurrence with DS, approved early site work and construction of the piling foundation in November 2012; however, certification to Congress was not achieved until December 16, 2013, more than a year after certification was originally projected by OBO and a year after site work and foundation construction was approved.”) (footnote omitted).

<sup>523</sup> *Id.* at 15 n.33.

<sup>524</sup> *Id.* at 12.

<sup>525</sup> Briefing by Office of the Inspector General, U.S. Dep’t of State, to H. Comm. on Oversight & Gov’t Reform staff on New London Embassy Report (Nov. 30, 2015).

<sup>526</sup> OIG London Rep. at 12.



Source: U.S. Dep't of State, U.S. Embassy London Flickr<sup>527</sup>

Had the curtain wall failed blast testing, the Department potentially would have spent millions of dollars on a redesign. As the Inspector General told this Committee: “By initiating construction without first completing the blast testing, the Department committed itself to constructing a building that could have required significant redesign, potentially placing the Department and taxpayers at financial risk.”<sup>528</sup>

Given the confusion about when the Department can begin construction activities, it may be useful for Congress to craft a legislative solution. In his testimony before the Committee, Inspector General Linick agreed clarity on what construction is and exactly when blast testing, if required testing has to occur, is necessary.<sup>529</sup>

### **5. The London NEC Contains Unnecessarily Expensive Features that Will Do Little to Keep Employees Safe**

The Department is using windows for the London NEC where “the glass is manufactured in Germany, is shipped to the United States for security reasons to be reassembled with the

---

<sup>527</sup> The image is available here: <https://www.flickr.com/photos/usembassylondon/14122930494/in/album-72157635166293639/> (last visited Dec. 2, 2016).

<sup>528</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Steve Linick, Inspector General, Office of the Inspector General, U.S. Dep't of State).

<sup>529</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015).

frames, which are manufactured here, and then shipped back” to London.<sup>530</sup> While under construction in Germany, during assembly in the United States, and again during installation, the panels must remain under the surveillance of an American construction technician who holds a security clearance.<sup>531</sup> As Under Secretary Kennedy remarked to the press when asked about these trans-Atlantic shipments: “Sometimes you have to move things, sometimes you don’t.”<sup>532</sup> Although true, it costs a significant amount of money and time to have cleared personnel watching these panels, to say nothing of the costs to ship and store the materials securely. All of that comes at a cost of more than three million dollars,<sup>533</sup> and it comes out of the more than \$1 billion project budget for the London NEC.<sup>534</sup>

What Under Secretary Kennedy may fail to appreciate is the glass for the curtain wall system from level one of the NEC to the roof is more than \$40.5 million.<sup>535</sup> Even at that price, the Department does not know how the structural silicone will maintain its integrity over time, but it is likely less than the 50-year life cycle the Department projects with building embassies.<sup>536,537</sup> The issue related to the structural silicone is described in greater detail below with respect to the Jakarta facility.

Adding to the millions spent on the curtain wall system, the Department spent “a little over \$4 million” for art on the London NEC.<sup>538</sup> OBO’s art funding requirements are found in an unpublished memorandum, in which OBO “provide[s] 0.5 percent of all of [its] construction contract amounts for art programs in our new buildings, new embassies and new consulates.”<sup>539</sup> With respect to London, “because of the 1 million pound requirement to add public arts, we added that, because all of that will be focused on the exterior of the embassy to get our

---

<sup>530</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (Director Muniz); Bassi Tr. at 63 (describing manufacture and shipment of curtain wall panels).

<sup>531</sup> Cotterman Tr. at 151-53 (describing this process).

<sup>532</sup> *Are modern U.S. embassies becoming too costly to build?*, CBSNEWS.COM (June 4, 2014, 7:34 AM), <http://www.cbsnews.com/news/increased-cost-of-building-design-excellence-u-s-embassies/>; see also Nancy Cordes, *Shiny new U.S. embassies costing taxpayers millions*, CBSNEWS.COM (June 6, 2014, 6:50 PM), <http://www.cbsnews.com/news/shiny-new-u-s-embassies-costing-taxpayers-millions/>.

<sup>533</sup> Cotterman Tr. at 156 (testifying that this surveillance costs “[o]n the order of three plus million dollars”).

<sup>534</sup> *Id.* at 153.

<sup>535</sup> Responses to Questions for the Record Submitted to Director Lydia Muniz by Rep. Jason Chaffetz (1-16) H. Comm. Oversight and Government Reform December 08, 2015, Resp. No. 3 (Jan. 29, 2016).

<sup>536</sup> Committee staff could not find a specific warranty period for the silicone for the London NEC’s curtain wall system, but it is likely that the period is similar to the 20-year period for the Jakarta NEC curtain wall system. In fact, the structural silicone for other elements of the London NEC contains a 20-year warranty period. U.S. Dep’t of State and KieranTimberlake, Embassy of the United States of America, London, United Kingdom, *Specifications Construction Documents 100% Volume 1* § 057100 (July 2013) (CDP-2016-00001-0001856) (providing a five-year general warranty, a 10-year period for the “laminated glass,” and a 20-year period for the “cohesion/adhesion of structural silicone” “after the date stipulated in the Certificate for Substantial Completion”).

<sup>537</sup> H. Comm. on Oversight & Gov’t Reform Deposition of Stephen Siebert Tr. at 128 (May 26, 2016) [hereinafter Siebert Tr.] (“Q To your knowledge, what’s the estimated life cycle of the Jakarta NEC? A All of our buildings are designed for a 50 year lifespan.”); Capone Tr. at 145 (“Q . . . How long is the new embassy compound supposed to last? What’s its lifespan? A I believe they’re designed for a 50 year lifespan.”).

<sup>538</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (OBO Director Muniz in response to a question from Chairman Chaffetz).

<sup>539</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (OBO Director Muniz in response to a question from Chairman Chaffetz).

permits.”<sup>540</sup> The interior of the London embassy will contain “six or seven” gardens, each of which represents a geographical region of the United States,<sup>541</sup> and parts of which are responsible for some of the procurement issues discussed above.<sup>542</sup>

Moreover, and despite spending more than \$45 million on design alone for the London NEC,<sup>543</sup> there was a lack of agreement of the merits of the design chosen. The British judges on the design selection panel—two “of the biggest names in British art and design,” according to one publication—“are said to have thought the design was boring and ‘not good enough to represent one of the great nations in London,’ said sources familiar with the jury process.”<sup>544</sup>

When told by a former colleague, “[c]ongrats on being on time and on budget in London,” an executive of the project’s contractor, B.L. Harbert International, replied: “Let’s just say that we are on time. :)”<sup>545</sup> That email exchange came in a string discussing this Committee’s July 2014 hearing on the Design Excellence program.<sup>546</sup>

---

<sup>540</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (OBO Director Muniz in response to a question from Chairman Chaffetz).

<sup>541</sup> Bassi Tr. at 170 (“Q . . . How many gardens are there in the— A Six or seven. Q Six or seven. Each in a region of the country? A The Everglades, there’s the Pacific Northwest, there’s the Southwest Prairie, and— Q Potomac? A Potomac Gardens and—yeah. Yep.”).

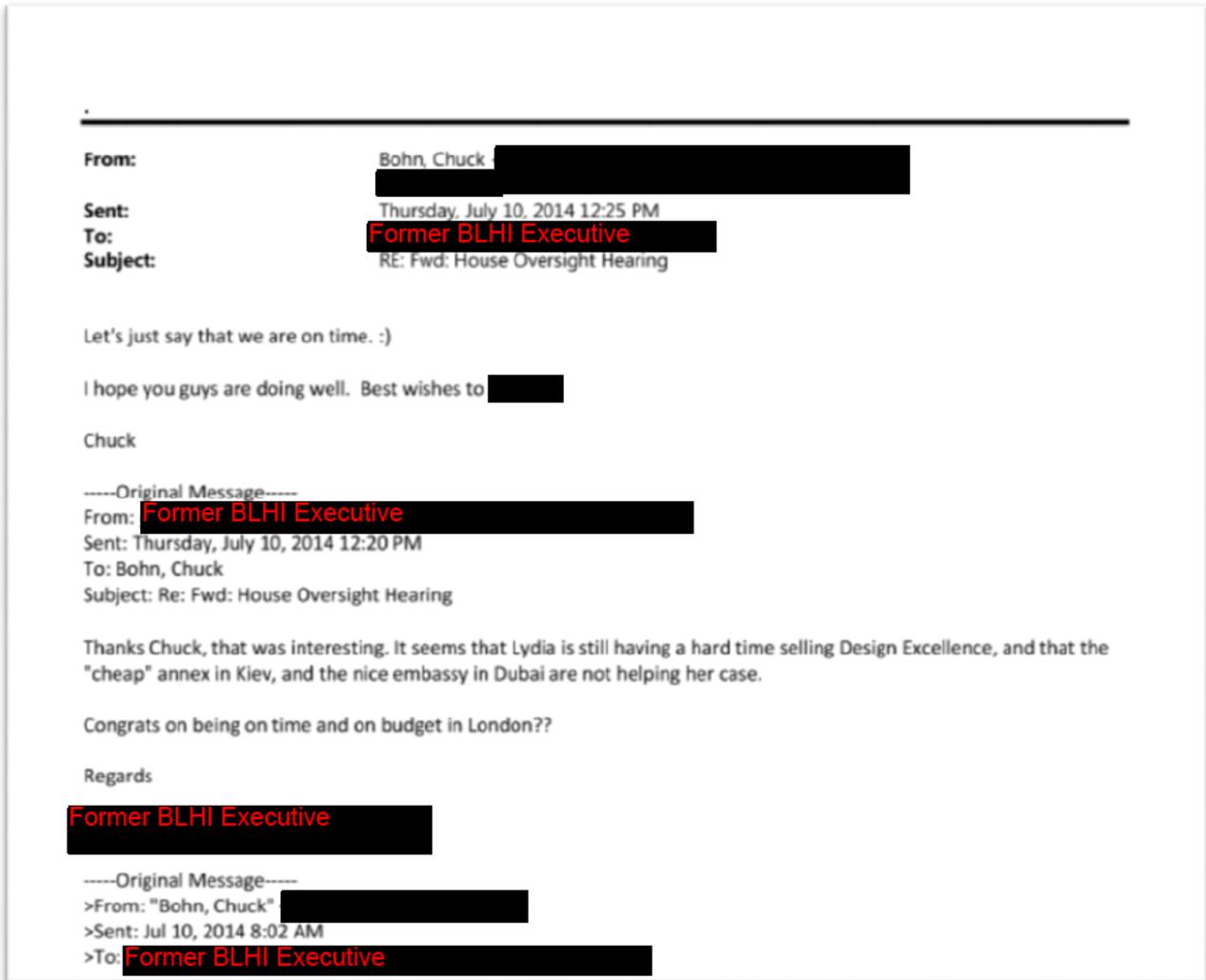
<sup>542</sup> *Id.* at 120.

<sup>543</sup> London NEC PPR, Apr. 2016 (CDP-201500016-0002966) (showing “Design” budget of \$45,695,547).

<sup>544</sup> Cliff Kuang, *The British Hate Our New London-Embassy Design*, FASTCOMPANY (Feb. 24, 2010, 12:30 AM), <http://www.fastcompany.com/1561455/british-hate-our-new-london-embassy-design>.

<sup>545</sup> Email from President of B.L. Harbert Int’l, to Former Executive, B.L. Harbert Int’l (July 10, 2014, 12:25 PM) (BLHI\_03963 (2016)).

<sup>546</sup> *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, *Hearing before the H. Comm. on Oversight & Gov’t Reform*, 113th Cong. (July 10, 2014).



Deputy Assistant Secretary Ashbery’s testimony indicated the London NEC will likely be delayed,<sup>547</sup> and a recent email exchange between the contractor and the project team casts further doubt on whether the project actually remains on the schedule provided to the Committee.<sup>548</sup> The exchange and the attachments discuss “accelerative measures” for the project.<sup>549</sup> Among the measures discussed are an “[i]ncrease to key subcontractor[] and consultant labour,” “[i]ncreased subcontractor supervision levels[],” “[e]xtended Working day (Week day)” and “Saturday working, extended hours,” as well as “[i]ncentivization arrangements with Subcontractors.”<sup>550</sup>

Given the procurement issues discussed above, it is curious that the contractor’s proposal includes a heading titled: “Measures targeting increased off-site production,” and lists

---

<sup>547</sup> Ashbery Tr. at 157-58.

<sup>548</sup> Email from London NEC Project Director, B.L. Harbert Int’l, to Rodney Evans, London NEC Project Director, U.S. Dep’t of State (June 8, 2016, 6:28 PM) (BLHI\_04065 (2016)).

<sup>549</sup> *Id.*

<sup>550</sup> Letter from London NEC Project Director, B.L. Harbert Int’l, to Rodney Evans, London NEC Project Director, U.S. Dep’t of State at 1 (June 8, 2016) (BLHI\_04067 (2016)).

“[i]ncreased resource allocated to the project at off-site facilities” as a potential solution.<sup>551</sup> The proposed cost of this is more than \$25 million.<sup>552</sup>

Although one of the two project team members “at the top of the pyramid” onsite cannot say whether the project remains on schedule as of September 2016,<sup>553</sup> the Committee has its doubts that the project remains on schedule. For the sake of the taxpayer, the Committee hopes that the government will not have to pay a penny more than the \$1.023 billion budgeted for the new embassy, or that our personnel in London will have to remain in the current embassy any longer than necessary.

## B. Jakarta



<sup>551</sup> *Id.* at 2 (BLHI\_04068 (2016)).

<sup>552</sup> *Id.* at App’x A (BLHI\_04071 (2016)).

<sup>553</sup> Bassi Tr. at 162-63 (“Q Sitting here today, does the project remain on schedule? A As far as I know. Q Would you know if it wasn’t? A Maybe not. Q Why not? You said you’re one of the two people at the top of the pyramid on the London project. A I don’t make the construction schedule timelines, nor do I have anything to do with all the other parts and components that have to go into determining whether they meet the timeline or not, and that’s commissioning, system—other systems. All of that goes into play.”). It seems odd that one of the top two members onsite could not confirm that the project remains on time.



Source: B.L. Harbert

The U.S. government maintains an important presence in Indonesia, but Indonesia is also a place where Western interests have been targeted. In January 2016, the Islamic State conducted an attack approximately one-half mile from the U.S. Embassy in Jakarta,<sup>554</sup> resulting in a temporary closure of the embassy.<sup>555</sup>

The diplomatic importance of Jakarta is underscored by the fact that it is the headquarters of the Association of Southeast Asian Nations (ASEAN),<sup>556</sup> an organization to which the U.S. government sends an ambassador.<sup>557</sup> The current embassy facility is outdated and in need of replacement.

---

<sup>554</sup> Joe Cochrane & Thomas Fuller, *Jakarta Attack Raises Fears of ISIS' Spread in Southeast Asia*, N.Y. TIMES (Jan. 13, 2016), [http://www.nytimes.com/2016/01/15/world/asia/jakarta-explosion.html?\\_r=0](http://www.nytimes.com/2016/01/15/world/asia/jakarta-explosion.html?_r=0) (“The United States Embassy is a little over half a mile from the attack site, which is also near Indonesia’s National Monument and the presidential palace complex.”).

<sup>555</sup> *U.S. Embassy to stay closed as a precaution after Jakarta blasts – statement*, REUTERS (Jan. 14, 2016, 9:06 AM), <http://www.reuters.com/article/uk-indonesia-blast-usa-diplomacy-idUKKCN0US1R920160114>.

<sup>556</sup> ASEAN is a multi-lateral organization with aims of promoting economic growth and regional peace in Southeast Asia. Ass’n of Southeast Asian Nations, *Overview*, <http://asean.org/asean/about-asean/overview/> (last visited Dec. 2, 2016).

<sup>557</sup> U.S. Dep’t of State, U.S. Mission to ASEAN, *Ambassador Nina Hachigian*, <https://asean.usmission.gov/our-relationship/nina-hachigian/> (last visited Dec. 2, 2016).



Source: House Committee on Oversight and Government Reform Staff



Source: House Committee on Oversight and Government Reform Staff

The Department has embarked on designing and constructing a new facility in Jakarta with a budget of \$497,774,000.<sup>558</sup> That results in a per-desk cost of \$674,490, as of April 2016, for the people doing the U.S. government’s diplomatic work. The curtain wall panels for the facility alone cost approximately \$45 million,<sup>559</sup> which does not include an additional \$13.3

---

<sup>558</sup> Jakarta NEC PPR, Apr. 2016 (CDP-2016-00016-0002912) (showing a “Total Project Cost” of \$497,774,000 and 738 desks).

<sup>559</sup> Capone Tr. at 149 (“Q Okay. And do you know how much the glass panels cost? A Numbers I’ve heard in the past. I couldn’t tell you specifically, but I believe it’s in the \$45 million or so perhaps. Q Okay. It’s a little bit higher than what I thought. It’s a good bit higher than what I thought.”).

million to ensure that parts of it are built in the United States.<sup>560</sup> In a briefing to Committee staff, OBO Deputy Director Casey Jones reported that the Government of Indonesia required the Department to have an “architecturally significant” design for the Jakarta NEC.<sup>561</sup>

### 1. The Department Likely Will Not Deliver the Project on Time, Given its Failure to Select Design Elements in a Timely Manner

**FINDING:** The Jakarta NEC is unlikely to be delivered on time—from an expected completion in spring 2017 to the current estimate of the end of 2018—in large part because of OBO management’s inability to decide which version of the curtain wall system should be used.

The Committee’s investigation confirmed that the Department will not deliver the project on time. The Department spent more than two years trying to determine which version of the curtain wall to use. In addition, the project’s contractor filed requests for equitable adjustments (REAs) against the Department for delays related to the Department’s inability to select a design element in a timely manner.<sup>562</sup>

The former construction executive for the Jakarta NEC testified he does not “believe that on time delivery is possible,” because “[t]he projected contract completion date was in 2017, next year, I believe, and I don’t believe there’s any reasonable way that they’ll be able to make up for the schedule delays that have occurred.”<sup>563</sup> Even Director Muniz recognized as much at a Committee hearing, noting: “I think it might be delayed.”<sup>564</sup> The Jakarta NEC project director confirmed Director Muniz’ thinking, testifying the first phase of the NEC will be “complete probably [in] early 2018,” and estimating “the entire project will complete by the end of 2018.”<sup>565</sup>

With respect to the Jakarta NEC, OBO could not decide which curtain wall system designs to use: One where the supports for the glass panels were not visible (called open edge) or one where the supports were visible and metal (called closed or captured edge). OBO instead switched the design several times, and in fact continued to provide the contractor with “design related comments” on the curtain wall as late as March 2016.<sup>566</sup> Despite the concept design

<sup>560</sup> *Id.* (“Q So the cost of the panels is about \$13,300,000, correct? A No, this is for the—this should be for the domestic fabrication facility to make them. This isn’t the cost of the panels themselves. This is for the U.S. facility to do so.”).

<sup>561</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Jakarta NEC (Aug. 13, 2015).

<sup>562</sup> B.L. Harbert Int’l, L.L.C., *Request for Equitable Adjustment for Project Delays* (July 10, 2015) (CDP201500009-000001624).

<sup>563</sup> Siebert Tr. at 75.

<sup>564</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

<sup>565</sup> Capone Tr. at 76 (“Q . . . When do you anticipate completing construction? A The contract completion date is June 2018. There’s two phases to the project. We anticipate having Phase I complete probably early 2018, and the entire project will probably complete—and this is a projection of mine, this is not a contract date or anything that’s been agreed to, but I’m estimating that the entire project will complete by the end of 2018.”).

<sup>566</sup> Email from Engineer, B.L. Harbert Int’l, to Vice President, B.L. Harbert Int’l (Mar. 21, 2016, 6:41 PM) (BLHI\_07168 (2016)) (“[M]ost of the design related comments we are working through are coming from a Consultant that OBO introduced to the Project in December of 2015 well after our REA was submitted.”).

being complete and receiving an initial notice to proceed for design and mobilization in December 2012<sup>567</sup> and construction beginning in May 2013,<sup>568</sup> the Department did not give the contractor, B.L. Harbert International (BLHI or the Contractor), the final notice to proceed on the curtain wall system until February 2015.<sup>569</sup>

When asked about the reasons for the delay between the design and the final notice to proceed on the curtain wall system, one witness explained “OBO needed to give [the Contractor] direction on which curtain wall they were building.”<sup>570</sup> Another witness agreed there was a lack of clarity by the Department of the curtain wall design:

Q But you do admit that for a period of two and a half years, there was a lack of clarity within the State Department as to which curtain wall design would be utilized, correct?

A Yes, I agree with that.<sup>571</sup>

The Jakarta project director confirmed that aesthetics were a primary consideration for the curtain wall design and the reason for the delay:

Q I’ve been told in the course of these interviews that we have done, that aesthetics are the reason why you would choose an open edge system over a closed edge system. Is that your understanding?

A That would be a primary reason, sure.

Q Okay. Because you don’t want to see the supports in the window when you look out the window?

A It would give you a cleaner look, yes.<sup>572</sup>

OBO chose this open-edge design—with its attendant delays—even though DS was “comfortable”<sup>573</sup> with the closed-edge system, even though that option “that did not subject the

---

<sup>567</sup> Patton Tr. at 46; Jakarta NEC PPR, Jan. 2013 (“Issued LNTP [limited notice to proceed] for design 12-5-2012.”).

<sup>568</sup> Capone Tr. at 72 (“Q Okay. All right. Thank you. When did construction begin on the Jakarta Embassy?

A The contract was awarded September 2012. Notice to proceed for design and mobilization was issued December 2012. Limited notice to proceed to initiate demolition and site work activities was May 10, 2013, so that would have been the start of actual construction. Q May 10, 2013? A Yes.”).

<sup>569</sup> Patton Tr. at 86-87.

<sup>570</sup> *Id.* at 87-88.

<sup>571</sup> Capone Tr. at 128-29.

<sup>572</sup> *Id.* at 113.

<sup>573</sup> *Id.* at 112 (“Q Okay. So didn’t you ask why it matters? What difference does it make whether we have—because DS had actually said, and you indicated this before, they were comfortable with closed edge system, correct? A Yes. Q That had passed before. They were able to say that that was going to satisfy the security standards that, as you told [Ranking Member’s counsel], the glass curtain wall was going to meet? A Yes.”).

project to any risk of delay.”<sup>574</sup> Deputy Assistant Ashbery recognized “[t]he execution has definitely been challenged in Jakarta.”<sup>575</sup>

OBO was aware of the potential cost of its indecision, particularly if DS required actual blast testing of the curtain wall system. In an August 2013 memorandum, two members of OBO management wrote to DS “OBO is concerned that at some future date, DS may decide that the Jakarta design [the open-edge curtain wall system] must be tested.”<sup>576</sup> “OBO is under contract with” BLHI, the memorandum continued, “and delay in approval of the curtain wall design for testing purposes presents an unacceptable cost risk.”<sup>577</sup>

In the end, however, OBO returned to its original curtain wall system design.<sup>578</sup> DS finally certified the design on January 23, 2015, even while recognizing that “the glazing elements of the curtain wall may not meet” the specific GSA performance level.<sup>579</sup>

The Department’s delay in choosing the curtain wall design will potentially cost millions of dollars. In fact, the Contractor filed an REA seeking more than \$49 million, alleging that the Department’s indecision caused delays for which the contractor should be compensated.<sup>580</sup> Recent documents produced by the Department call this “a major REA” that is currently under consideration by the Department for resolution.<sup>581</sup>

---

<sup>574</sup> *Id.* at 110.

<sup>575</sup> Ashbery Tr. at 193 (“Q So would you agree that the attempt to innovate with the design embassies was a good thing in concept, whereas Jakarta and other, maybe, specific examples had failed at the execution? A The execution has definitely been challenged in Jakarta, yes, but I do think the goal of innovation and doing it better is laudable.”).

<sup>576</sup> Memorandum from Joseph W. Toussaint and Robert J. Browning, Bureau of Overseas Buildings Operations, U.S. Department of State, to Charles D. Brandeis, Bureau of Diplomatic Security, U.S. Dep’t of State, at 1 (Aug. 30, 2013) (CDP201500009-000005100).

<sup>577</sup> *Id.*

<sup>578</sup> Email from Contracting Officer, U.S. Dep’t of State, to Vice President, B.L. Harbert Int’l (Feb. 24, 2015, 3:24 PM) (CDP201500009-000002006) (replying to a Feb. 19, 2015 Email in which BLHI notes it has been directed to revert to the original curtain wall system, noting “[y]our statement below is accurate. It is the Government’s intent to move forward with the Open-Edge Curtin [sic] Wall Design.”).

<sup>579</sup> Information Memorandum from Greg Starr, Ass’t Sec’y, Bureau of Diplomatic Security, U.S. Dep’t of State, to Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep’t of State (Jan. 23, 2015) (CDP-2015-00009000018946).

<sup>580</sup> B.L. Harbert Int’l, L.L.C., *Request for Equitable Adjustment for Project Delays* (July 10, 2015) (CDP201500009-000001624).

<sup>581</sup> Jakarta NEC PPR, Apr. 2016 (CDP-2016-00016-0002912) (“Project is red because of a major REA, review underway.”).

## 2. Department Officials Failed to Testify Truthfully before the Committee

**FINDING:** Documents contradict OBO Director Lydia Muniz' testimony to the Committee regarding the project contractor's request for additional funds associated with curtain wall delays.

At a Committee hearing on July 9, 2015 related to embassy construction failures in Kabul,<sup>582</sup> Chairman Chaffetz and Director Muniz had the following exchange:

Chairman Chaffetz. Are there any anticipated requests from the contractor for additional money to complete the Jakarta facility?

Ms. Muniz. I would say, until a project is completed we always anticipate that there will be requests for equitable adjustments from contractors for any number of issues, to include the issue with the first phase delays.

So I would say that we expect them, like we do on any project, and we work through them. We manage to our budgets to the best that we can, to include beginning to cut things out of the budget of the existing building. So that's just an ongoing process of managing just to the budget.

Chairman Chaffetz. So are you aware of any upcoming requests for additional money to build and finish the Jakarta Embassy?

Ms. Muniz. I believe I already answered your question but I could answer it again. Like with any contract, we expect through the life of the contract

Chairman Chaffetz. *No, I'm asking if you have any direct knowledge that they are about to ask you for a lot of additional money. Do you or do you not?*

Ms. Muniz. *I don't.*<sup>583</sup>

---

<sup>582</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov't Reform, 114th Cong. (July 9, 2015).*

<sup>583</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov't Reform, 114th Cong. (July 9, 2015) (emphasis added).*

Despite Director Muniz’ testimony, the contractor filed its request for equitable adjustment the very next day, July 10, 2015.<sup>584</sup> In it, the contractor sought approximately \$49 million for delays associated with the Jakarta project, more than half of which related to alleged curtain wall-related delays.<sup>585</sup>

The Committee’s review of thousands of pages of documents produced by the Department and the Contractor, as well as transcribed interviews of Department employees, showed the Department was on notice as early as November 2014 that the Contractor intended to request monies for delays related to the curtain wall.<sup>586</sup> Due to a meeting she called with the Contractor to discuss the curtain-wall-related delays, Director Muniz was on direct notice no later than December 9, 2014, approximately eight months before the referenced statements to this Committee.<sup>587</sup>

Before a contractor may submit a request for equitable adjustment, the contractor is “required to provide a notification to the government that something has occurred that they believe is outside the contract for which they feel they should be compensated.”<sup>588</sup> After this notification is received, the project team and people in OBO’s headquarters begin analyzing the potential claim.<sup>589</sup>

***a. The Department was on Notice in November 2014 that the Contractor Planned to Seek Compensation for Curtain Wall-Related Delays***

The curtain wall-related delays became quantifiable in November 2014. During a deposition, a former construction executive for the Jakarta NEC project stated:

Q And, Mr. Siebert, what I’d like to do is direct your attention to the line in the bottom right corner “potential exposure” on exhibit 4 [the October

---

<sup>584</sup> B.L. Harbert Int’l, L.L.C., *Request for Equitable Adjustment for Project Delays* (July 10, 2015) (CDP201500009-000001624).

<sup>585</sup> *Id.* at 29 (alleging a total of 1,023 days of delay, of which 519 days are attributed to “[a]lternating design changes to the [New Office Building] Curtain Wall System”).

<sup>586</sup> Patton Tr. at 40 (regarding a \$67,840,000 “potential exposure,” Ms. Patton testified “the reason this number is so high is that B.L. Harbert had alerted us that there was a potential delay, and this was their cost, their delay cost per day for what B.L. Harbert reported to us”); *see also* Patton Tr., Ex. 3, Nov. 2014 Jakarta NEC PPR. Ms. Patton emphasized, however, that this is not a verified number at the time it is included in the PPR, “but it was reported to us that the contractor was saying you have this potential risk.” Patton Tr. at 40

<sup>587</sup> Meeting Called by Ms. Lydia Muniz to Discuss Curtainwall System (CWS) Design Options, Meeting Recap, Dec. 9, 2014 (CDP-201500009-000000238).

<sup>588</sup> Capone Tr. at 50 (“Q Could you walk me through a little bit more how that process might work? So what would be the first step? The contractor and OBO has [sic] a discussion about upcoming REA, or would it just be the submission of the REA? A No. There would be a discussion. They are required to provide a notification to the government that something has occurred that they believe is outside the contract for which they feel they should be compensated.”).

<sup>589</sup> *Id.* at 51 (“Q So when you do receive an REA, you said it was eventually passed to the contracting officer? A We would provide a technical analysis of that, yes. Q Who else within your office would participate in that process? A The principal analysis would be coordinated through the folks on site, myself, and my staff. We have got a consultant that we rely on. But within OBO, we have a—construction management office has a claims manager, Mr. Tansey, who provides advice and guidance. The Department has legal staff that we consult as needed.”).

2014 Jakarta Program Performance Review (PPR)]. Can you read that number for me, please?

A Potential exposure, \$28,772,769.

Q And how about in exhibit 5 [the November 2014 Jakarta PPR]?

A \$67,840,000.

Q Why the difference?

A The amount on the October 2014 slide reflects the estimate of the cost of the domestic fabrication facility for the curtain wall. *I believe that the one in November reflects the domestic—cost for the domestic fabrication facility and the expected cost for the revised design for the curtain wall.*

Q So the delta of 39 or so million dollars is a design cost?

A Well, design and construction.<sup>590</sup>

Another former Jakarta construction executive testified similarly:

Q That next line, “Curtain wall blast analysis, required for certification, is due mid November 2014.”

A Right.

Q Did that play any role in the potential exposure?

A Yeah. Yeah, because that was going to be used—that analysis was to be—was to be a piece of technical data used in the final disposition of the design. *And each design had a different delay.*<sup>591</sup>

Department witnesses told Committee staff that the setting of the potential exposure amount on internal project tracking slides is a “pretty objective exercise.”<sup>592</sup> There also do not appear to be any incentives to underreporting the potential exposure. As one witness testified, there are not “any benefits to putting it for high potential exposure sort of setting expectations low and coming in and exceeding them.”<sup>593</sup>

---

<sup>590</sup> Siebert Tr. at 68 (emphasis added); Capone Tr. at 64 (Jakarta NEC project director testifying he “would assume that [this difference in potential exposure is] just our running projections of what we thought the exposure might be on the curtain wall issues as well as the other open contract change issues on the project”).

<sup>591</sup> Patton Tr. at 41 (emphasis added).

<sup>592</sup> Siebert Tr. at 69; *see also id.* (“Q So this is a pretty objective exercise? A Yes.”).

<sup>593</sup> *Id.*

***b. Director Muniz Attended an Hour-Plus Long Meeting in December 2014 to Discuss the Contractor's Curtain Wall-Related Delay REAs and Additional Compensation***

Even if she was not aware of the previous months' PPRs, Director Muniz' knowledge of the Contractor's intention to submit an REA for the alleged curtain wall delays came no later than December 9, 2014. On that day, she participated in a meeting at OBO's offices with the Contractor, at which the possibility of an REA for curtain wall delays was discussed. One witness even said he believed "the director [Ms. Muniz] requested the meeting,"<sup>594</sup> and a memorandum memorializing the meeting notes the following as its title: "Meeting Called by Ms. Lydia Muniz to Discuss Curtainwall System (CWS) Design Options:"<sup>595</sup>

---

<sup>594</sup> *Id.* at 103.

<sup>595</sup> Meeting Called by Ms. Lydia Muniz to Discuss Curtainwall System (CWS) Design Options, Meeting Recap, Dec. 9, 2014 (CDP-201500009-000000238).

## SAQMMA-12-C-0232 / NEC – Jakarta, Indonesia

### Meeting Called by Ms. Lydia Muniz to Discuss Curtainwall System (CWS) Design Options

Location: OBO Offices (SA-6) – Washington, DC

Attendees: Lydia Muniz, Alex Raley, Irving Nemi, Andy Remson, Mark Fleming, Richard Capone, Susan Patton, Andrew Scott, James Albertson, Stephen Seibert, Honore Carmona, Peter DiMaggio, Darren Tennant, Joel Velazquez, Fred Parker, Michael Rollock, Mike Veal, Joel Brown, Brendan Barry

Date: December 9, 2014

### Meeting Recap

---

- 1) Weidlinger & Associates, Inc (WAI) provided a brief overview of the J.3.3.2 design intent CWS. WAI also explained their interpretation of the revised silicone performance requirements contained in RFP-026.
  - a. WAI confirmed that the original bridging documents design parameters satisfied the original DS performance requirements. WAI willing to stamp original drawings again, under DS's original performance requirements.
  - b. WAI provided an overview of DS's post-contract award, new silicone performance requirements (issued via RFP-026):
    - Reduced the elongation to failure (or capacity of strain) by 50% (effectively reducing the performance characteristics of silicone by 50%).
    - Strength was reduced to 80% (effectively reducing the performance characteristics of silicone by 20%).
- 2) WAI noted that the new performance criteria under RFP-026 represent conservative reductions in the physical properties of the silicone.
- 3) The validation study required by RFP-026 required finite element analysis. WAI says this is the highest level of numerical analysis which they can perform on such a system.
- 4) OBO Senior Management stated its belief that the J.3.3.2 Design Intent CWS can be augmented for approximately \$1M per floor. BLHI confirmed this may be close to its projected ROM direct construction costs, however it does not take into account the costs associated with delay to the project's substantial completion date and the remaining engineering to complete, nor does it factor in the additional challenges or delays if the augmentation is performed in the field. (CLARIFICATION NOTE: This delay is the result of not having curtain wall system direction on 05DEC12 (LNTP-1), and still not having direction two years later.) BLHI will negotiate schedule and cost implications with OBO management.
- 5) BLHI provided physical samples to OBO of the Augmented Edge showing exposed bolt heads.
- 6) BLHI provided two summary schedules for review. The two schedules each represent a "snapshot in time" and assume the USG final Notice to Proceed is provided to BLHI 02JAN15.
  - a. Summary of Alternating CWS Direction to BLHI: models the executive summary contained within letter BLHI-LTR-S159 dated December 6, 2014 (see **attached**).
  - b. Projected CWS Events Summary Schedule: models the impact for resuming either J.3.3.2 design or Captured Edge on January 2, 2015, or to continue with the Augmented Edge (see **attached**).
- 7) The analysis performed by WAI (per RFP-026) demonstrated all windows on the NOB require angles under the new RFP-026 performance criteria. OBO Senior Management discussed field application of

the angle, rather than a shop applied angle. BLHI and its curtainwall supplier cautioned against this because the field applied silicone was not used in the Analytical Validation study completed by WAI (report is based on DC 983 and a field application requires DC 795). If OBO wishes to pursue the field-applied augmented angle, BLHI strongly recommends a separate meeting be held between all stakeholders to discuss and understand the full implications of this option before proceeding.

- 8) **BLHI reiterated that it is continuing with the current direction from the Contracting Officer; proceeding with the Augmented Open Edge Design until advised otherwise in writing by the Contracting Officer.** The OBO Project Director confirmed that BLHI is not to do anything different until/unless written direction is received from the Contracting Officer.
- 9) BLHI provided representatives from OBO with information regarding cost and time impacts associated with the (3) different CWS designs. This information is summarized below, and is the same information which has been submitted by BLHI through previous formal correspondence to the Contracting Officer;

Jakarta NEC CWS Designs	Design Cost (A)	Construction Cost (B)	Time Impact Cost (C)	Total Cost (including time impact cost) (A+B+C)	Time Impact (Days)
Original J.3.3.2 Design	-----	-----	\$22.2M	\$22.2M	MOD-10 = 180 days + 215 days = 395 days
Captured Edge Design	\$2.2M (already included in MOD-10)	\$7.9M	\$23.8M	\$31.7M (excluding MOD-10)	MOD-10 = 180 days + 242 days = 422 days
Augmented Edge Design	\$1.9M	\$14.2M (ROM)	\$34.5M (ROM)	\$50.6M (ROM)	MOD-10 = 180 days + 461 days = 641 days

Please note the cost and time figures above are calculated based on the assumption that BLHI receives clear written direction on which CWS to proceed with by 02JAN15.

With the exception of those individuals listed in the "cc" section below, we have not copied this correspondence to others at OBO who were in attendance at the meeting on 09DEC14, and we therefore request you provide copies to any other USG project team members as you deem necessary.

Please contact our office if you need to discuss any of this information with us in greater detail. We would also be available to travel to Washington for face to face meetings on the subject if your office feels that would be fruitful.

Regards,  
B.L. HARBERT INTERNATIONAL, LLC



Mike Veal  
Vice President

CC:  
Rich Capone – Project Director  
Susan Patton – Construction Executive

Page 2 of 2

Source: Ex. 67, B.L. Harbert Int'l, L.L.C., *Request for Equitable Adjustment for Project Delays* (July 10, 2015) (Meeting Called by Ms. Lydia Muniz to Discuss Curtainwall System (CWS) Design Options, Meeting Recap, Dec. 9, 2014)

While preparing for the meeting, the Contractor’s team prepared a number of documents outlining the curtain wall-related delays. In an email chain discussing OBO’s “flip flop between the various designs,” a BLHI executive noted “[t]hat history is an absolute debacle by the USG [U.S. Government].”<sup>596</sup>

At this December 2014 meeting, OBO and the Contractor discussed the design delays and OBO ultimately directed BLHI to use the original open-edge concept for the curtain wall.<sup>597</sup> Among other topics, OBO management, the OBO project team, and the Contractor discussed the contractor’s contention that “this delay is the result of not having a curtain wall system direction on 05DEC12 [December 5, 2012], (LNTTP1 [the first limited notice to proceed]) and still not having direction two years later.”<sup>598</sup>

When asked to explain the delays mentioned in this sentence, one witness testified his “understanding of the sentence, based on [his] reading of it now and [his] recollection at the time, was that the Department had not provided direction on the curtain wall up until and including the time of this meeting.”<sup>599</sup>

The group present at this meeting—including Director Muniz<sup>600</sup>—did discuss increased costs related to the curtain wall system:

Q Did you have any questions about the cost of the project at that meeting, to your recollection?

A I have—consistent with the minutes prepared by B.L. Harbert, I have a recollection that we discussed the curtain wall system. I have a recollection that we had discussions about the modeling and *I have recollection that we had a discussion about the increased cost associated with returning to the original design as well as other alternatives to modify the design.*<sup>601</sup>

The December 9 meeting lasted at least one hour,<sup>602</sup> and the minutes of the meeting show that OBO and the Contractor discussed three different concepts, each of which had a different associated time delay and cost delay.<sup>603</sup> During the meeting, the Contractor also said it would cost an estimated \$1 million per floor in direct costs only to augment the curtain wall for one of

---

<sup>596</sup> Email from Vice President, B.L. Harbert Int’l, to Vice President, B.L. Harbert Int’l (Dec. 6, 2014, 3:35 AM) (BLHI\_06544 (2016)).

<sup>597</sup> Patton Tr. at 122 (“Q . . . Can you tell me what this is? A Yeah, it’s the meeting minutes from the December meeting where we—where the design was finalized to go to the open edge” curtain wall system.).

<sup>598</sup> Meeting Called by Ms. Lydia Muniz to Discuss Curtainwall System (CWS) Design Options, Meeting Recap, Dec. 9, 2014 (CDP-201500009-000000238).

<sup>599</sup> Siebert Tr. at 106 (emphasis added).

<sup>600</sup> *Id.* at 125 (“Q And Director Muniz was present for all of these discussions [at the December 9 meeting]? A Yes.”).

<sup>601</sup> *Id.* (emphasis added).

<sup>602</sup> Patton Tr. at 123; Siebert Tr. at 103 (noting that the meeting lasted “[a]t least” an hour).

<sup>603</sup> Meeting Called by Ms. Lydia Muniz to Discuss Curtainwall System (CWS) Design Options, Meeting Recap, Dec. 9, 2014 (CDP-201500009-000000238).

the designs under discussion.<sup>604</sup> That estimate, however, did “not take into account the costs associated with delay to the project’s substantial completion date,” among other delay costs.<sup>605</sup>

The meeting minutes of the December 2014 meeting contain a chart showing costs relating to curtain wall delays alone. The chart shows a minimum of \$22.2 million in cost delays and an additional 395 days of project duration (if OBO kept the original curtain wall design) to \$50.6 million in cost delays and an additional 641 project days (if had OBO adopted one of the other designs).<sup>606</sup>

Jakarta NEC CWS Designs	Design Cost (A)	Construction Cost (B)	Time Impact Cost (C)	Total Cost (including time impact cost) (A+B+C)	Time Impact (Days)
Original J.3.3.2 Design	-----	-----	\$22.2M	\$22.2M	MOD-10 = 180 days + 215 days = 395 days
Captured Edge Design	\$2.2M (already included in MOD-10)	\$7.9M	\$23.8M	\$31.7M (excluding MOD-10)	MOD-10 = 180 days + 242 days = 422 days
Augmented Edge Design	\$1.9M	\$14.2M (ROM)	\$34.5M (ROM)	\$50.6M (ROM)	MOD-10 = 180 days + 461 days = 641 days

Source: Ex. 67, B.L. Harbert Int’l, L.L.C., *Request for Equitable Adjustment for Project Delays* (July 10, 2015) (Meeting Called by Ms. Lydia Muniz to Discuss Curtainwall System (CWS) Design Options, Meeting Recap, Dec. 9, 2014)

The Jakarta NEC project director testified that, during this meeting, “[t]here was an implicit understanding that there were costs and time associated with each of the varying design paths.”<sup>607</sup> As the project director testified:

Q Okay. But at that [December 9, 2014] meeting, BLHI indicated that they were asking for money on the factors of tens of millions of dollars to complete the curtain wall, correct?

Is that correct?

A Yes, that’s correct.<sup>608</sup>

<sup>604</sup> *Id.*

<sup>605</sup> *Id.*

<sup>606</sup> *Id.*

<sup>607</sup> Capone Tr. at 129-30 (Q . . . Do you know if any of the information provided in that meeting would have informed or put any of the attendees on notice that B.L. Harbert was planning to submit an REA on July 10, 2015? A If I understand your question correctly, I mean, there’s no way of knowing something was coming on July 10, 2015. Q I guess I’ll back up, so my understanding is that the B.L. Harbert REA did, in fact, come in on July 10, 2015? A *There was an implicit understanding that there were costs and time associated with each of the varying design paths, yeah.*) (emphasis added).

<sup>608</sup> *Id.* at 144 (“Q Okay. How about this, were you aware that BLHI was about to ask for a lot of additional money? A Yes. Q But you can’t say for certain whether Ms. Muniz knew that, or can you, on July 9, 2015? A I mean, other than that meeting I attended with her in December 2014, I have no personal knowledge of what she may or

A former construction executive for the Jakarta project testified that the numbers on the chart in the December 2014 meeting minutes “are the different costs that B.L. Harbert is projecting it will cost to do the different designs, the different curtain wall designs.”<sup>609</sup>

With respect to the chart, one witness told the Committee he had seen this information before the December 9, 2014 meeting. When asked whether he had “reported that [information on the chart] to [his] management,” he replied: “Yes.”<sup>610</sup> The witness also agreed that, “because this showed up on the minutes of the meeting [,] . . . these delay issues and the cost issues were discussed” at the meeting.<sup>611</sup> Although B.L. Harbert apparently did not use the terms “request for equitable adjustment” or “REA,” the witness testified that the contractor was “sort of setting the table for you then for what was going to be coming down the pike.”<sup>612</sup>

The December 9, 2014, meeting minutes further provided that these projected numbers for the delays were accurate “based on the assumption that BLHI receives clear written direction on which [the curtain wall system is] to proceed by” January 2, 2015.<sup>613</sup> BLHI, however, did not receive the full notice to proceed on the curtain wall system until more than a month later, in February 2015.<sup>614</sup>

The Contractor, in a post-meeting email exchange, used a color-coded timeline at the meeting detailing the various design iterations and direction from OBO, “[b]asically, the executive summary of the REA in bar chart.”<sup>615</sup> “When [Director Muniz] saw it,” the email continues, “she quickly changed the subject. . . .”<sup>616</sup>

### *c. Documents Produced by the Department Show that OBO, including the Front Office, was Internally Tracking the Potential Exposure*

The Committee obtained information from documents and transcribed interviews of Department personnel showing that the OBO Director and OBO Deputy Director participated in

---

may not have been told. Q Okay. But at that meeting, BLHI indicated that they were asking for money on the factors of tens of millions of dollars to complete the curtain wall, correct? Is that correct? A Yes, that’s correct.”).

<sup>609</sup> Patton Tr. at 125-26.

<sup>610</sup> Siebert Tr. at 106.

<sup>611</sup> *Id.*

<sup>612</sup> Patton Tr. at 127 (“Q Okay. So they were sort of setting the table for you then for what was going to be coming down the pike? A Right. And under contract, a contractor has to notify you if they believe—they have time window in which they have to notify you that there could be a potential increase in price. They can’t—they can’t say, ‘Oh, hey, 2 years ago, by the way, you owe us money.’ They have like I think it’s 30 days where they have to notify you, whether it comes to something or not. So you get a lot of those notifications.”).

<sup>613</sup> Meeting Called by Ms. Lydia Muniz to Discuss Curtainwall System (CWS) Design Options, Meeting Recap, Dec. 9, 2014 (CDP-201500009-000000238).

<sup>614</sup> Patton Tr. at 84 (noting February 2015 “is when they [the contractor] got the full notice to proceed” on the curtain wall system); *see also* Email from Contracting Officer, U.S. Dep’t of State, to Vice President, B.L. Harbert Int’l (Feb. 24, 2015 3:24 PM) (CDP201500009-000002006) (specifying the Department’s choice of curtain wall system).

<sup>615</sup> Email from Project Engineer, B.L. Harbert Int’l, to Vice President, B.L. Harbert Int’l (Dec. 15, 2014, 12:55 AM) (BLHI\_06544 (2016)).

<sup>616</sup> *Id.*

regular meetings to discuss each project.<sup>617</sup> At these meetings, the participants reviewed PPR slides, which detailed the projected construction schedule, the budget, and lists of other topics of interest for OBO.<sup>618</sup> Information is added monthly to a project's PPR slide by a project's construction executive, and PPRs are designed to provide a snapshot of issues with each project.<sup>619</sup> The project team and supervisors review the draft slides, and "then have a meeting to go through and review all of the draft PPR slides for the office prior to sending them forward to the front office."<sup>620</sup>

The principal purpose of the PPR meeting with the OBO front office was to give the front office "an opportunity . . . to get information about the projects that were going on."<sup>621</sup> OBO's front office at one point went through the PPRs for each of the projects in one long meeting, but later—likely in 2014<sup>622</sup>—started dividing the PPR review into "each of the regions."<sup>623</sup>

Even after the front office deconsolidated the PPR review to allow each of the Department's bureaus to provide separate presentations, "the front office would do a page turn of the entire [PPR slide] deck."<sup>624</sup> The recurring meeting occurs in OBO's largest conference room, is attended by "30 to 50 people," and "normally includes people—management from all of the offices within OBO."<sup>625</sup> The PPR slide for each project is "[p]resented up on a big screen" that is approximately "5 by 7 feet."<sup>626</sup> It was not difficult to see the PPR slide projected onto the screen. When one witness was asked "are people able to see what's on that screen," the witness agreed and testified "unless you had a visual impairment or the projector was broken, you could see the slide."<sup>627</sup>

During these front office PPR meetings, the "only person routinely asking questions . . . was either the director [Director Muniz] or whoever was standing in for the director."<sup>628</sup> The

---

<sup>617</sup> Siebert Tr. at 29-30 (testifying about PPR meetings with the front office and noting "[t]hey happen every month"), 31 (noting some of these meetings began occurring "[p]erhaps" quarterly); Capone Tr. at 13, 47 (similar); Ekdawi Tr. at 27-28 (describing "meetings with upper management" to review the PPRs for each project).

<sup>618</sup> Capone Tr. at 15, 46 (discussions at the PPR meetings concerned "if the project was proceeding without any issues, everything's on schedule, on budget, no concerns," and," if there are issues or concerns, then that may be discussed").

<sup>619</sup> Ekdawi Tr. at 27 ("[F]or projects under construction we have what we call a PPR system online, and every project executive updates his project, you know, and we have meetings weekly or biweekly with division director for construction management who goes through the status of each project, if they're falling behind, if there's change order, if there's problems with the project.").

<sup>620</sup> Siebert Tr. at 25-26.

<sup>621</sup> *Id.* at 52-53.

<sup>622</sup> *Id.* at 29.

<sup>623</sup> *Id.* at 28-29.

<sup>624</sup> *Id.* at 29; *see also id.* at 51-52 ("Q Okay. So in the last—the first hour, we—you were discussing the PPR meetings that you would have? A Uh huh. Q Or they have OBO to discuss, I guess, the—all of the projects that are going on, correct? A Uh huh. Yes.").

<sup>625</sup> *Id.* at 31.

<sup>626</sup> *Id.* at 32; Capone Tr. at 15 (describing PPR meetings from approximately 2010 in which the slide was displayed on "a large screen" "[b]ig enough for everybody in the room to see").

<sup>627</sup> Siebert Tr. at 52.

<sup>628</sup> *Id.*

director would sit “at the head of the table across the room and directly across the screen where the PPR slides were projected,”<sup>629</sup> and would have “[a] direct view of the screen.”<sup>630</sup>

With respect to the Jakarta NEC, the March 2015 PPR, prepared by and reviewed by OBO, notes an “REA to be submitted by B.L. Harbert late spring for time delays.”<sup>631</sup> The border of this slide is red. A former Jakarta Construction Executive testified that in the case of a red slide, it is the job of the project team “to provide a concise explanation as to what the principle [sic] issues are on the project.”<sup>632</sup> The witness was asked “[c]oncise yet thorough, I would imagine,” to which he replied “[a]lways.”<sup>633</sup>

The former Jakarta Construction Executive expanded on that:

Q Is it fair to say that a red slide is pretty concerning? If you need to have a concise, yet thorough explanation for leadership?

A In a word, yes.

Q So on a red slide, there is something you want to point out that somebody needs to take notice of. Is that correct?

A Yes.<sup>634</sup>

The current Jakarta Project Director explained the PPR coloring system as “just a visual indicator of the project status. Green means there’s no issues, no concerns. Red means there are some major concerns or issues.”<sup>635</sup>

In spring 2015—months before Director Muniz told the Committee that she did not “have any direct knowledge that [the Jakarta contractor was about to ask] for a lot of additional money”<sup>636</sup>—the PPRs showed millions of dollars of potential exposure for alleged curtain wall delays.<sup>637</sup> The March 2015 PPR said explicitly, “REAs to be submitted by BLHI late spring for time delays.”<sup>638</sup>

Given the PPR reviews, the facts disclosed at the December 2014 meeting, and other discussions, one witness told the Committee that Ms. Muniz’ testimony about the cost and

---

<sup>629</sup> *Id.* at 55-56; Capone Tr. at 15 (“Q Okay. And I assume the director sits up front so that she can see the screen well? A Yes. She used to sit at the end of the table looking directly at it, at the far end of the room, but we had a clear view.”).

<sup>630</sup> Siebert Tr. at 56.

<sup>631</sup> Jakarta NEC PPR, Mar. 2015 (CDP-2016-00016-0001734).

<sup>632</sup> Siebert Tr. at 33-34.

<sup>633</sup> *Id.* at 34.

<sup>634</sup> *Id.*

<sup>635</sup> Capone Tr. at 82.

<sup>636</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

<sup>637</sup> In addition to the regular PPR reviews, there is a document-tracking program through which OBO personnel send Action Memoranda and similar documents for the attention of the front office. This system—called OBO Trac—provides electronic reminders of items awaiting front office action. Ekdawi Tr. at 39.

<sup>638</sup> Jakarta NEC PPR, Mar. 2015 (CDP-201500009-000006646).

schedule, as well as about the REA, was “deceptive” because the witness believed Ms. Muniz “had information about a specific claim for additional money that had been previously presented to her by the contractor directly.”<sup>639</sup>

Q She [Director Muniz] was also asked whether she had direct knowledge that the contractor was about to ask for additional money. We’ve discussed the December 2014 meeting, I’ve showed you the spring PPRs. *Do you believe that was an accurate statement that she didn’t have any knowledge the contractor was about to ask for additional money?*

\* \* \*

Q Okay. Same question. Do you believe that was an accurate statement?

A I believe she—I *do not believe that was an accurate statement.*

Q And why is that?

A *Because the project team had been in extended communications with the contractor regarding the status of the design and the schedule.*

Q *And you have reason to believe that information made it to Director Muniz before she testified in July of 2015?*

A *Yes.*<sup>640</sup>

Despite no fewer than 10 attempts to get the witness to retract that statement during his deposition, the witness reiterated his belief that Director Muniz’ testimony on this score was not accurate.<sup>641</sup> Indeed, after the repeated inquiries, the witness plainly said “I believe that she deceived the committee.”<sup>642</sup> Under questioning about the witness’ “basis to believe that Secretary Muniz [sic] was being deceitful, or deceiving the committee,” the witness replied as follows:

*My opinion is based on my knowledge that on multiple occasions, she was provided information about the schedule and the budget difficulties on the project. And even accounting for the fact that our director is a busy person and that there are many projects, the Jakarta NEC, being the size of project that it is and being of particular importance in our drive towards constructing more aesthetically pleasing facilities overseas, the Jakarta Embassy, really second to London, was an important project. So it is—I—*  
it—

---

<sup>639</sup> Siebert Tr. at 145-46.

<sup>640</sup> *Id.* at 133-34 (emphasis added).

<sup>641</sup> *Id.* at 137-41.

<sup>642</sup> *Id.* at 141; *see also id.* at 148 (Q So just for the record, I want to clarify that you have categorized Secretary Muniz’s testimony as deceitful, deceiving Congress. Is that correct? A That is correct.”).

\* \* \*

*So the number of briefings and the interest that she took in the project culminated for a time in the meeting that we had with the contractor and their blast consultant in December, as we've discussed. And at that meeting, the contractor clearly presented that all of the contemplated paths forward had additional costs to the project.*<sup>643</sup>

He further testified about Director Muniz' testimony as follows:

I believe [the testimony] to be deceptive, because Chairman Chaffetz asks specifically, so you are aware of any up—are you aware of any upcoming requests for additional money? And she replies that, we expect them through the life of the contract, as if there was nothing—well, and then Chairman Chaffetz responds. He says, No. I'm asking do you have any direct knowledge that there is about to be one for a lot of money? And while she—I believe she had—that she had information about a specific claim for additional money that had been previously presented to her by the contractor directly, that she indicated that she did not have any specific knowledge.<sup>644</sup>

That same witness elaborated that:

To assume otherwise, in my opinion, would fail to give Director Muniz sufficient credit for understanding that if the project were incurring tens of millions of dollars of additional expense, that the contractor would not attempt to recover some of that expense, particularly when the contractor has stated previously in the meeting that there remains a lack of direction on a critical design element.<sup>645</sup>

With respect to whether the project is on time and on budget, the project's former construction executive testified as follows:

Q Do you recall her discussing the Jakarta NEC project during that testimony?

A I have a recollection of it.

Q What do you recall her having said?

A *I have recollection that she indicated that the project was on schedule and budget.*

Q *Is that an accurate statement?*

---

<sup>643</sup> *Id.* at 142-43 (emphasis added).

<sup>644</sup> *Id.* at 145-46.

<sup>645</sup> *Id.* at 143.

A *At the present time, no.*

Q *How about at the time she said it?*

A *I do not believe that the project was on budget or schedule at the time she made that statement.*<sup>646</sup>

When pressed about Director Muniz' testimony, the witness said "it is my belief that she had knowledge that there was a request for equitable adjustment of a specific amount of money that would come from Harbert on the Jakarta project. And I believe that very specifically when asked about it, she said that she did not have any knowledge of that."<sup>647</sup>

One witness interviewed by Committee staff who testified that Director Muniz did not lie to the Committee, calling this Committee's investigation "a witch hunt."<sup>648</sup> With respect to Chairman Chaffetz' questioning of Director Muniz on this point, the witness called it "hostile,"<sup>649</sup> "unprofessional,"<sup>650</sup> and "embarrassing."<sup>651</sup> Another witness testified he had no reason to believe Director Muniz was aware of the impending REA.<sup>652</sup> He testified Director Muniz "would not be aware of every specific request for equitable adjustment."<sup>653</sup>

For the reasons discussed above it is unlikely Director Muniz would not be aware of an REA that is approximately 10% of the total budget of the project, particularly where, at a minimum, she attended at least one meeting with the contractor where this was discussed.

***d. The Contractor Sent a Letter to OBO Approximately One Month before Director Muniz' Testimony Stating it Would Submit an REA***

In addition to the December 9, 2014 meeting attended by Director Muniz and the months of PPR slides detailing the potential exposure because of curtain wall delays, the Contractor sent a letter to OBO on June 11, 2015. The subject line of which notes "Pending Submission of REA for Contract Delays."<sup>654</sup> The letter advises OBO that the REA would be submitted on or before July 10, 2015. That is the day after Director Muniz' testimony before the Committee at which she disclaimed any knowledge of an upcoming REA. The letter from B.L. Harbert's Vice President states:

As we had mentioned in email correspondence from Thursday, March 26, 2015, BLHI's initial goal was to submit the REA to the Government sometime this summer. Please be assured that the preparation and submittal of the delay REA, together with its prompt resolution, is a top priority of

---

<sup>646</sup> *Id.* at 133 (emphasis added).

<sup>647</sup> *Id.* at 147.

<sup>648</sup> Patton Tr. at 163.

<sup>649</sup> *Id.* at 164.

<sup>650</sup> *Id.*

<sup>651</sup> *Id.*

<sup>652</sup> Capone Tr. at 56.

<sup>653</sup> *Id.*

<sup>654</sup> Letter from Vice President, B.L. Harbert Int'l, to Contracting Officer, U.S. Dep't of State, re "NEC-Jakarta" and "Pending Submission of REA for Contract Delays" (June 11, 2015) (CDP201500009-000000144).

BLHI's senior management. *With that in mind, BLHI will be submitting its REA on or before July 10, 2015.*<sup>655</sup>

---

<sup>655</sup> Letter from Vice President, B.L. Harbert Int'l, to Contracting Officer, U.S. Dep't of State, re "NEC-Jakarta" and "Pending Submission of REA for Contract Delays" (June 11, 2015) (CDP201500009-000000144) (emphasis added).



11 June 2015

Mr. Robert Powell  
Director, Contracting Officer  
U.S. Department of State  
Washington, DC 20520

Subject: 1. SAQMMA-12-C-0232: NEC – Jakarta, Indonesia  
2. Pending Submission of REA for Contract Delays

References: 1. U.S. Department of State Correspondence from Robert Powell to Mike Veal, Dated  
09JUN15

Mr. Powell,

B.L. Harbert International, LLC (BLHI) acknowledges receipt of the above referenced correspondence from your office. BLHI remains in full agreement with your assertion that it would be in the best interest of both parties to resolve these issues within a reasonable timeframe.

As we had mentioned in email correspondence from Thursday, March 26, 2015, BLHI's initial goal was to submit the REA to the Government sometime this summer. Please be assured that the preparation and submittal of the delay REA, together with its prompt resolution, is a top priority of BLHI's senior management. With that in mind, BLHI will be submitting its REA on or before July 10, 2015.

Please feel free to contact our office at any time if you have questions about BLHI's progress on the REA.

Regards,  
B.L. HARBERT INTERNATIONAL, LLC

Mike Veal  
Vice President

Office:

CC:

Jim Thomas  
Korette McBean  
Chuck Bohn  
Steve Waerzyk

210 London Parkway Birmingham, Alabama 35211 PHONE 205-802-2900 FAX 205-802-2901

Source: Letter from Vice President, B.L. Harbert Int'l, to Contracting Officer, U.S. Dep't of State, re "NEC-Jakarta" and "Pending Submission of REA for Contract Delays" (June 11, 2015) (CDP20150009-00000144)

BLHI also had internal discussions about presenting the REA to OBO and how, in the Contractor's view, OBO will not be surprised by the submission. In a June 26, 2015 email, the Contractor discussed the December 9, 2014 meeting and, referring to the minutes of the meeting, notes "I believe the attached is what we showed [Director Muniz] in December 2014."<sup>656</sup> The group questioned whether "OBO legitimately can act surprised," and "[w]e want to be able to respond that we've been telling OBO for a long time how big this delay is."<sup>657</sup>

An email three weeks before the exchange above showed B.L. Harbert reiterating an earlier offer to "build this REA 'under the eyes' of OBO," in an effort to "give OBO maximum visibility."<sup>658</sup> The email notes "OBO site nixed this idea," and the Contractor asked the Department contracting officer "[c]an we go back to this?"<sup>659</sup> The purpose was to permit OBO and the Contractor to "work together collaboratively to resolve this REA."<sup>660</sup>

#### *e. The Department Expresses Concern after Director Muniz' Testimony*

Approximately one month after Director Muniz' testimony that she did not know the Jakarta contractor planned to request significant additional funds, the Department sent an unprompted letter to Chairman Chaffetz explaining why Director Muniz' testimony was not inaccurate.<sup>661</sup>

The ostensible purpose of the letter was "to eliminate any confusion," and the Department therein proceeded to defend her statements at the hearing. The letter further criticized Chairman Chaffetz for "not giv[ing] [Director Muniz] the opportunity to complete her statement."<sup>662</sup>

Notwithstanding Chairman Chaffetz' question to Director Muniz whether she had "any direct knowledge that they [the contractor] are about to ask you [OBO] for a lot of additional money," and her clear response, "I don't,"<sup>663</sup> the letter stated: "Consistent with the expectation that Director Muniz attempted to express at the hearing,"<sup>664</sup> BLHI submitted an REA for nearly \$50 million the next day.<sup>665</sup>

---

<sup>656</sup> Email from Vice President, B.L. Harbert Int'l, to President, B.L. Harbert Int'l, and Vice President, B.L. Harbert Int'l (June 26, 2015, 3:11 PM) (BLHI\_06762 (2016)).

<sup>657</sup> *Id.*

<sup>658</sup> Email from Vice President, B.L. Harbert Int'l, to Jakarta NEC Construction Executive, U.S. Dep't of State (June 3, 2015, 10:21 AM) (BLHI\_06758 (2016)).

<sup>659</sup> *Id.*

<sup>660</sup> *Id.*

<sup>661</sup> Letter from Hon. Julia Frifield, Assistant Sec'y of Legislative Affairs, U.S. Dep't of State, to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform (Aug. 12, 2015).

<sup>662</sup> *Id.*

<sup>663</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (July 9, 2015).

<sup>664</sup> Letter from Hon. Julia Frifield, Assistant Sec'y of Legislative Affairs, U.S. Dep't of State, to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform (Aug. 12, 2015).

<sup>665</sup> Letter from Vice President, B.L. Harbert International, to Contracting Officer, U.S. Dep't of State (July 10, 2015) (noting "VIA Express Courier (*for delivery on July 10, 2015*)") (emphasis added) (on file with Committee staff).



United States Department of State

Washington, D.C. 20520

AUG 12 2015

Dear Mr. Chairman:

Thank you for your letter of June 21 requesting documents and a briefing on the design and construction of the new Jakarta Embassy project. We are working to be responsive to this and the numerous other competing requests from your Committee related to embassy construction and design, and continue to engage with your staff to ascertain the Committee's priorities. To that end, we have scheduled a briefing with your staff, as requested, to discuss the Jakarta project on August 13.

In order to eliminate any confusion that may surround certain aspects of the Jakarta project, we would like to re-state what OBO Director Lydia Muniz said in response to questions on the Jakarta Embassy project at the July 9, 2015 hearing titled "Construction Costs and Delays at the U.S. Embassy in Kabul." When asked whether there were "any anticipated requests from the contractor to complete the Jakarta facility" Director Muniz explained that, "[OBO] expects [a Request for Equitable Adjustment (REA)], like we do on any project." When asked whether "[she had] direct knowledge that [the contractor is] about to ask [OBO] for a lot of additional money" Ms. Muniz replied "I don't." When asked again, she replied "I expect..." – but was not given the opportunity to complete her statement.

Consistent with the expectation that Director Muniz attempted to express at the hearing, OBO received an REA from the contractor for the Jakarta project on July 10, 2015. As with all REAs, OBO is conducting a comprehensive review and analysis.

The Department will then respond to the contractor based on the Government's position with respect to the validity of the request. OBO and the Department's review, analysis and position regarding the REA – as well as any negotiations – are procurement sensitive.

The Honorable  
Jason Chaffetz, Chairman,  
Committee on Oversight and  
Government Reform,  
House of Representatives.

OBO contracts for large construction projects in foreign cities on a firm fixed-price basis. Firm fixed price contracting for embassy construction has been the Department's practice since the early 2000's and has been identified by Congress as the preferred contract type for major construction projects. In general, this means that the contractor bears the risk of unanticipated costs. Where a contractor believes its additional costs are due to issues for which contractual responsibility is allocated to the Government, it is entitled to seek an equitable adjustment in the contract price. The analysis of such requests is often a complex process requiring expert analysis and detailed review of the contractor's actual and anticipated costs. Since the Department has utilized firm fixed-price contracts, no major Embassy or Consulate project has been without an REA.

The Department would like to note that discussing the specifics of requests for equitable adjustment is inadvisable in a public setting such as a Congressional hearing as doing so may lead to breaches of contractual obligations of confidentiality with respect to the contractor's proprietary technical and cost information. In particular, speculating about if, when, for what amount or why an REA might be submitted for any project in advance of its submission or during technical analysis could jeopardize the Government's position in negotiations.

The Department looks forward to briefing your staff on the new Embassy project in Jakarta. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

A black rectangular redaction box covering the signature of the sender.

Julia Frifield  
Assistant Secretary  
Legislative Affairs

The Committee began an investigation into the Jakarta NEC not long after Director Muniz' testimony.<sup>666</sup> On July 21, 2015, the Committee sent a letter to the Department, both requesting documents and highlighting portions of Director Muniz' hearing testimony, including her statements regarding delays and that she had no knowledge of the contractor's "upcoming requests for additional money to build and finish the Jakarta embassy."<sup>667</sup>

Upon receiving the Committee's letter requesting documents and information about the Jakarta NEC, Deputy Assistant Ashbery forwarded the Committee's letter to one of his deputies "[t]his will not be pretty."<sup>668</sup> His deputy responded "[n]o indeed."<sup>669</sup> When asked why it would "not be pretty," Deputy Assistant Secretary Ashbery testified:

Q What did you write to Mr. Gibbons?

A I said, "This will not be pretty."

Q Why did you say that?

A Because there were issues related to the delay and certification of the Jakarta project that I assumed were not going to be a very pleasant discussion.

Q What issues were those?

A The ones that we discussed at the committee hearing which were related to the fact that there was, in fact, a significant delay in the certification of that project related both to the resolution of the issues related to the curtain wall and to the issues related to the compromise of the classified drawing set that resulted in the redesign of portions of that project.

\* \* \*

Q And Mr. Gibbons replied "No indeed" to your email, "This will not be pretty."

Did you all have a conversation about this?

A We probably had several conversations about this, including getting the specific information necessary to brief the committee.

---

<sup>666</sup> Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform, and Hon. Ron DeSantis, Chairman, Subcomm. on National Security, H. Comm. on Oversight & Gov't Reform, to Hon. John F. Kerry, Sec'y, U.S. Dep't of State (July 21, 2015).

<sup>667</sup> *Id.*

<sup>668</sup> Ashbery Tr., Ex. 7, Email from Wayne Ashbery, Deputy Assistant Secretary - Countermeasures, Bureau of Diplomatic Security, U.S. Dep't of State, to Peter Gibbons, Office Director, Physical Security Programs, Bureau of Diplomatic Security, U.S. Dep't of State (July 29, 2015, 4:17 PM) (CDP-2016-00009000019187).

<sup>669</sup> *Id.*

Q Were you unhappy to get this letter?

A I was going to say I'm always unhappy to have to come up to Capitol Hill and brief on bad news, yes.

Q I won't take that personally.

A Not intended to be taken personally by anyone up here, but it is never good to come up and provide bad news.

Q . . . So your email here, "This will not be pretty," was related to statements made at the hearing on July 9?

A Yes.<sup>670</sup>

---

<sup>670</sup> Ashbery Tr. at 182-83.

CO?3

**Zaitchik, Benjamin J**

---

**From:** Gibbons, Peter G  
**Sent:** Wednesday, July 29, 2015 4:20 PM  
**To:** Ashbery, Wayne B  
**Subject:** RE: Embassy Jakarta NEC

No indeed.

This email is UNCLASSIFIED.

---

**From:** Ashbery, Wayne B  
**Sent:** Wednesday, July 29, 2015 4:17 PM  
**To:** Gibbons, Peter G  
**Subject:** FW: Embassy Jakarta NEC

This will not be pretty.

---

**From:** [REDACTED]  
**Sent:** Wednesday, July 29, 2015 3:43 PM  
**To:** Ashbery, Wayne B  
**Cc:** DS CONGRESSIONAL AFFAIRS; Briller, Douglas L; Ring, David D  
**Subject:** Embassy Jakarta NEC

Hi Wayne,

For your awareness we have received the attached Congressional letter from Chairman Chaffetz of House Oversight and Government Reform (HOCR) inquiring about the U.S. Mission in Jakarta. It's a lengthy document request, so we'll offer a briefing instead of the docs. I'll let you know when we have a confirmed date, but OBO is hoping for 8/10. We'll provide a tasker for talking points to the C team in soon.

No action requested at this time, for information only.

Thanks,

[REDACTED]  
Special Assistant for Legislative Affairs  
Office of the Assistant Secretary for Diplomatic Security  
202 647 0147  
[REDACTED]@state.gov

This email is UNCLASSIFIED.

JASON CHAFFETZ, UTAH  
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND  
RANKING MEMBER

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MASTERS: 0001725-0074

MASTERS: 0001725-0051

July 21, 2015

The Honorable John F. Kerry  
Secretary  
U.S. Department of State  
2201 C Street NW  
Washington, D.C. 20520

Dear Mr. Secretary:

At the Committee's July 9, 2015 hearing titled "Construction Costs and Delays at the U.S. Embassy in Kabul," the Department's Director of Overseas Buildings Operations (OBO), Lydia Muniz, testified about the Department's ongoing new embassy compound project in Jakarta, Indonesia (Jakarta NEC).

Ms. Muniz told the Committee that the Department has "encountered some difficulties with the [first phase] contractor . . . which has delayed this later phase."<sup>1</sup> When asked specifically whether delivery of the Jakarta NEC would be delayed, Ms. Muniz answered, "I think it might be delayed[.]"<sup>2</sup> Ms. Muniz also told the Committee that OBO is working with the contractor "to see what time can be made up for," but that currently "there are no final adjustments to the project's schedule."<sup>3</sup>

With respect to cost, Ms. Muniz testified that "[t]o [her] knowledge, right now we are on budget."<sup>4</sup> Nevertheless, Ms. Muniz said that she generally expects contractors to file requests seeking additional money for most projects, including for the Jakarta NEC.<sup>5</sup> When pressed whether she was "aware of any upcoming requests [by the contractor] for additional money to build and finish the Jakarta Embassy," she replied that she was not.<sup>6</sup> Likewise, the Department's Assistant Secretary for the Bureau of Diplomatic Security, Gregory Starr, also testified that he did not have knowledge of any such upcoming requests by the contractor.<sup>7</sup>

So the Committee can better understand the design and construction of the Jakarta NEC, please provide the following documents and information as soon as possible, but by no later than noon on August 7, 2015:

<sup>1</sup> H. Comm. on Oversight & Gov't Reform, *Hearing on Construction Costs and Delays at the U.S. Embassy in Kabul*, Hearing at 148, 114th Cong. (July 9, 2015) (unofficial transcript).

<sup>2</sup> *Id.* at 149.

<sup>3</sup> *Id.* at 148.

<sup>4</sup> *Id.* at 150.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

Source: Ashbery Tr., Ex. 7, Email from Peter Gibbons, Office Director, Physical Security Programs, Bureau of Diplomatic Security, U.S. Dep't of State, to Wayne Ashbery, Deputy Assistant Secretary - Countermeasures, Bureau of Diplomatic Security, U.S. Dep't of State (July 29, 2015, 4:20 PM) (CDP-2016-00009000019187-88)

### 3. Use of a Curtain Wall System That Has not Been Sufficiently Tested or Planned for Maintenance

Unlike the curtain wall for the London NEC, the curtain wall system for the Jakarta NEC was never subjected to a full blast test. Instead, DS used finite element modeling, which one witness described as the process by which “the blast engineers ran some supercomputer program to determine the requirements” of the curtain wall system.<sup>671</sup> That is, DS’s blast engineer ran a series of mathematical calculations to ensure that the curtain wall system would hold in the event of a blast. However, Deputy Assistant Secretary Ashbery testified “a full-scale or final blast test would be the one that mattered in terms of evaluating the overall security of the blast wall.”<sup>672</sup> He nevertheless believes “the New Embassy Compound in Jakarta will meet the security requirements.”<sup>673</sup>

Based on the mathematical modeling, as well as the blast test results of the London NEC curtain wall, DS approved the use of finite element modeling instead of actual blast testing.<sup>674</sup> Director Muniz explained to the Committee some of the similarities between the curtain walls at the London and Jakarta NECs, noting “the curtain wall used in Jakarta is not dissimilar to the curtain wall used in London to the degree that those are curtain walls that have what we call an open bite.”<sup>675</sup> She continued: “But when you test . . . there are variations on the same system,” and “DS was comfortable that the open bite system, which has been used for years in private industry, but not to the security standards that the Department uses, when they were comfortable from the results of the London test that this solution worked, they accepted the calculations.”<sup>676</sup>

Internal Department emails show that OBO was “scrambling now regarding the Jakarta curtain wall design as a direct result of London’s component blast tests.”<sup>677</sup> The email also notes

---

<sup>671</sup> Patton Tr. at 94; *see also id.* at 95 (“This particular program was some super-smart people get together and say, hey, let’s model this this way. We want to model a blast in this particular way, and then we’re going to play with the data this way.”); Siebert Tr. at 95-96 (describing finite element modeling).

<sup>672</sup> Ashbery Tr. at 118 (“Q So a full scale or final blast test would be the one that mattered in terms of evaluating the overall security of the blast wall? A Yes.”).

<sup>673</sup> *Id.* at 119.

<sup>674</sup> Siebert Tr. at 101 (“Q Did Diplomatic Security permit the use solely of finite element modeling based on the London results, to your knowledge? A Yes.”); *see also Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (“Chairman Chaffetz. But it has been the practice to do an actual blast test on the facade that would be there in Jakarta? Mr. Starr. No. In that case, it was within the design engineering parameters that the blast engineers felt comfortable that looking and reviewing the drawings, they said: Yes, this meets the parameters. We did blast testing on the London design because these were very large and a different type of design, but the parameters on Jakarta fell within what the engineers were very comfortable with.”).

<sup>675</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

<sup>676</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

<sup>677</sup> Email from Bureau of Diplomatic Security, U.S. Dep’t of State, to Bureau of Diplomatic Security, U.S. Dep’t of State (Feb. 26, 2014, 3:35 PM) (CDP-2015-00009000019245); Capone Tr. at 131 (“Q After that, the London Embassy blast testing occurred, and the results from that blast testing were used in analysis for the Jakarta glass curtain wall. Is that correct? A They weren’t used in the analysis, but it was a similar enough system that it demonstrated that what was being proposed in Jakarta would also pass. Q So the successful testing of the London glass curtain wall gave Diplomatic Security enough confidence that the open edge system, in fact, was secure

that Director Muniz approved the curtain wall system redesign but never sent a contract modification, purportedly “because they were counting on a favorable London component tests [sic] which they would use to poke us (DS) in the eye and say we should then approve the non-captured bite Jakarta design.”<sup>678</sup> The email concludes “[b]esides the initial redesign costs, *this is now going to cost them big \$\$\$ in project delays.*”<sup>679</sup>

Given some of the concerns about the testing of the London curtain wall system, as discussed above, DS had concerns about the blast resistance of the Jakarta curtain wall system, as well.<sup>680</sup> The Jakarta curtain wall system is different from the London curtain wall, which required additional and more expensive testing, because it required multiple modeling tests. Deputy Assistant Secretary Ashbery testified about an email he wrote. He stated:

Q I’d like to focus your attention on the last sentence of that, I guess second paragraph. “There is greater complications on this curtain wall design than there was in London, it is likely the corrective costs will be significantly higher.”

What did you mean by that?

A What I specifically meant by that is that there was a— one issue that was done differently in Jakarta that changed the calculations and related to the curtain wall design in that in London [specific testing information redacted].

That created complications because each of the calculations that were necessary to determine whether or not this facility met the glass requirement would have to be done multiple times.<sup>681</sup>

Deputy Assistant Ashbery, in the same email string, noted the Jakarta curtain wall system “design is really pushing the analytical limits of the structural engineering community and its knowledge of some of the material properties,”<sup>682</sup> and he was “concerned that the mitigation in this case may be much more expensive than London turned out to be and will result in increased

---

enough to meet all the requirements? A Yes, it gave them, yes, much more confidence that it could achieve the performance requirements.”).

<sup>678</sup> Email from Bureau of Diplomatic Security, U.S. Dep’t of State, to Bureau of Diplomatic Security, U.S. Dep’t of State (Feb. 26, 2014, 3:35 PM) (CDP-2015-00009000019245).

<sup>679</sup> *Id.* (emphasis added).

<sup>680</sup> Siebert Tr. at 109 (“Q Okay. So Diplomatic Security raised concerns about the curtain wall meeting its requirements for them to certify that aspect of the design? A That they did. Q Okay. And we do know a stop work order was put into place? A Correct. Q Okay. And we also know that that stop work order was put into place after those concerns were raised? A That is correct.”).

<sup>681</sup> Ashbery Tr. at 171-72 (quoting Ashbery Tr., Ex. 5, Email from Wayne Ashbery, Deputy Assistant Secretary - Countermeasures, Bureau of Diplomatic Security, U.S. Dep’t of State, to Gregory B. Starr, Assistant Secretary Bureau of Diplomatic Security, U.S. Dep’t of State (Dec. 5, 2014, 10:47 AM) (CDP-2016-00009000019223)).

<sup>682</sup> Ashbery Tr., Ex. 5, Email from Wayne Ashbery, Deputy Assistant Secretary - Countermeasures, Bureau of Diplomatic Security, U.S. Dep’t of State, to Gregory B. Starr, Assistant Secretary Bureau of Diplomatic Security, U.S. Dep’t of State (Dec. 8, 2014, 9:14 AM) (CDP-2016-00009000019223).

pressure later . . . . It is a case where the USG will be on the hook for the cost of the mitigation.”<sup>683</sup>

While the testing was occurring for the London curtain wall, DS stopped the certification package for the Jakarta NEC because of “this issue with the NLE [New London Embassy] crisis.”<sup>684</sup> Indeed, a former construction executive for the Jakarta NEC told Committee staff those concerns were never fully allayed with respect to Jakarta.<sup>685</sup>

According to this witness, who was privy to the relevant information in real time,<sup>686</sup> DS R&D had concerns “whether or not in a blast event the windows would fall out of the building.”<sup>687</sup> The witness described in some detail his understanding of DS R&D’s concerns.<sup>688</sup>

When asked “[h]ow . . . the [DS R&D] concerns . . . g[o]t resolved about the mathematical modeling,” the witness replied “I do not have a recollection that those concerns were ever adequately resolved.”<sup>689</sup> When pressed, the witness was asked whether DS “would not certify an option if they did not believe it to be safe and secure,” and the witness said, “I don’t believe I could say that.”<sup>690</sup>

The witness also testified “I believe that [DS] certified the building to Congress without having resolved the concerns of their experts.”<sup>691</sup> One of those experts, who works in DS R&D,

---

<sup>683</sup> Ashbery Tr., Ex. 5, Email from Wayne Ashbery, Deputy Assistant Secretary - Countermeasures, Bureau of Diplomatic Security, U.S. Dep’t of State, to Gregory B. Starr, Assistant Secretary Bureau of Diplomatic Security, U.S. Dep’t of State (Dec. 8, 2014, 9:05 AM) (CDP-2016-00009000019223).

<sup>684</sup> Email from Bureau of Diplomatic Security, U.S. Dep’t of State, to Bureau of Diplomatic Security, U.S. Dep’t of State (July 25, 2013, 5:32 PM) (CDP-2015-00009000018996).

<sup>685</sup> Siebert Tr. at 84 (the witness testified that “[w]ithin Diplomatic Security, the research and development branch had unresolved concerns regarding the curtain wall performance,” including “[a]bout the performance of the curtain wall system in a blast event”).

<sup>686</sup> *Id.* at 112 (“Q . . . Are you privy to all of the reports and information that Diplomatic Security is evaluating? A With respect to the Jakarta curtain wall project? Q Yes. A At the time these decisions were made, yes. All of that information, either through my role as the construction executive or as part of the project team, I was—to the extent that there were discussions that I was aware of, everything that came from Weidlinger and Associates [the blast engineers] was responsive to the contract requirements, that contract being with OBO, and OBO passed all of the information that Diplomatic Security reviewed to them.”).

<sup>687</sup> *Id.* at 85.

<sup>688</sup> *Id.* at 85-86.

<sup>689</sup> *Id.* at 87.

<sup>690</sup> *Id.* at 111. This witness, although not a security expert, made clear that he was relying on “the outstanding concerns of their [DS’s] technical experts.” Siebert Tr. at 119; *see also id.* at 120 (“I’m simply expressing my personal concern that the reviewing experts’ at [DS] concerns were never adequately resolved on a technical basis.”).

<sup>691</sup> *Id.*; *see also id.* at 114 (“Q So you think they knew it was not safe and secure and they certified it anyway? A I believe that the technical experts reviewing the project had valid, unresolved concerns regarding the performance of the curtain wall system. Q What’s your basis for believing that they had valid concerns if you’re not a security expert? A Their representations that they had unresolved concerns.”).

testified that some of those concerns remain.<sup>692</sup> When asked about “the standards for the windows,” the engineer testified “[t]hat has not been resolved.”<sup>693</sup>

The DS R&D witness told Committee staff several of the panels of the mock-up for the London blast test fell out of the frames. When asked whether “that make[s] you concerned that they may fall out in the real world,” he replied “[y]es.”<sup>694</sup> DS nevertheless certified the test for the London NEC curtain wall because, in its view, the way the panels fell “would not have been harmful to the occupants of the building, so as far as DS is concerned, that was a successful test.”<sup>695</sup> The DS R&D witness told the Committee testing for the Jakarta NEC would likely have achieved the same outcome as the London NEC curtain wall system.<sup>696</sup> DS, however, did not do blast testing specific to the version of the open-bite curtain wall adopted for Jakarta,<sup>697</sup> despite there being differences in the curtain wall panels.<sup>698</sup> When asked “[s]hould there have been” testing relating to the version of the curtain wall adopted for the Jakarta NEC, the DS R&D witness replied: “I would say yes. I would say yes.”<sup>699</sup>

---

<sup>692</sup> Norris Tr. at 120; *see also id.* at 64 (“Q Okay. So then as of now, the concerns you had then have been resolved? A Largely, yes.”).

<sup>693</sup> *Id.* at 120; *see also id.* at 120-21 (“Q Okay. But there’s a concern that the glazing [glass panels] may come off? A Yes. Q And that concern remains today? A Yeah, I—well, we don’t know. I mean, we’ve seen compartment-level testing where it fell off. We did a full-on mockup where it stayed on, so it’s about 50/50 chance it will work because it is—the designs—these are so close to the edge of what structural silicone will do.”).

<sup>694</sup> *Id.* at 124.

<sup>695</sup> *Id.*

<sup>696</sup> *Id.* at 137-38 (“I think you would have—at the end of the day, I think you would have had very much the same results [for the Jakarta NEC as with the London NEC]. It was the same—again, the same designer designing it at the same point in time using the same design philosophies and methodologies. So I think you would have had very comparable performance out of it.”).

<sup>697</sup> *Id.* at 140 (“Q Did you look at the analytical validation of both the open and the closed bite for Jakarta? A No. I don’t believe there was ever any look at the un-captured—the open bite for Jakarta,” which is the version OBO adopted.).

<sup>698</sup> *Id.* at 138 (noting there are “differences in the height and width of the windows” between the London and Jakarta NECs); Ashbery Tr. at 171-72 (describing additional differences).

<sup>699</sup> Norris Tr. at 140.

**FINDING:** With both the Jakarta and London NECs' curtain wall systems, the Department failed to account for the maintenance and eventual replacement of the structural silicone holding the curtain wall in place.

Adding to the testing issues, the Department has not sufficiently determined how it will maintain the curtain wall system. The curtain wall system uses structural silicone caulk to hold each glass panel into the frame.<sup>700</sup> As a former Jakarta construction executive testified, “[w]ith respect to the replacing of the glass, this was a concern that, from a constructability and from an operation standpoint I had raised with the project team.”<sup>701</sup>

To replace a single panel, “would require a large crane to be able to remove the glass should it be damaged and need to be replaced.”<sup>702</sup> Based on other projects, the former construction executive “went back and looked at a number of other projects and . . . determined that it was reasonable to expect that there would be a number of panels that would need to be replaced,” both “at the completion of the project and before the Department took possession of the building and that throughout the life of the building there would be a need to regularly remove and replace pieces of glass.”<sup>703</sup>

The Department builds its facilities to have a 50-year lifespan.<sup>704</sup> Some components of the curtain wall for the Jakarta NEC have a 20-year warranty, and others have a 10-year warranty.<sup>705</sup> With the 30-year difference between the anticipated lifecycle of the facility and the warranty of the silicone, approximately 2,850 curtain wall panels will likely need to be removed and remounted:

Q So it wouldn't be surprising if they had to replace all of the silicone on the curtain wall over the course of the life cycle of the Jakarta NEC. Is that fair? If the silicone, say, had a 20 year lifespan, it would be reasonable to expect having to replace that silicone during the life cycle of the embassy?

A The answer is that it would need to be replaced.<sup>706</sup>

---

<sup>700</sup> Siebert Tr. at 86 (“Q What’s holding the curtain? What’s holding the glass pane against the building? A You mean the glass into the frame? Is that what you’re asking? Q Yes. A Structural silicone caulk. Q What is structural silicone caulk? A It’s a really stiff silicone.”); Norris Tr. at 33 (“Think of structural silicone as glue.”).

<sup>701</sup> Siebert Tr. at 127-28.

<sup>702</sup> *Id.* at 128.

<sup>703</sup> *Id.*

<sup>704</sup> *Id.* (“Q To your knowledge, what’s the estimated life cycle of the Jakarta NEC? A All of our buildings are designed for a 50 year lifespan.”); Capone Tr. at 145 (“Q . . . How long is the new embassy compound supposed to last? What’s its lifespan? A I believe they’re designed for a 50 year lifespan.”).

<sup>705</sup> U.S. Dep’t of State, Overseas Building Operations, New Embassy Compound Jakarta, Indonesia, *Final Bridging Documents J.3.4.2 Specifications* (Apr. 20, 2012) (CDP201500009-000004527); *see also id.* § 1.11.B.9 (glass), § 1.11.B.10 (warranty for curtain wall silicone and the “[p]eriod of warranty shall be twenty (20) years, and warranty shall be signed by the Manufacturer, the installer and the Contractor”).

<sup>706</sup> Siebert Tr. at 130; Norris Tr. at 42 (“Q So when you do the testing, are you testing it for—at the time that the building is completed, not 10 years down the road, 20 years down the road? A That is correct. Q Okay. Do you

The process for replacing silicone is not a simple one. A former Jakarta NEC construction executive testified:

Q What is the process, if I—if one needed to replace the structural silicone on the curtain wall?

A The silicone would be removed, cut out, and it would be replaced. I think if—well, that’s how it would have to be done.

In general, the silicone is considered a long-lived item. You wouldn’t replace the silicone in the curtain wall system wholesale unless you had some cause or reason to.<sup>707</sup>

Documents produced by the Department and prepared by its curtain wall glass manufacturer show a similar process for replacing the glass, including “[p]erform[ing] a field adhesion test,” “[d]eglazing the area,” “[c]ut[ting] away the silicone” while taking care “not [to] damage the surface finish of the substrate,” “[c]lean[ing] the residual sealant” using a “‘two-cloth’ cleaning technique,” “[c]lean[ing] the new glass panel and set[ting it] in place,” “[f]ill[ing] the joint with a bead of fresh structural sealant,” and “[a]fter the sealant has fully cured, check[ing] that full adhesion has been achieved.”<sup>708</sup>

In interviews with Department personnel, the Committee has learned it does not appear that the Department has budgeted for eventual silicone replacement, an issue that will potentially impact the silicone holding each of the more than 2,800 curtain wall panels. Instead, the Department budgets only for first-year maintenance costs for new embassies and consulates:

[W]ithin the project budget that OBO develops for all of our capital projects, we include first year maintenance costs, but after that, the presumption is is [sic] that the ongoing maintenance costs for the facility can be quantified and then it’s not considered part of the capital project.<sup>709</sup>

The curtain wall for the Jakarta NEC is similar to the curtain wall at the London NEC.<sup>710</sup> As a result, the curtain wall system in London is likely to encounter similar issues.<sup>711</sup>

---

know if somebody else does that test? A I am not aware. I’m—it may be going on, but I’m not necessarily aware of it. Q Got it. A I—my sense is that people that sell silicone for a living probably do aging studies. You asked earlier about a warranty. *You would want to know how long it’s going to last so you know your warranty is under that.*) (emphasis added).

<sup>707</sup> Siebert Tr. at 128-29; Norris Tr. at 42-43 (describing the same procedure); Capone Tr. at 146-47 (same).

<sup>708</sup> Letter from P.W.S. International to Senior Project Manager, B.L. Harbert International (Jan. 7, 2015) (CDP-2015-00009000018953); Capone Tr. at 147 (agreeing these steps are required to replace the structural silicone).

<sup>709</sup> Siebert Tr. at 131.

<sup>710</sup> Norris Tr. at 37-38 (“A I would offer up that there are only a handful of structural silicones that are used in this space. Q Um-hum. A So it is all the same structural silicone. Q Got it. I assume there are only probably a selective number of manufacturers of this product? A That is correct.”); *see also id.* at 122 (the curtain wall system manufacturer “told us they were going to use the same silicone that they were going to use for London”).

<sup>711</sup> Siebert Tr. at 87-88 (“Q Did you hear any comparisons made between the Jakarta curtain wall system and the curtain wall system used at the London new embassy compound? A Yes. Q What similarities were there, that you heard? A I heard considerable amount of discussion relating to the performance of the silicone.”).

Blast and terrorism risks are not insignificant in Indonesia, which serves only to highlight the importance of properly testing and maintaining the curtain wall system. The Australian embassy in Jakarta was bombed, allegedly by an al Qaeda-linked group in 2004, killing nine.<sup>712</sup> In fact, the architect of the Jakarta NEC recognized the risk. In a presentation, the architect noted: “Of primary concern to the US Embassy project are a series of bombings aimed at Western targets in Jakarta and Bali. Beginning in 2002 with an attack in Bali that killed over 200 people, several western-affiliated sites have been targeted, including the bombing of the Australian Embassy in 2004.”<sup>713</sup> More recently, in January 2016, an attack for which Islamic State claimed responsibility that targeted Western interests in Jakarta—including a Starbucks coffee shop—killed two and wounded 24.<sup>714</sup>

### C. Beirut



<sup>712</sup> Timothy Mapes, et al., *Bomb in Jakarta Kills Nine Outside Australian Embassy*, WALL ST. J. (Sept. 10, 2004, 12:01 AM EDT), <http://www.wsj.com/articles/SB109470585484313350>.

<sup>713</sup> Davis Brody Bond, *NEC Jakarta Draft Final Bridging Documents Submittal* at 13 (Dec. 1, 2011) (CDP201500009-000005149).

<sup>714</sup> Greg Botelho, Kathy Quiano & Ivan Watson, *ISIS militant ordered Jakarta attack from abroad, police chief says*, CNN (Jan. 15, 2015, 8:41 AM), <http://www.cnn.com/2016/01/14/asia/jakarta-gunfire-explosions/>; *see also id.* (noting other major attacks against Western interests in Jakarta, including a “2009 simultaneous attacks on the J.W. Marriott and Ritz Carlton hotels, which left seven people dead”); Capone Tr. at 17 (“Q What is the current security environment in Jakarta? A It’s a high physical threat, high for terrorism and crime. Q What kind of terrorism do they have? A In the early 2000s they had some problems with bombings. Who the folks were affiliated with I don’t know. There was a recent episode earlier this year from a Muslim group of some sort.”).



unique design of the facility added at least nine (and as many as twelve) months to OBO's projected construction schedule.<sup>716</sup>

### **1. Our Personnel in Beirut are in Dangerous, Deteriorating, and Dysfunctional Facilities, as Recognized by the Department's OIG in 2012**

Beirut is one of the most dangerous places in the world for U.S. personnel to serve. One need look no further than the two previous attacks against the U.S. Embassy there in 1983 and 1984.<sup>717</sup> In fact, the bombed-out shell of the building at the center of the 1984 attack remains on the current compound:

---

I first learned about this project the project was 24 months in duration, and we're at now 65 months. So I think they took a better look at what they needed. I don't know. I don't know. But it's gone from that to where we are now.").

<sup>716</sup> Shipman Tr. at 48 ("Our construction management team had a 55-month construction duration. Alpha [the third-party construction consultant] estimated 67" months.).

<sup>717</sup> Ass'n for Diplomatic Studies and Training, *Moments in U.S. Diplomatic History, The Bombing of U.S. Embassy Beirut—April 18, 1983*, <http://adst.org/2013/04/the-bombing-of-u-s-embassy-beirut-april-18-1983/>.



Source: House Committee on Oversight and Government Reform Staff

The 1983 attack “was the deadliest attack on a U.S. diplomatic mission up to that point,” killing 63 people, including 17 Americans.<sup>718</sup> In addition to the two attacks on the embassy, militants later attacked U.S. Marine barracks in Beirut, killing 241 U.S. service personnel.<sup>719</sup> Indeed, “[s]ecurity concerns have dictated diplomatic operations and embassy community life in Lebanon” since the embassy bombings.<sup>720</sup>

These dangers notwithstanding, the current embassy consists of what the OIG in 2012 described as “deteriorating and dysfunctional facilities.”<sup>721</sup> “Accelerating the construction of a new embassy compound also would reduce the need for investment in the current facility.”<sup>722</sup> As the Department’s OIG reported then: “Although Embassy Beirut is on the Top 80 list for new compounds for FY 2019, the OIG team noted the *compelling security and functional arguments*

---

<sup>718</sup> *Id.*

<sup>719</sup> *Beirut Marine Barracks Bombing Fast Facts*, CNN (Oct. 19, 2015, 5:27 PM ET), <http://www.cnn.com/2013/06/13/world/meast/beirut-marine-barracks-bombing-fast-facts/>.

<sup>720</sup> U.S. Dep’t of State, Office of Inspector General, *Inspection of the Embassy Beirut, Lebanon 2* (Feb. 2012), available at <https://oig.state.gov/system/files/185574.pdf> [hereinafter OIG Beirut Rep.].

<sup>721</sup> *Id.* at 16.

<sup>722</sup> *Id.*

for moving construction forward in the Department’s list of capital cost-sharing construction priorities.”<sup>723</sup>

More than four years after the OIG’s findings about the U.S. Embassy in Beirut, the Department has not yet even broken ground on the NEC there.

## 2. The Department Concluded that an Untested Architect and Idiosyncratic Design is Appropriate for the New Embassy in Beirut

The Beirut NEC currently has a nearly \$1.2 billion project budget for 298 desks, resulting in a cost of more than \$3.9 million per desk.<sup>724</sup> Of the NEC’s approximately \$1.2 billion budget, more than \$45 million is designated for design costs alone.<sup>725</sup> The budget for the project has grown significantly in 2015 and 2016. As of April 2016, the budget for the Beirut NEC is almost \$1.2 billion, significantly more than the Department’s January 2015 anticipated a total project budget of \$994.2 million.<sup>726</sup>

Congress required quarterly reporting from the Department on six elements of the Beirut NEC: (i) cost projections; (ii) cost containment efforts; (iii) project schedule and actual project status; and (iv) the impact of currency exchange rate fluctuations on project costs; (v) revenues derived from property sales in the area; and (vi) “options for modifying the scope of the project in the event that costs escalate above amounts justified to the Committees on Appropriations.”<sup>727</sup>

The \$45 million in design costs are being paid to a California-based architecture firm that has never built a diplomatic facility or and appears never to have built a secure facility in a high-threat environment. As the Beirut NEC project manager testified:

Q To your knowledge, has Morphosis done a diplomatic facility before?

A This is their first. . . .

Q Have they ever done anything in a high threat environment like Beirut, to your knowledge?

A Not to my knowledge.<sup>728</sup>

---

<sup>723</sup> *Id.* (emphasis added).

<sup>724</sup> Beirut NEC PPR, Apr. 2016 (CDP-201500013-000000016) (showing “Total Project Cost” of \$1,167,067,000 and 298 desks).

<sup>725</sup> *Id.* (showing “Total Project Cost” of \$1,167,067,000 and “Design” as \$45,286,000).

<sup>726</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Beirut NEC (Dec. 8, 2015). Compare Beirut NEC PPR, Sept. 2015 (CDP-201500013-000000009) (showing “Total Project Cost” of \$997,710,000), with Beirut NEC PPR, Apr. 2016 (CDP-2016-00016-000003035) (showing “Total Project Cost” of \$1,167,067,000).

<sup>727</sup> Consolidated Appropriations Act, 2016, Pub. L. No. 114-113 § 7004(e)(2)(A)-(F), 129 Stat. 2241, 2734 (2015).

<sup>728</sup> Shipman Tr. at 35-36. It appears that Morphosis is working on a project in Beirut to design the BankMed Headquarters II project. Morphosis, *BankMed II Headquarters*, <http://www.morphosis.com/architecture/211/> (last visited Dec. 2, 2016). The building does not appear to be a secure building.

The design for the Beirut NEC—with its cantilevers and outdoor dining areas—appears fitting, if at all, for a place far removed from the security challenges of Beirut, a city where terrorists have bombed U.S. embassies twice:



Source: U.S. Dep't of State (CDP-2016-00013-000044)





Source: Architectural Record

One of the Beirut NEC’s architecture firm’s most significant government projects is a federal building in San Francisco, in which the elevators stop on every third floor and there is no heat or air conditioning.<sup>729</sup> That building was completed under the General Services Administration’s architecture program, also called “Design Excellence.”<sup>730</sup>

In the architect’s telling, its work in the San Francisco federal building “physically democratizes the workplace as it enhances health and comfort and empowers its users with a sense of control over their surroundings.”<sup>731</sup>

---

<sup>729</sup> Morphosis, *San Francisco Federal Building, Building a Model for Civic Sustainability*, <http://www.morphosis.com/architecture/12/> (last visited Dec. 2, 2016) (“The Federal Building is the first office tower in the U.S. to forgo air-conditioning in favor of natural ventilation.”); *see also id.* (“Skip stop elevators, sky gardens, tea salons, large open stairs, flexible floor plans, and the elimination of corner offices endow the tower with a Jacobsian ‘sidewalk life’ of cross-sectional interactions.”).

<sup>730</sup> Nicolai Ouroussoff, *More Openness in Government (Offices, That Is)*, N.Y. TIMES, (Mar. 14, 2007), <http://www.nytimes.com/2007/03/14/arts/design/14mayn.html> (“The building may one day be remembered as the crowning achievement of the General Services Administration’s Design Excellence program, founded more than a decade ago to remedy the atrocious architecture routinely commissioned for government offices.”).

<sup>731</sup> Morphosis, *San Francisco Federal Building, Building a Model for Civic Sustainability*, <http://www.morphosis.com/architecture/12/> (last visited Dec. 2, 2016).

### 3. The Architect's Design Requires Personnel to Remain in Obsolete Facilities for At Least Nine Months Longer than Necessary

The Committee's investigation revealed that early in the project, OBO appeared to heed the OIG's suggestion that a new facility be completed in Beirut quickly. Specifically, at one point in the planning phase for that project, there was a construction schedule for the Beirut NEC of 24 months,<sup>732</sup> approximately what the duration of construction would have been under an SED:

Q And has this design process been on schedule?

A I believe so. I don't know of anything that would be to the contrary. I know that the design itself changed over the course of several years. Initially when I first learned about this project *the project was 24 months in duration, and we're at now 65 months*. So I think they took a better look at what they needed. I don't know. I don't know. But it's gone from that to where we are now.<sup>733</sup>

Notwithstanding the two-year schedule for completion, at some point, OBO switched to a new design concept, resulting in significant additional construction time. OBO's own internal construction team estimated that the new design concept would take 55 months to complete.<sup>734</sup> That estimate was "based on historical knowledge of what other facilities and compounds of this size would take or has taken."<sup>735</sup>

Once OBO received the design from the architect—which included cantilevers and other architectural features not often found in embassies—OBO hired a constructability contractor estimated that the design would take 67 months to build. As the Beirut NEC project manager testified: "Our construction management team had a 55-month construction duration. Alpha [the third-party construction consultant] estimated 67" months.<sup>736</sup>

After much discussion within OBO and pressure to reduce the estimated construction schedule, OBO and the constructability contractor agreed on a 64 month schedule.<sup>737</sup> The only difference between the point at which the OBO team made its estimate and the constructability contractor's estimate was actually having the design. The Beirut NEC Project Manager testified:

Q Sorry. I guess I—maybe I'm a little confused. *So 55 months was construction management's initial recommendation or analysis you said before there were additional details to the design; is that correct?*

A Before the design was even developed.

---

<sup>732</sup> Luck Tr. at 80-81.

<sup>733</sup> *Id.* (emphasis added).

<sup>734</sup> Shipman Tr. at 48 (witness testifying OBO's internal "construction management team had a 55-month construction duration").

<sup>735</sup> *Id.* at 81.

<sup>736</sup> *Id.* at 48.

<sup>737</sup> *Id.* at 81 ("The current duration is a 64 months, to be exact.").

Q Before the design was even developed.

A Right. So their design—their [OBO’s internal team] construction duration was based on the program. We’ve got this many square feet, you’re building it on this site, it should take this long. *Alpha’s [the constructability contractor’s] analysis of the schedule was based on building this project, this design on that site.*

Q So now that the design has been developed, would construction management stick to their 55 month project or would they—

A No. *They have adjusted to 64.*<sup>738</sup>

Thus, at a minimum, the design requires personnel in Beirut to remain in “deteriorating and dysfunctional facilities” for nearly a year longer than is necessary. More than five years of construction<sup>739</sup> will be needed to replace what, in 2012 were recognized as “deteriorating and dysfunctional facilities.”<sup>740</sup>

---

<sup>738</sup> *Id.* at 160-61 (emphases added).

<sup>739</sup> *Id.* at 135 (after construction award “then five and a half years or so of construction? A Correct”).

<sup>740</sup> OIG Beirut Rep. at 16.

## D. Mexico City



Source: CBS News

**FINDING:** The site for the Mexico City NEC was so contaminated that, five years after the Department purchased the site for \$120 million, the Department has not yet begun construction of the \$943,065,000 facility.

**FINDING:** Given the delays associated with the remediation, it is unlikely the Department will occupy the new facility by its current projected date of July 2020, and it is not yet known whether the delay will entail additional costs.

The Department is planning to build a new embassy in Mexico City. The current facility, which was built in 1961,<sup>741</sup> “does not meet current security standards and cannot be upgraded to meet those standards and requirements.”<sup>742</sup> Indeed, as one press account reported, “[n]o one

<sup>741</sup> U.S. Dep’t of State, *U.S. Embassy Mexico City, Mexico*, <http://diplomacy.state.gov/discoverdiplomacy/explorer/places/170277.htm> (last visited Dec. 2, 2016).

<sup>742</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Apr. 9, 2015).

disputes that the current U.S. Embassy in Mexico City is crowded, outdated and needs to be replaced.”<sup>743</sup>

The Department bought a site for the Mexico City NEC in 2011 for \$120 million.<sup>744</sup> The site designated for the new facility was previously a former Colgate-Palmolive (Colgate) toothpaste and soap factory. Because of soil contamination, however, the site was handed over to the Department in September 2016, and construction has not yet begun. The Department knew when it bought the site that it was potentially contaminated, but the Department attempted to minimize the risk.<sup>745</sup> As part of the agreement between Colgate and the Department, Colgate was required turn over a fully remediated site.<sup>746</sup> Further, the remediation was required to be certified by Semarnat, the Mexican equivalent of the U.S. Environmental Protection Agency.<sup>747</sup> Despite buying the site in 2011 with a requirement of a “ready to build site” by March 2015,<sup>748</sup> as of September 2016, the site remains a dirt lot only recently handed over to the Department. Colgate represented to Committee staff that the Department does not have any recourse against the company should any contaminants remain on the site.<sup>749</sup>

The current budget for the Mexico City NEC is \$943,065,000,<sup>750</sup> making it “one of the most expensive U.S. embassies in the world.”<sup>751</sup> At that budget, the per-desk cost for the facility’s contemplated 1,335 desks is \$706,415.<sup>752</sup> That cost, however, appears to be a moving target. Construction costs have risen from \$577 million to a current total of \$763 million.<sup>753</sup> Design costs alone are more than \$56 million,<sup>754</sup> up from a “Design Cost Estimate” of \$35 million in October 2013.<sup>755</sup> Given the five-year delay in obtaining the site after remediation, it is not yet clear whether there will be additional costs to the Department in the way of revised designs or the like. Congress has required quarterly reporting from the Department on six elements related to the costs of the Mexico City NEC.<sup>756</sup>

---

<sup>743</sup> *Planned new U.S. Embassy in Mexico a “fiasco,”* CBS NEWS (May 28, 2015, 6:57 AM), <http://www.cbsnews.com/news/us-embassy-mexico-city-fiasco/>.

<sup>744</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Apr. 9, 2015).

<sup>745</sup> *Id.*

<sup>746</sup> *Id.*

<sup>747</sup> U.S. Dep’t of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, and the Hon. Stacey Plaskett on Mexico City NEC (Apr. 24, 2015).

<sup>748</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Apr. 9, 2015).

<sup>749</sup> Colgate-Palmolive Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Sept. 14, 2016).

<sup>750</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Apr. 9, 2015).

<sup>751</sup> *Planned new U.S. Embassy in Mexico a “fiasco,”* CBS NEWS (May 28, 2015, 6:57 AM), <http://www.cbsnews.com/news/us-embassy-mexico-city-fiasco/>.

<sup>752</sup> U.S. State Dep’t Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Apr. 9, 2015).

<sup>753</sup> *Planned new U.S. Embassy in Mexico a “fiasco,”* CBS NEWS (May 28, 2015, 6:57 AM), <http://www.cbsnews.com/news/us-embassy-mexico-city-fiasco/>.

<sup>754</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Apr. 9, 2015).

<sup>755</sup> Mexico City PPR, Oct. 2013 (“Design Cost Estimate: \$35M”) (on file with Committee staff).

<sup>756</sup> Consolidated Appropriations Act, 2016, Pub. L. No. 114-113 § 7004(e)(2)(A)-(F), 129 Stat. 2241, 2734 (2015).

The timing of the project has likewise moved. As of April 2015, the Department anticipated awarding the construction contract in January 2016, with completion of the facility in July 2020.<sup>757</sup> Because the site was only turned over to the Department in September 2016, no construction contract has been awarded. It therefore stands to reason that the July 2020 completion date is likely unachievable.

Chairman Chaffetz visited the site in April 2015. After walking the site, and meeting with Department and Colgate officials, he called the project “a bit of a fiasco.”<sup>758</sup> Approximately 10 months after Chairman Chaffetz’ visit, the remediation team reached the bottom of the remaining contaminated portion.<sup>759</sup> In July 2016, the Mexican government finally certified that the site is clean enough for the Department to take possession.<sup>760</sup> Five years after purchasing the site, the Department has not yet begun construction.

Only now that the Department has the site will it be able to commence construction. It is unclear, however, whether the nearly-two-year-old design will need to be recertified by DS.

## E. Kabul



<sup>757</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Apr. 9, 2015). When Chairman Chaffetz traveled to Mexico City to inspect the site, the Department said it was hopeful that it could award a construction contract in December 2015. U.S. Dep’t of State Briefing to Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, and The Hon. Stacey Plaskett on Mexico City NEC (Apr. 24, 2015).

<sup>758</sup> *Planned new U.S. Embassy in Mexico a “fiasco,”* CBS NEWS (May 28, 2015, 6:57 AM), <http://www.cbsnews.com/news/us-embassy-mexico-city-fiasco/>.

<sup>759</sup> Colgate-Palmolive Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Feb. 12, 2016).

<sup>760</sup> Colgate-Palmolive Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Sept. 14, 2016); Colgate-Palmolive Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Mexico City NEC (Oct. 3, 2016).

**FINDING:** The Department’s failure to complete and use critical planning documents, including a strategic facilities plan, and failures to follow cost containment and risk assessment best practices led to some of the cost overruns and delays at the Kabul NEC site.

**FINDING:** Because of the failure to plan properly, the Kabul NEC will likely be delivered at least two years later than originally planned and will cost at least \$167.5 million, or 27 percent, more than planned, with further cost increases likely.

After being closed since 1989,<sup>761</sup> the U.S. Embassy in Kabul, Afghanistan reopened in 2002.<sup>762</sup> Between 2002 and 2009, the Department took several actions to expand the embassy compound and construct new facilities,<sup>763</sup> including a new office building, three new residential buildings, and support facilities for the compound.<sup>764</sup>

Kabul remains a dangerous location, and U.S. personnel must have a safe, functional facility there. In Kabul, like other areas in the region, “hostile actors routinely target the U.S. and other foreign nationals.”<sup>765</sup> In fact, in June 2013, eight insurgents initiated an attempted suicide attack on the U.S. embassy in Kabul.<sup>766</sup> Even today, Kabul is so dangerous for U.S. personnel that in 2016—more than 15 years after the arrival of U.S. troops—U.S. personnel must fly from the Kabul airport to the U.S. Embassy, a distance of just over two miles.<sup>767</sup> In summer

<sup>761</sup> Previous U.S. Ambassadors to Afghanistan, <http://kabul.usembassy.gov/previous-us-ata.html> (“Note: U.S. Embassy Kabul closed (January 30, 1989)”).

<sup>762</sup> Gov’t Accountability Office, *Afghanistan: Embassy Construction Cost and Schedule have Increased, and Further Facilities Planning is Needed* at 1 (May 2015) (GAO-15-410) [hereinafter GAO Kabul Rep.] <http://gao.gov/assets/680/670276.pdf>.

<sup>763</sup> GAO Kabul Rep. at 4.

<sup>764</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 114th Cong. (July 9, 2015) (opening statement of Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep’t of State).

<sup>765</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 114th Cong. (July 9, 2015) (opening statement of Gregory B. Starr, Assistant Secretary, Bureau of Diplomatic Security, U.S. Dep’t of State); see also *id.* (opening statement of Jarett Blanc, Principal Deputy Special Representative for Afghan and Pakistan, U.S. Dep’t of State) (“Afghanistan is undeniably a dangerous place for U.S. diplomats . . .”).

<sup>766</sup> U.S. Dep’t of State, Bureau of Diplomatic Security, *Significant Attacks Against U.S. Diplomatic Facilities and Personnel 1998-2013* at 3 (“JUNE 25, 2013 – KABUL, AFGHANISTAN: Suicide insurgents initiated a failed attack on the U.S. Embassy, engaging Afghan security forces and Local Guard Force personnel in a firefight. All eight insurgents, along with seven members of the Afghan security force, were killed.”), available at: <http://www.state.gov/documents/organization/225846.pdf>.

<sup>767</sup> U.S. Dep’t of State Briefing to H. Comm. on Oversight & Gov’t Reform Staff on Security Conditions in Afghanistan (Mar. 3, 2016); see also *Burn Bag: Fly the Friendly Skies Via Helo For 2.2 Miles Between Embassy Kabul and Kabul International Airport*, DIPLOPUNDIT (June 23, 2015), <http://diplopundit.net/2015/06/23/burn-bag-fly-the-friendly-skies-via-helo-for-2-2-miles-between-embassy-kabul-and-kabul-international-airport/> (“After nearly 14 years, \$1 trillion, and more than 2,300 lives, the security situation in Kabul is such that the Embassy is using helicopters to transport its staff the 2.2 mile distance to the international airport.”).

2015, a bombing occurred a mere 500 yards from the U.S. Embassy,<sup>768</sup> and in January 2016, there was an attack near the embassy attack that, according to press reports, targeted “U.S. embassy guards.”<sup>769</sup> In November 2016, a suicide bomber attack at a U.S. military base 30 miles north of Kabul resulted in “[t]he U.S. Embassy . . . shut[ting] down except for emergency services for the first time since the fall of the Taliban in 2001.”<sup>770</sup> The embassy is part of the Department’s plans to make approximately \$2.17 billion in infrastructure investments in Kabul, some of which has been disbursed.<sup>771</sup>

To meet growing facility requirements at the embassy compound, the Department awarded two construction contracts, which were originally worth a total of \$625.4 million.<sup>772</sup> The first of the two contracts was awarded to Contractor 1 in September 2009 for an original value of \$209.4 million.<sup>773</sup> The second contract was awarded to Contractor 2 in September 2010 for an original value of \$416 million.<sup>774</sup> In September 2011, the Department partially terminated elements of the first contract and transferred contract requirements for the permanent facilities not begun by Contractor 1 to Contractor 2’s contract scope.<sup>775</sup> As of March 2015, the original value of the construction contracts ballooned from \$625.4 million to \$792.9 million, a 27 percent increase.<sup>776</sup>

The budget for the facility is \$967,900,000, and the per-desk cost is \$1.27 million per desk for its 1,237 desks.<sup>777</sup>

These reported costs will likely only increase, according to the GAO. For example, further construction and funding costs required to address unmet post facility needs were \$394.9 million in FY2015 and \$124 million in FY2016.<sup>778</sup> Further, as-yet unquantified investments are planned for FY2017.<sup>779</sup> As the GAO witness told the Committee during the July 9, 2015 hearing: “The primary message of my testimony this morning is that costs have risen and

---

<sup>768</sup> Sayed Salahuddin & Daniela Deane, *Suicide bomber attacks NATO convoy near U.S. Embassy in Kabul*, WASH. POST (June 30, 2015), [http://www.washingtonpost.com/world/despite-growing-violence-afghan-president-says-country-will-not-fall-apart/2015/06/30/aba0d684-1efd-11e5-84d5-eb37ee8eaa61\\_story.html?hpid=z4](http://www.washingtonpost.com/world/despite-growing-violence-afghan-president-says-country-will-not-fall-apart/2015/06/30/aba0d684-1efd-11e5-84d5-eb37ee8eaa61_story.html?hpid=z4); see also *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Chairman Chaffetz) (detailing attacks on the NATO convoy, as well as an attack on the Afghan Parliament).

<sup>769</sup> Fazul Rahim & Sarah Burke, *Attack Near Kabul Airport Targets U.S. Convoy*, NBC News, (Jan. 4, 2016, 12:05 PM), available at <http://www.nbcnews.com/news/world/attack-near-kabul-airport-targets-u-s-convoy-n489816>.

<sup>770</sup> Pamela Constable, *Latest Afghan attack raises perplexing questions on security*, WASH. POST (Nov. 13, 2016, 1:59 PM), available at [https://www.washingtonpost.com/world/asia\\_pacific/latest-afghan-attack-raises-perplexing-questions-on-security/2016/11/13/735dbbda-a9bb-11e6-8f19-21a1c65d2043\\_story.html](https://www.washingtonpost.com/world/asia_pacific/latest-afghan-attack-raises-perplexing-questions-on-security/2016/11/13/735dbbda-a9bb-11e6-8f19-21a1c65d2043_story.html).

<sup>771</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Chairman Chaffetz); see also GAO Kabul Rep. at 31.

<sup>772</sup> GAO Kabul Rep. at 4.

<sup>773</sup> *Id.*

<sup>774</sup> *Id.*

<sup>775</sup> *Id.* at 5.

<sup>776</sup> *Id.* at 10.

<sup>777</sup> Kabul NOBX/Housing PPR, Apr. 2016 (CDP-2016-00016-0003783). Using GAO’s construction-only cost, and assuming the value of those contracts have not increased in the ensuing year, the construction-only portion works out to approximately \$533,221 per desk.

<sup>778</sup> GAO Kabul Rep. at 31.

<sup>779</sup> *Id.*

schedules have been extended significantly for [the] two construction contracts . . . , and further cost increases are likely.”<sup>780</sup> According to the GAO, “as of March 2015, the Department has allocated \$1.11 billion to cover the 2009 and 2010 contract costs, as well as the Department’s project costs outside the two contracts” (*i.e.*, facilities off the grounds of the embassy compound).<sup>781</sup>

## 1. The Committee’s Hearing and GAO’s Investigation and Report

These significant sums of money drew the attention of this Committee<sup>782</sup> and the GAO,<sup>783</sup> and both the Committee and GAO found deficiencies with the Department’s risk analysis and planning.<sup>784</sup> The Committee held a hearing to discuss the GAO’s report on the Department’s practices in building the Kabul facility and other facilities around the world.<sup>785</sup> The Committee’s hearing identified the following issues with the Department’s performance in Kabul:

- The Department failed to follow applicable value engineering and risk management practices;<sup>786</sup>
- The Kabul NEC is currently slated to cost 27 percent more than originally planned;<sup>787</sup>

---

<sup>780</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov’t Accountability Office).

<sup>781</sup> GAO Kabul Rep. at 10.

<sup>782</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

<sup>783</sup> GAO Kabul Rep. at 1.

<sup>784</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (statement of Chairman Chaffetz) (“The lack of planning by the State Department resulted in cost overruns and delays. Construction is now projected to come in at least 27 percent over budget and more than 3 years behind schedule.”); *see also id.* (opening statement of Ranking Member Cummings) (“State did not fully follow its cost and risk policies in part of the urgency of the Embassy’s facility needs, the security environment, and challenges supporting the surge and Embassy staffing that was occurring. Despite this urgency, however, GAO also found that the State Department could have and should have planned better. Could have and should have, but didn’t. According to GAO, the State Department contributed to construction delays and cost increases by failing to follow its own risk assessment and planning policies. There’s something awfully wrong with that picture.”).

<sup>785</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

<sup>786</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov’t Accountability Office) (“State didn’t follow its own cost containment and risk assessment policies for those contracts, resulting in lost opportunities to mitigate risks.”); *see also id.* (Director Muniz) (“Ms. Muniz. . . We’re [OBO] the ones responsible for conducting the value engineering studies. And as I mentioned in my testimony, we conduct those, they’re valuable. *We did not conduct it in the 2009 project*” in Kabul. Mr. Carter. But you agree they are valuable? Ms. Muniz. Yes, absolutely.”) (emphasis added).

<sup>787</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov’t Accountability Office) (“My first point is that costs for the two construction contracts have increased by about 27 percent from about \$625 million to almost \$793 million.”).

- The original completion date estimates for the Kabul NEC are off by at least two years and most are off by more than three years;<sup>788</sup>
- OBO did not follow the Department’s “cost containment” and “risk assessment” policies in constructing the Kabul NEC;<sup>789</sup>
- The Department should have conducted four cost containment studies and six risk assessments.<sup>790</sup> The Department instead completed one study that combined a cost containment and risk assessment;<sup>791</sup> and
- Despite having a policy in place at the time<sup>792</sup> requiring a strategic facilities plan for facilities construction, the Department has not completed one since 2008.<sup>793</sup> This failure led to some of the cost overruns and delays with the Kabul embassy construction project.

***a. Failure to Complete Required Cost Containment and Risk Assessments Led to Higher Costs***

The Department’s failure to complete required cost containment studies and risk assessments cost the government more than \$100 million. As the GAO witness told the Committee:

My first point is that costs for the two construction contracts have increased by about 27 percent from about \$625 million to almost \$793

---

<sup>788</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov’t Accountability Office) (“The projected completion of these projects has been delayed by over 3 years and is now slated for the fall of 2017.”).

<sup>789</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov’t Accountability Office) (“State didn’t follow its own cost containment and risk assessment policies for those contracts, resulting in lost opportunities to mitigate risks.”).

<sup>790</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (“Chairman Chaffetz. To clarify, page 16 of the GAO report says, between the 2009 contract and the 2010 contract, State should have conducted four cost containment studies and six risk assessments. However, for the 2009 contract, State confirmed it did not conduct either types of assessment.”).

<sup>791</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov’t Accountability Office) (testifying the Department “did do a risk assessment and cost containment study for the 2010 contract,” but not the 2009 contract).

<sup>792</sup> The Department rescinded this policy in 2013.

<sup>793</sup> GAO Kabul Rep. at 39-40 (“State documentation shows that between 2004 and 2008, OBO prepared 16 long-range facilities plans (strategic facility plans) for selected posts with challenging real property issues. In 2008, OBO’s then director also reported to State’s Undersecretary for Management that long-range facilities plans were essential precursors to the development of individual projects. However, OBO produced no long-range facilities plans after 2008.”).

million. The projected completion of these projects has been delayed by over 3 years and is now slated for the fall of 2017.<sup>794</sup>

Office of Management and Budget policy requires federal agencies to use value engineering (also known as “cost containment”) in its projects.<sup>795</sup> The Department generally implements this policy by requiring OBO to conduct two cost containment studies for each project costing more than \$20 million: one study during the planning stage and one study no later than the completion of the design review.<sup>796</sup>

With respect to the Kabul NEC, the Department completed only one required cost containment study for the 2010 contract and combined it with a risk assessment.<sup>797</sup> The Department “didn’t follow its own cost containment and risk assessment policies for those contracts, resulting in lost opportunities to mitigate risks,”<sup>798</sup> both in time and money. As the GAO’s witness highlighted at the Committee’s hearing, because Kabul is such a challenging environment, conducting cost containment studies and risk assessments are even more important. The witness stated:

Sure. Well, I would just first acknowledge that Kabul is indeed a very challenging environment. And there is no way to completely eliminate all risk, especially in a place like Afghanistan, and that is precisely why adequate cost containment and risk assessment is so important in a place like that, where the impact of the cost and schedule is so much greater when problems are encountered.

And I think if State had followed its own policies earlier, for example, as part of the 2009 contract, it probably could have better managed risk. It may not have eliminated all of the risk, but it may have better managed some of it. And if they had done that earlier, it would at least have given State a chance to develop mitigation strategies prior to soliciting the 2010 contract.<sup>799</sup>

---

<sup>794</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov’t Accountability Office).

<sup>795</sup> GAO Kabul Rep. at 15; *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (Michael J. Courts, GAO) (“Mr. Carter. . . . Mr. Courts, I will start with you. In planning projects such as this on this scale, are value engineering studies important? Mr. Courts. Yes, they are. That is a very well established practice that both the Federal Government and the private sector have used for decades to reduce costs while still maintaining the quality in the performance of a project, and especially one of this size. It is also required by both OMB and by OBO itself.”).

<sup>796</sup> GAO Kabul Rep. at 15.

<sup>797</sup> *Id.* at 16.

<sup>798</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov’t Accountability Office).

<sup>799</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (Michael J. Courts, Director, Gov’t Accountability Office, in response to question from Chairman Chaffetz).

At the hearing, Director Muniz “rejected the notion that more thorough assessments would have had a material impact on the Kabul Embassy project,” and “[i]nstead . . . argue[d] that they would have risked further delaying delivery of permanent facilities.”<sup>800</sup> The Department took the position that the evolving conditions in Afghanistan were solely to blame for the cost and schedule overruns.<sup>801</sup> While Director Muniz testified that “[i]t [was] unrealistic to expect the development of a static master plan capturing all requirements at the beginning of an 8 year project, as GAO advised,” GAO’s report criticized the Department for failing to conduct the cost containment studies and risk assessment even at appropriate intervals, when the Department could take into account evolving conditions.

GAO’s representative testified that, when the Department did its cost containment/risk assessment hybrid—even though it was not done as frequently as it should have been nor were they separate documents as required—the Department “did identify a number of risks, some of which did indeed come to pass.”<sup>802</sup> “So there were a number of things that were not unpredictable,” he continued, the Department “actually did predict those problems.”<sup>803</sup> The Department did its study in 2010, but had it done one in 2009, “perhaps they would have had more time to try to develop some mitigation strategies” to those risks that came to pass.<sup>804</sup>

At the Committee’s July 9, 2015 hearing, Rep. Steve Russell focused on the Department’s contention that master planning would not have worked. He stated:

In fact, the GAO and the [O]IG agree, there’s not been this strategic master plan. And then we hear from Ms. Muniz, you said we can’t develop such a plan. My reply to that is, nonsense. *Develop the plan and then adjust it. We do that all the time at State. We do it in the military. We do it in Congress even. I know that’s shocking to some people that we actually plan.*<sup>805</sup>

According to Department documents provided to GAO, the Department had originally planned to complete the entire Kabul construction project by summer 2014. The Department

---

<sup>800</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep’t of State).

<sup>801</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep’t of State).

<sup>802</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (Michael J. Courts, Director, Gov’t Accountability Office, in response to question from Chairman Chaffetz).

<sup>803</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (Michael J. Courts, Director, Gov’t Accountability Office, in response to question from Chairman Chaffetz).

<sup>804</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (Michael J. Courts, Director, Gov’t Accountability Office, in response to question from Chairman Chaffetz).

<sup>805</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (Michael J. Courts, Director, Gov’t Accountability Office, in response to question from Rep. Russell) (emphasis added).

estimated in May 2015 that the Kabul embassy project would be complete by no earlier than fall 2017.<sup>806</sup>

GAO’s report contains the following chart detailing construction schedules for the Kabul NEC:

Building	OBO’s original plan <sup>a</sup>	Current estimated delivery <sup>b</sup>	Anticipated extension
Office annex A	September 2012	June 2015	33 months
Office annex B	September 2014	October 2016	25 months
Apartment building 1	September 2012	November 2015	38 months
Apartment buildings 2 and 3	September 2014	October 2017	37 months

Source: GAO analysis of State data. | GAO-15-410

<sup>a</sup>OBO’s original plan was presented in June 2010, after the 2009 contract was awarded and 3 months before award of the 2010 contract.

<sup>b</sup>Current estimated delivery dates reflect information State provided to us in February 2015. Those dates are not reflected in the 2010 contract, which still reflects a project completion date of July 2016.

With the increase in the value of construction contracts on the order of 27 percent, and the more-than-two-year delay, the Kabul facility is comparable to the increased construction costs for the U.S. Embassy in Baghdad. During the Committee’s July 2014 hearing on embassy construction, Ranking Member Cummings remarked that the U.S. Embassy in Baghdad “was delayed 16 months and the cost to the United States taxpayer was \$144 million more than originally projected.”<sup>807</sup> The Kabul embassy project’s \$167.5 million construction-only cost increase exceeds even Baghdad in construction cost overruns. As Chairman Chaffetz asked at the Committee’s hearing, “did we learn what we were supposed to learn when we were in Iraq? Evidently not.”<sup>808</sup>

GAO made three related recommendations: (1) the Department adhere to its cost containment and risk assessment policies;<sup>809</sup> (2) the Department develop a strategic facilities plan for Kabul;<sup>810</sup> and (3) the Department clarify its strategic facilities and master planning policy.<sup>811</sup> The Department accepted all three of these recommendations.<sup>812</sup>

<sup>806</sup> GAO Kabul Rep. at 12.

<sup>807</sup> *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 113th Cong. (July 10, 2014).

<sup>808</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul*, Hearing before the H. Comm. on Oversight & Gov’t Reform, 114th Cong. (July 9, 2015) (opening statement of Chairman Chaffetz).

<sup>809</sup> GAO Kabul Rep. at 42.

<sup>810</sup> *Id.*

<sup>811</sup> *Id.*

<sup>812</sup> *Id.*

## *b. The Department's Long-Term Use of Temporary Facilities in Kabul*

GAO made another recommendation that the Department also rejected, to “[c]onsider establishing minimum security standards or other guidance for the construction of temporary structures, especially those used in conflict environments.”<sup>813</sup>

Notwithstanding the significant security challenges in Kabul, the Department continues to house Kabul-based personnel in temporary facilities.<sup>814</sup> At the time of an OIG inspection, “[a]pproximately 70 percent of the 800 U.S. Government employees and contract workers living on the U.S. compound were housed in temporary containerized housing units.”<sup>815</sup> The Department has spent “over \$100 million in temporary buildings to meet space needs” in Kabul, “but it has no security standards that are specifically tailored to these types of facilities.”<sup>816</sup>

“Temporary facilities” are described in OBO’s 2009 guidance as facilities that will be occupied for no more than five years “or until a permanent building is constructed, whichever is sooner.”<sup>817</sup> The Department recognized the risks related to temporary facilities in its 2008 and 2009 Supplemental Appropriations Justifications, including, as GAO found, “threats posed to temporary facilities from potential incoming weapons fire—amid increasing attacks around Kabul by the Taliban and al-Qaeda—and indicated that overhead protection was required to protect staff in the existing temporary facilities on-compound.”<sup>818</sup>

The Department’s own standards in 2009 recognized that personnel should live and work in permanent, hardened facilities.<sup>819</sup> DS reported, however, that the Department does not have a minimum set of security standards for temporary facilities it constructs.<sup>820</sup> As GAO reported: “For practical purposes, DS officials stated that State’s physical security standards governing new construction—regardless of whether a facility is permanent or temporary—are standards that only permanent construction can meet.”<sup>821</sup> If a certain facility does not meet the standards, the Department issue a waiver and propose mitigating solutions.<sup>822</sup>

In the absence of consistent security standards or other guidance, the Department has inconsistently applied security measures to temporary facilities.<sup>823</sup> As a result, there are

---

<sup>813</sup> *Id.*

<sup>814</sup> *Id.* at 25.

<sup>815</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Donald Hays, Senior Inspector, Office of Inspector General, U.S. Dep’t of State).

<sup>816</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov’t Accountability Office).

<sup>817</sup> GAO Kabul Rep. at 20.

<sup>818</sup> *Id.* at 25.

<sup>819</sup> *Id.*

<sup>820</sup> *Id.* at 26.

<sup>821</sup> *Id.*

<sup>822</sup> *Id.*

<sup>823</sup> *Id.* at 27.

ineffective levels of security.<sup>824</sup> Correcting security disparities in temporary facilities has increased costs and extended the construction schedule.<sup>825</sup>

The Department's use of temporary facilities is expected to continue indefinitely.<sup>826</sup> DS Assistant Secretary Starr testified to the Committee:

We have not set an end-date for the use of temporary structures at Embassy Kabul. The use of these structures is dependent upon staffing levels at the embassy which are, in turn, dependent upon the evolving political and security situations on the ground, and as such have not been finally determined.<sup>827</sup>

As a result, the Department plans to invest an additional \$124 million in temporary facilities in Kabul.<sup>828</sup>

Estimates as of May 2015 indicate that temporary facilities will likely constitute over a third of the available desks and beds at the compound, even after construction is completed.<sup>829</sup> The Department has taken some actions to improve temporary facilities, including assisting the Army in developing hardened trailers to provide ballistic protection.<sup>830</sup> These hardened temporary facilities “provide[] an improved level of physical security protection, although not the level required for a conflict location such as Kabul, where rockets and mortars pose threats.”<sup>831</sup>

DS and OBO had failed to communicate effectively regarding the use of temporary facilities in Kabul.<sup>832</sup> The Department's OIG noted, during its inspection of the Kabul facility, there was “considerable friction between DS and OBO” over these issues.<sup>833</sup> The OIG identified the “the apparent inability of DS and OBO to work together to find immediate solutions to these and other security issues in Kabul.”<sup>834</sup> In response, the OIG recommended that OBO work with DS and the post in Kabul “to develop and execute a master plan of all ongoing and planned

---

<sup>824</sup> *Id.*

<sup>825</sup> *Id.*; see also *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov't Accountability Office) (“State subsequently took corrective action that increased cost and extended schedules. State likely paid more than it would have had the security requirements been included in the original contract.”).

<sup>826</sup> GAO Kabul Rep. at 20.

<sup>827</sup> Responses to Questions for the Record Submitted to Assistant Secretary Gregory Starr by Rep. Jason Chaffetz, H. Comm. Oversight and Government Reform July 9, 2015, Resp. No. 2 (Aug. 4, 2015).

<sup>828</sup> GAO Kabul Rep. at 24 & n.36 (citing U.S. Dep't of State, *Fiscal Year 2016 Congressional Budget Justification*).

<sup>829</sup> *Id.* at 23.

<sup>830</sup> *Id.* at 30.

<sup>831</sup> *Id.*

<sup>832</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (July 9, 2015) (opening statement of Donald Hays, Senior Inspector, Office of Inspector General, U.S. Dep't of State).

<sup>833</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (July 9, 2015) (opening statement of Donald Hays, Senior Inspector, Office of Inspector General, U.S. Dep't of State).

<sup>834</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (July 9, 2015) (opening statement of Donald Hays, Senior Inspector, Office of Inspector General, U.S. Dep't of State).

projects.”<sup>835</sup> More than a year after the Committee’s hearing at which this was discussed, the Department closed this recommendation by providing “OIG with a summary of its master plan of ongoing and planned projects for Embassy Kabul, to include those funded by DS, for Embassy Kabul for FY 2016, FY 2017 and out years.”<sup>836</sup>

Because of DS’s and OBO’s inability to communicate effectively, personnel in Kabul faced inconsistent protection between their homes and offices.<sup>837</sup> When the Department awarded the contract to Contractor 1 in 2009, the Department “did not specify that overhead protection was required for either the temporary housing or temporary offices.”<sup>838</sup> This was true, “even though State had previously expressed to Congress concerns about the threat posed from incoming weapons fire in its fiscal year 2008 justification.”<sup>839</sup> In fact, “[t]he only security protection measure specified in the 2009 contract for the temporary housing was shatter-resistant window film.”<sup>840</sup> Temporary offices, however, received forced-entry and ballistic resistant windows.<sup>841</sup>

Apart from the safety concerns, DS’s and OBO’s failure to finalize security measures before awarding the 2009 contract with respect to temporary facilities “contribut[ed] to cost increases and schedule extensions.”<sup>842</sup> After the award of the 2009 contract, the Department’s failures required contract modifications “to address the insufficient and different security requirements for the temporary housing and offices, which added cost and extended the project schedule to address this disparity.”<sup>843</sup>

GAO concluded the Department “likely paid more than it would have had the security requirements been included in the original contract requirements.”<sup>844</sup> The Department also did not accept GAO’s recommendation that the Department establish security standards for temporary facilities,<sup>845</sup> notwithstanding “[s]everal DS and OBO officials reported that State

---

<sup>835</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Donald Hays, Senior Inspector, Office of Inspector General, U.S. Dep’t of State).

<sup>836</sup> Email from Director of Congressional Affairs, Office of Inspector General, U.S. Department of State, to Majority Staff, H. Comm. on Oversight & Gov’t Reform (Sept. 15, 2016, 8:35 AM) (on file with Committee staff).

<sup>837</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015); *see also* GAO Kabul Rep. at 27 (“DS officials we spoke with indicated that staff living on-compound should receive the same level of protection in their housing as in their offices.”).

<sup>838</sup> GAO Kabul Rep. at 27.

<sup>839</sup> *Id.*; *see also Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015) (opening statement of Michael J. Courts, Director, Gov’t Accountability Office) (“I would also note that in 2008 the State Department notified the Congress that they needed additional funds because the threat in Kabul required overhead cover for their temporary facilities. But in 2009 they contracted for temporary buildings that did not specify the need for overhead cover.”).

<sup>840</sup> GAO Kabul Rep. at 27.

<sup>841</sup> *Id.*

<sup>842</sup> *Id.*

<sup>843</sup> *Id.*

<sup>844</sup> *Id.*

<sup>845</sup> *Id.* at 50 (Appendix II, State’s response to GAO’s draft report).

needs documented minimal security standards for temporary facilities in a conflict environment.”<sup>846</sup>

## 2. Electrical Current Problems at the Embassy Put Personnel at Risk

Even while in the process of spending more than \$800 million on two buildings—the New Office Annex and Staff Diplomatic Apartments—OBO could not ensure that the electrical current at those facilities was properly adjusted.<sup>847</sup> An April 2016 report by the Department’s Inspector General “identified life, health, and safety risks to building occupants due to a type of hazardous electrical current—known as objectionable current—in both the office and apartment building.”<sup>848</sup>

OIG observed that, at the compound, “multiple sources of objectionable current were identified throughout” the buildings,<sup>849</sup> likely caused by “improperly installed wiring.”<sup>850</sup> “Objectionable current,” the OIG recognized, “can cause electrical shock, fires, interference with communications equipment, and damage to electrical appliances.”<sup>851</sup>

Like the Committee, the “OIG is . . . concerned with the safety and security of personnel living and working at the embassy and believes that it is paramount that the embassy takes actions to address the concerns.”<sup>852</sup>

Although OBO concurred that it should take immediate action,<sup>853</sup> it did not concur with the OIG’s recommendation that OBO “determine what mitigation measures can be immediately taken to eliminate or reduce risk to personnel occupying the buildings.”<sup>854</sup> OBO’s objection was based on its view, that the objectionable current was not hazardous because it was not in occupied areas and was limited to locked and restricted mechanical rooms.<sup>855</sup>

OBO agreed “that workers in the restricted electrical and mechanical rooms face a potential hazard,” and posted signs alerting personnel to the danger rather than fixing the acknowledged problem.<sup>856</sup> OIG considers this recommendation unresolved.<sup>857</sup>

---

<sup>846</sup> *Id.*

<sup>847</sup> U.S. Dep’t of State, Office of Inspector General, *Management Alert: Hazardous Electrical Current in Office and Residential Buildings Presents Life, Health, and Safety Risks at U.S. Embassy Kabul, Afghanistan* (Apr. 2016) [hereinafter OIG Kabul Mgmt. Alert], available at <https://oig.state.gov/system/files/ma-16-01.pdf>.

<sup>848</sup> OIG Kabul Mgmt. Alert at 1. Objectionable current “is electrical current occurring on the grounding wiring of a building” that “is often caused by improperly installed electrical wiring, equipment, and faulty electrical appliances.” *Id.* at 3.

<sup>849</sup> *Id.* at 3.

<sup>850</sup> *Id.*

<sup>851</sup> *Id.*

<sup>852</sup> *Id.* at 5.

<sup>853</sup> *Id.*

<sup>854</sup> *Id.* at 6.

<sup>855</sup> *Id.* at 6, 13.

<sup>856</sup> *Id.* at 6.

<sup>857</sup> *Id.* at 7; see also Email from Director of Congressional Affairs, Office of Inspector General, U.S. Department of State, to Majority Staff, H. Comm. on Oversight & Gov’t Reform (Sept. 16, 2016, 9:26 AM) (on file with

## ADDITIONAL ISSUES

### A. DS's Representations about Security Issues

**FINDING:** At certain facilities visited by the Chairman and Committee staff, Marines and others tasked with securing the facility stated they had no ability to see in the dark past the facility grounds. This could easily be remedied by purchasing night-vision or infrared cameras.

In addition to the Department's inadequate planning for facilities and the OBO Director's lack of candor with this Committee, the Committee is also concerned about the accuracy of Assistant Secretary Starr's testimony about the security measures at posts worldwide.

With respect to night-vision aiming devices on the weapons of the members of the Marine Security Guard Detachment, Rep. Steve Russell noted that Marines at posts "tell me they need these things."<sup>858</sup> When Assistant Secretary Starr replied "I have no request from the Marine Corps for night vision devices," Rep. Russell responded "[y]ou should get out to your embassies more and talk to those security teams that are out there."<sup>859</sup>

Congressman Russell's comment aligns with the experiences of Chairman Chaffetz and Committee staff. At one post abroad, Chairman Chaffetz asked whether the Marines had sufficient night-vision aiming devices for their weapons, and learned that there were fewer devices than there were soldiers. This answer was not unique and has been consistent with responses to that question at other posts.<sup>860</sup> Assistant Secretary Starr testified that the Marines retain responsibility for the night vision aiming devices.<sup>861</sup> Should a facility come under attack at night, it stands to reason that people protecting the facility may be called to do so outside of the hours of their shift. Deputy Assistant Secretary Ashbery testified in a transcribed interview that a post's RSO can order night vision goggles for that post, in addition to what the Marine Corps have.<sup>862</sup> He further testified that each RSO request for night vision goggles "has either been filled in full or is in the process of being filled in full."<sup>863</sup> DS, in conjunction with the Marine Corps, should ensure that every member of the team protecting our diplomatic facilities abroad has the ability to use their weapon at night.

---

Committee staff) ("The Department's last response included the following statement: 'OBO and Embassy Kabul do not concur that observed objectionable current posed a risk to the general occupants of the NOX or SDA-1.'").

<sup>858</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015).

<sup>859</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015).

<sup>860</sup> Because of the sensitivity of this issue and its potential impact on the safety of our personnel overseas, this report will not detail the locations of those posts or the number of devices.

<sup>861</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015).

<sup>862</sup> Ashbery Tr. at 66 ("Q I'm sorry, you just said the RSOs at post have the ability to order night vision goggles. Is that right? A Yes. Q Okay. A That is in addition to what the Marines have. Q Okay. Understood.")

<sup>863</sup> *Id.* at 72.

Cameras at posts, however, are DS's responsibility.<sup>864</sup> During the Committee's hearing on the London NEC, Assistant Secretary Starr testified that "[a]ll of our cameras have night vision capabilities." Chairman Chaffetz immediately said "[t]hat is absolutely not true," and "[t]his is the problem with you in this position. You cannot tell me that there is night vision capability at each of our embassies and consulates."<sup>865</sup> Assistant Secretary Starr and Chairman Chaffetz engaged in an extended colloquy on the issue. Assistant Secretary Starr testified:

Mr. Starr. Sir, all of our cameras, even our lowest and oldest cameras, have enhanced resolution.

Chairman Chaffetz. Do they have a night vision capability?

Mr. Starr. They are capable of seeing what is going on in the compound at night, sir.

Chairman Chaffetz. In the dark?

Mr. Starr. If—if—we lose all power and if we lose all generators, there are certain posts that will not be able to do that. But we have low light capability, and we've had that since the early '90s.

Chairman Chaffetz. You are misrepresenting the facts, Mr. Starr.

Mr. Starr. Sir, we have low light capability cameras, and we have engaged, since Benghazi, in an upgrade program starting with all of our—

Chairman Chaffetz. It's not complete. You've wanted us to believe, if I didn't question you, that every one of our posts can see at night. They can't.

Mr. Starr. Sir—

Chairman Chaffetz. And you don't understand that. You are the assistant secretary, Bureau of Diplomatic Security, and you don't know that our people can't see at night.

Mr. Starr. Our marines and our agents can see at night.<sup>866</sup>

---

<sup>864</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015) ("Chairman Chaffetz. Wait a second. Now, there's individual goggles. Mr. Starr. Right. Chairman Chaffetz. But then there are cameras. Mr. Starr. Right, which is ours. All of our cameras have night vision capabilities.").

<sup>865</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015).

<sup>866</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015).

In a transcribed interview, Deputy Assistant Secretary for Countermeasures Ashbery agreed with Assistant Secretary Starr's testimony,<sup>867</sup> and Ashbery testified the Department uses "a variety of different cameras, depending on the environment and the threat levels. The most common camera that we use is a commercially available relatively standard camera that has very, very good low light capability and high resolution."<sup>868</sup> He also explained the difference between low-light cameras and infrared cameras:

Q And what's the functional difference between the low light and infrared camera?

A I was going to say a low light camera will work when there is minimal light, like starlight or moonlight. An infrared camera will work when there is zero light. It works off the heat signature.<sup>869</sup>

Deputy Assistant Secretary Ashbery testified that low-light cameras are sufficient for most Department facilities abroad. He testified:

Q And is a low light camera— are low light cameras sufficient for most embassies or under what circumstances would an embassy require an infrared camera?

A Low light cameras are absolutely sufficient for most of our usage, first and foremost because in addition to the camera systems, our embassies are required to have extensive lighting systems to allow the guards and security personnel to visually see what's occurring. Those cameras will also work down to— if there's sufficient light to see to walk, those cameras have good visibility.

There are situations that occur where we feel we need to expand beyond that, either because of something within our vicinity or adjacent to our facility, where there is no lighting capability, there is no ambient lighting, or because there's a particular scenario that we are uncomfortable with. In some locations we also need extended range to where we may need to see great distances, in which case we may utilize a different camera technology.<sup>870</sup>

When asked whether "there are night vision cameras at every U.S. embassy," like Assistant Secretary Starr, Ashbery testified "there are low light-capable cameras. There are cameras that are able to provide situational awareness during hours of darkness at all U.S.

---

<sup>867</sup> Ashbery Tr. at 68 ("Q So in this excerpt of Assistant Secretary Starr's hearing testimony, did you read anything that you found to be inaccurate in his testimony? A No, I did not.").

<sup>868</sup> *Id.* at 62.

<sup>869</sup> *Id.* at 63.

<sup>870</sup> *Id.*

embassies.”<sup>871</sup> He also testified he believes “there [are] adequate cameras to see at night across all U.S. embassies.”<sup>872</sup>

Chairman Chaffetz is not the only member of the Committee to express concerns about cameras at U.S. facilities worldwide. During the Committee’s hearing into problems with construction of the embassy in Kabul, Rep. John Mica noted he toured a number of facilities after the Benghazi attack “trying to avoid another Benghazi.”<sup>873</sup> In that review, “one of the simple things we found was the lack of surveillance cameras and their ability to also have high definition and get those replaced” that do not.<sup>874</sup> During his visit to “one of our major posts in Western Europe, [he] found that one of the facilities did not have those surveillance cameras.”<sup>875</sup> Congressman Mica asked one of the people at post about the lack of cameras and was told it was not resources, but rather “it was the bureaucratic acquisition process.”<sup>876</sup>

Assistant Secretary Starr’s testimony is not consistent with the Committee’s findings in the field. As Chairman Chaffetz stated: “I walk into every embassy I go into now and ask them if I can see at night. One of the most recent embassies I walked into, they said, ‘Well, if the lights are on.’ . . . I said, ‘Well, what happens if it’s dark, what happens if they shoot out the lights?’ ‘No, then we couldn’t see a thing. We’d be in the pitch dark.’”<sup>877</sup>

After this testimony and during a visit to a facility abroad, Chairman Chaffetz asked an agent in the field whether he could see in the dark, and the officer replied that, although the camera had “low light capability,” it was not able to see in the dark.

United States embassies are targets anywhere in the world, even in countries viewed as safe.<sup>878</sup> Our security personnel at these facilities should have the ability to see clearly at night.

---

<sup>871</sup> *Id.* at 64.

<sup>872</sup> *Id.*

<sup>873</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

<sup>874</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

<sup>875</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

<sup>876</sup> *Construction Costs and Delays at the U.S. Embassy in Kabul, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (July 9, 2015).

<sup>877</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015).

<sup>878</sup> U.S. Dep’t of State, Bureau of Diplomatic Security, *Significant Attacks Against U.S. Diplomatic Facilities and Personnel 1998-2013* at 13, available at <http://www.state.gov/documents/organization/225846.pdf> (listing attacks in London and Macedonia, for example).

## B. The Department's Excessive Spending for the Art in Embassies Program

**FINDING:** The Department's Art in Embassies program uses a percentage of the construction contract to purchase art for the facilities, which often results in wildly disproportionate expenditures as related to the economic circumstances of the host country. An example of this is more than \$2.9 million in art for the Islamabad NEC, a country in which the per capita GDP is \$5,000.

The Department spent more than \$4 million on art for the London NEC.<sup>879</sup> Much of that figure is required by the Department's Art in Embassies (AIE) program, which is patterned on a similar program run by GSA.<sup>880</sup> The Department's AIE program employs seven curators.<sup>881</sup>

In response to Committee staff questions, the Department advised that: "From 2005 through 2013, the formula for calculating the art budgets for new embassy and consulate projects was a \$/GSM [gross square meters of the facility] calculation."<sup>882</sup> Now, however, the Department allocates 0.5 percent of the value of the construction contract to the AIE program in that facility.<sup>883</sup>

The results yield expenditures on art that are often misaligned with the country in which the facility sits. For example, the Department anticipates spending the following amounts for art in new facilities as compared to the host country's Gross Domestic Product (GDP):

- N'Djamena, Chad NEC: \$798,000.<sup>884</sup> Chad has a 2015 estimated per capita GDP of \$2,600;<sup>885</sup>
- Niamey, Niger NEC: \$728,000.<sup>886</sup> Niger has a 2015 estimated per capita GDP of \$1,100;<sup>887</sup>

---

<sup>879</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (Dec. 8, 2015) (OBO Director Muniz in response to a question from Chairman Chaffetz).

<sup>880</sup> U.S. Dep't of State Briefing to H. Comm. on Oversight & Gov't Reform Staff on Art in Embassies Program (Jan. 4, 2016).

<sup>881</sup> U.S. Dep't of State Responses to Questions from H. Comm. on Oversight & Gov't Reform Staff on Art in Embassies (Jan. 28, 2016).

<sup>882</sup> *Id.*

<sup>883</sup> *Id.* ("In 2013, in an effort to align with other public and governmental entities, OBO modified the formula for Capital Security Projects from a \$/GSM to a percentage formula equal to 0.5% of the construction contract value. This change was made to the extent possible on FY 13 projects and on every project starting in FY 14.")

<sup>884</sup> N'Djamena NEC PPR, Apr. 2016 (CDP-201500016-0002889) (showing "Art" budget of \$798,000).

<sup>885</sup> Central Intelligence Agency, *The World Fact Book, Africa: Chad* (last visited Dec. 2, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/cd.html>.

<sup>886</sup> Niamey NEC PPR, Apr. 2016 (CDP-201500016-0002890) (showing "Art" budget of \$728,000).

<sup>887</sup> Central Intelligence Agency, *The World Fact Book, Africa: Niger* (last visited Dec. 2, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/ng.html>.

- Tegucigalpa, Honduras NEC: \$1,614,000.<sup>888</sup> Honduras has a 2015 estimated per capita GDP of \$5,100;<sup>889</sup>
- Nuevo Laredo, Mexico NCC: \$515,919.<sup>890</sup> Mexico has a 2015 estimated per capita GDP of \$18,400;<sup>891</sup>
- Jakarta, Indonesia NEC: \$1,363,000.<sup>892</sup> Indonesia has a 2015 estimated per capita GDP of \$11,100;<sup>893</sup>
- Beirut, Lebanon NEC: \$2,704,000.<sup>894</sup> Lebanon has a 2015 estimated per capita GDP of \$18,200;<sup>895</sup> and
- Islamabad, Pakistan NEC: \$2,901,000.<sup>896</sup> Pakistan has a 2015 estimated per capita GDP of \$4,900.<sup>897</sup>

In order to better protect taxpayers, the Department should be required to rely on loaned or donated art, and Department’s budget for art—limited to insurance and transportation costs—should be subject to a cap, rather than an arbitrary portion of the construction contract.

## **OBO, AS STRUCTURED, IS NOT POSITIONED FOR SUCCESS**

OBO plays a large and critical role within the Department. It is “the single real property manager for all U.S. Government diplomatic properties overseas.”<sup>898</sup> In this role, “OBO manages the design, construction, acquisition, sale, and maintenance of the Department’s worldwide property portfolio.”<sup>899</sup> Further, that “portfolio includes the property platform

<sup>888</sup> Tegucigalpa NEC PPR, Apr. 2016 (CDP-201500016-0003144) (showing “Art” budget of \$1,614,000).

<sup>889</sup> Central Intelligence Agency, *The World Fact Book, Central America & Caribbean: Honduras* (last visited Dec. 2, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/ho.html>.

<sup>890</sup> Nuevo Laredo NCC PPR, Apr. 2016 (CDP-201500016-0003071) (showing “Art” budget of \$2,901,000).

<sup>891</sup> Central Intelligence Agency, *The World Fact Book, North America: Mexico* (last visited Dec. 2, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/mx.html>.

<sup>892</sup> Jakarta NEC PPR, Apr. 2016 (CDP-201500016-0002912) (showing “Art” budget of \$1,363,000).

<sup>893</sup> Central Intelligence Agency, *The World Fact Book, East & Southeast Asia: Indonesia* (last visited Dec. 2, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/id.html>.

<sup>894</sup> Beirut NEC PPR, Apr. 2016 (CDP-201500016-0003035) (showing “Art” budget of \$2,704,000).

<sup>895</sup> Central Intelligence Agency, *The World Fact Book, Middle East: Lebanon* (last visited Dec. 2, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/le.html>.

<sup>896</sup> Islamabad NEC and Housing PPR, Apr. 2016 (CDP-201500016-0003071) (showing “Art” budget of \$2,901,000).

<sup>897</sup> Central Intelligence Agency, *The World Fact Book, South Asia: Pakistan* (last visited Dec. 2, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>.

<sup>898</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep’t of State).

<sup>899</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep’t of State).

supporting 275 missions in 190 countries and has over \$14 billion in projects in design and construction.”<sup>900</sup>

Despite this responsibility, OBO appears to have taken an ad hoc approach to management. When the Department’s OIG found OBO had prematurely made certifications to Congress about the safety of the London NEC and begun construction before required blast-testing had been completed, OBO instead argued whether it had actually started “construction.”<sup>901</sup> The OIG pointed to federal law and the FAM to demonstrate that OBO may not even award a contract—let alone begin construction—before certification.<sup>902</sup>

---

<sup>900</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (opening statement of Lydia Muniz, Director, Bureau of Overseas Buildings Operations, U.S. Dep’t of State).

<sup>901</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (“Chairman Chaffetz. Why did you start construction prior to the DS certification? Ms. Muniz. I would argue that we did not start construction. I would argue that we awarded a construction contract as the Department has done since— . . . for the last 10 years.”).

<sup>902</sup> U.S. Dep’t of State, Office of Inspector General, *Audit of the Construction Contract Award and Security Evaluation of the New Embassy Compound London* at 6 (July 2015) (noting OBO’s practice “does not comply with 12 FAM 361.1, which states that ‘no contract should be awarded or construction undertaken until the proponent of a project has been notified by the Department that the appropriate certification action has been completed,’ or 12 FAM 361.3, which states that ‘[t]he chief of mission is responsible for ensuring that no project subject to . . . certification . . . is initiated without certification. . . approval.’”), available at <https://oig.state.gov/system/files/aud-cgi-15-31.pdf>.

OBO, by contrast, pointed to a draft, unpublished 2003 memorandum between OBO and DS to support its position that it had not violated the law and policy.<sup>903</sup>

In response to Committee questions, Director Muniz was unable to say clearly whether the FAM is binding. Her response states, in relevant part, that the FAM is “the published policy of the Department of State,” and “[a]lthough some sections of the FAM restate or incorporate binding obligations that are contained in statutes, regulations, or Executive Orders, *others are policy statements intended to explain the purpose of and authority for a particular program.*”<sup>904</sup> Her response appears to contrast with the Department’s own pronouncement that the FAM’s provisions “*govern the operations of the State Department.*”<sup>905</sup> OBO’s reliance on an unpublished draft memorandum from 2003 to commence work on the London NEC, as opposed to the published FAM, flies in the face of this clear pronouncement.

The Department’s webpage dedicated to the FAM and the *Foreign Affairs Handbooks* describes those documents’ role. It states:

*The Foreign Affairs Manual (FAM) and associated Handbooks (FAHs) are a single, comprehensive, and authoritative source for the Department’s organization structures, policies, and procedures that govern the operations of the State Department, the Foreign Service and, when applicable, other federal agencies. The FAM (generally policy) and the FAHs (generally procedures) together convey codified information to Department staff and contractors so they can carry out their responsibilities in accordance with statutory, executive and Department mandates.*<sup>906</sup>

In fact, OBO’s current structure flouts the requirements of the FAM. OBO was elevated to a formal bureau in the early 2000s, which yielded benefits to the projects. As the GAO recognized:

The elevation of the former Office of Foreign Buildings Operations to the Bureau of Overseas Buildings Operations was one of the most important

---

<sup>903</sup> *Review of the New London Embassy Project, Hearing before the H. Comm. on Oversight & Gov’t Reform*, 114th Cong. (Dec. 8, 2015) (statement of Inspector General Linick) (“Notwithstanding this policy, since at least 2003 the Department has followed the practice of authorizing construction contractors to begin work prior to certification. In the case of the London compound, the contract award, site work, and construction began many months before the Department certified the project to Congress in December of 2013 as providing adequate security protection.”).

<sup>904</sup> Responses to Questions for the Record Submitted to Director Lydia Muniz by Rep. Jason Chaffetz (1-16) H. Comm. Oversight and Government Reform December 08, 2015, Resp. No. 14 (Jan. 14, 2016) (emphasis added). Director Muniz’ response provides in full:

The Foreign Affairs Manual (FAM) is, as noted in the Office of Inspector General’s “Audit of the Construction Contract Award and Security Evaluation of the New Embassy Compound London,” the published policy of the Department of State. Although some sections of the FAM restate or incorporate binding obligations that are contained in statutes, regulations, or Executive Orders, others are policy statements intended to explain the purpose of and authority for a particular program.

<sup>905</sup> U.S. Dep’t of State, *Foreign Affairs Manual and Handbook*, <https://fam.state.gov/> (last visited Dec. 2, 2016) (emphasis added).

<sup>906</sup> *Id.* (emphasis added).

reforms made by [the Department] related to reducing project cycle times and limiting cost increases. Elevation to bureau status allowed OBO to become the equal of the regional bureaus, and resulted in OBO and the regional bureaus and overseas posts having more of a traditional client-service provider type relationship.<sup>907</sup>

That coequal status—at least back in 2006—led OBO to “enforce a more disciplined process that discourages change orders that result in delays and cost increases.”<sup>908</sup> In contrast to today’s OBO, the bureau operating the SED program “consider[ed] project budgets to be locked once project funds are requested from Congress, and OBO w[ould] not request additional funds from Congress for those projects.”<sup>909</sup>

To better control costs for construction of new facilities and maintenance of existing facilities, the FAM requires that OBO’s Director “[d]evelop a Long-Range Overseas Buildings Plan and Long-Range Overseas Maintenance Plan.”<sup>910</sup> OBO last published a Long-Range Overseas Buildings Plan and Long-Range Overseas Maintenance Plan in 2013.<sup>911</sup> While a new plan is purportedly “under review,” there is no reported estimated release date for that document.<sup>912</sup> In the more than four years that she has served as OBO Director, Muniz instead has failed to formally report planning for new facilities, as required by the FAM. Producing plans would aid the Department in appropriately allocating resources for new facilities and rehabilitation of existing facilities, as well as allow Congress to better track OBO’s contemplated expenditures. The issues with respect to the U.S. Embassy in Kabul, discussed above, highlight the pitfalls the Department faces when it fails to plan in a methodical way. Even if Congress does not pass legislation reinforcing the notion that the FAM is binding upon the Department, it should pass legislation that the Department produce a Long-Range Overseas Buildings Plan and Long-Range Overseas Maintenance Plan annually. That way, Congress would have greater visibility into the Department’s planning and spending.

## CONCLUSION

The Committee and the Department share the goal of ensuring our men and women serving abroad work in secure and functional buildings. At the same time, the Department should ensure that taxpayers are not being asked to pay significant sums of money in the name of high-end architecture. As the documents and testimony in this investigation show, the Department’s desire to construct purpose-built facilities everywhere in the world—often designed by top-flight and expensive architects—takes more time to design and construct than in years past. This added time comes at the expense of our diplomats serving in often dangerous places.

---

<sup>907</sup> GAO SED Rep. at 19.

<sup>908</sup> *Id.*

<sup>909</sup> *Id.*

<sup>910</sup> 1 FAM 281.1(11).

<sup>911</sup> Responses to Questions for the Record Submitted to Director Lydia Muniz by Rep. Jason Chaffetz (1-16) H. Comm. Oversight and Government Reform December 08, 2015, Resp. No. 15 (Jan. 14, 2016).

<sup>912</sup> *Id.*

## APPENDIX

During this investigation, the Committee held four hearings related to diplomatic facilities, issued more than 20 letters requesting information, participated in numerous briefings with the Department and other organizations, reviewed more than 355,000 pages of documents produced by the Department and contractors, conducted 14 transcribed interviews and depositions (resulting in more than 2,000 pages of transcripts), and visited each of the five facilities profiled, as well as several others. In the course of this investigation, Chairman Chaffetz and/or Committee staff visited facilities in the following locations:

Date	Location	Participants
February 12-16, 2014	Port Moresby, Papua New Guinea and United Arab Emirates	Chairman Jason Chaffetz
March 4-10, 2015	Harare, Zimbabwe and Maputo, Mozambique	Chairman Jason Chaffetz and Rep. Stephen Lynch
April 24, 2015	Mexico City, Mexico	Chairman Jason Chaffetz and Del. Stacey Plaskett
May 1-5, 2015	Jeddah, Dhahran, and Riyadh, Saudi Arabia	Chairman Jason Chaffetz
May 26-27, 2015	Matamoros and Nuevo Laredo, Mexico	Committee Staff
August 16-19, 2015	London, England	Committee Staff
November 9-13, 2015	Jakarta, Indonesia	Chairman Jason Chaffetz
March 10, 2016	Ciudad Juarez, Mexico	Committee Staff
June 11-13, 2016	London, England	Chairman Jason Chaffetz
July 1-4, 2016	Beirut, Lebanon and Cairo, Egypt	Committee Staff

Date	Location	Participants
July 16-24, 2016	Azores, Israel, Jordan, Georgia, Romania, and Lithuania	Chairman Jason Chaffetz, Rep. Cynthia Lummis, Rep. Gary Palmer, Rep. Mark Walker, Rep. Jody Hice, Rep. Patrick Meehan, Rep. Marlin Stutzman, Rep. Mark DeSaulnier, Rep. Bruce Westerman, Rep. Mike Quigley, and Rep. Reid Ribble