

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4969
OFFERED BY MR. MCCAUL OF TEXAS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Improving Embassy
3 Design and Security Act of 2018”.

4 SEC. 2. STANDARD DESIGN IN CAPITAL CONSTRUCTION.

5 (a) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that the Department of State’s Bureau of Overseas
7 Building Operations (OBO) or successor office should give
8 appropriate consideration to standard embassy design, in
9 which each new embassy and new consulate starts with
10 a standard design and keeps customization to a minimum.

11 (b) CONSULTATION.—The Secretary of State shall, in
12 consultation with the appropriate congressional commit-
13 tees, carry out any new embassy compound project or new
14 consulate compound project that is in the design phase
15 or pre-design phase as of the date of the enactment of
16 this Act and that utilizes a non-standard design. The Sec-
17 retary shall provide such committees, for each such
18 project, the following documentation:

1 (1) A comparison of the estimated full lifecycle
2 costs of the project at issue to the estimated full
3 lifecycle costs of such project if such project were to
4 use a standard embassy design.

5 (2) A comparison of the estimated completion
6 date of such project to the estimated completion
7 date of such project if such project were to use a
8 standard embassy design.

9 (3) A comparison of the security of such com-
10 pleted project to the security of such completed
11 project if such completed project were to use a
12 standard embassy design.

13 (4) A justification for the Secretary's selection
14 of a non-standard design over a standard embassy
15 design for such project.

16 (5) A written explanation if any of the docu-
17 mentation necessary to support the comparisons and
18 justification, as the case may be, described in para-
19 graphs (1) through (4) cannot be provided.

20 **SEC. 3. CAPITAL CONSTRUCTION TRANSPARENCY.**

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

24 (1) in the section heading, by striking “**AN-**
25 **NUAL REPORT ON EMBASSY CONSTRUCTION**

1 **COSTS**” and inserting “**QUARTERLY REPORT ON**
2 **OVERSEAS CAPITAL CONSTRUCTION**
3 **PROJECTS**”; and

4 (2) by amending subsections (a) and (b) to read
5 as follows:

6 “(a) **IN GENERAL.**—Not later than 180 days after
7 the date of the enactment of this subsection and every 90
8 days thereafter, the Secretary shall submit to the appro-
9 priate congressional committees a comprehensive report
10 regarding all ongoing overseas capital construction
11 projects and major embassy security upgrade projects.

12 “(b) **CONTENTS.**—Each report required under sub-
13 section (a) shall include the following with respect to each
14 ongoing overseas capital construction project and major
15 embassy security upgrade project:

16 “(1) The initial cost estimate as specified in the
17 proposed allocation of capital construction and main-
18 tenance funds required by the Committees on Appro-
19 priations for Acts making appropriations for the De-
20 partment of State, foreign operations, and related
21 programs.

22 “(2) The current cost estimate.

23 “(3) The value of each request for equitable ad-
24 justment received by the Department of State to
25 date.

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

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

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

9 “(7) An enumerated list of each request for eq-
10 uitable adjustment and certified claim that has been
11 fully adjudicated or that the Department has settled,
12 and the final dollar amount of each adjudication or
13 settlement.

14 “(8) The date of estimated completion specified
15 in the proposed allocation of capital construction
16 and maintenance funds required by the Committees
17 on Appropriations not later than 45 days after the
18 date of the enactment of an Act making appropria-
19 tions for the Department of State, foreign oper-
20 ations, and related programs.

21 “(9) The current date of estimated comple-
22 tion.”.

23 (b) INITIAL REPORT.—The first report required
24 under subsection (a) of section 118 of the Department of
25 State Authorities Act, Fiscal Year 2017 (as amended by

1 this section) shall include an annex regarding all overseas
2 capital construction projects and major embassy security
3 upgrade projects completed during the 10-year period end-
4 ing on December 31, 2018, including, for each such
5 project, the elements specified in subsection (b) of such
6 section 118 (as amended by this section).

7 **SEC. 4. CONTRACTOR PERFORMANCE INFORMATION.**

8 (a) **DEADLINE FOR COMPLETION.**—The Secretary of
9 State shall complete by October 1, 2020, all contractor
10 performance evaluations required by subpart 42.15 of the
11 Federal Acquisition Regulation.

12 (b) **PRIORITIZATION SYSTEM.**—

13 (1) **IN GENERAL.**—Not later than 90 days after
14 the date of the enactment of this Act, the Secretary
15 of State shall develop a prioritization system for
16 clearing the current backlog of required evaluations
17 referred to in subsection (a).

18 (2) **ELEMENTS.**—The system required under
19 paragraph (1) should prioritize such evaluations as
20 follows:

21 (A) Project completion evaluations should
22 be prioritized over annual evaluations.

23 (B) Evaluations for relatively large con-
24 tracts should have priority.

1 (C) Evaluations that would be particularly
2 informative for the awarding of government
3 contracts should have priority.

4 (c) BRIEFING.—Not later than 90 days after the date
5 of the enactment of this Act, the Secretary of State shall
6 brief the appropriate congressional committees on the De-
7 partment of State’s plan for completing all evaluations by
8 October 1, 2020, and the prioritization system developed
9 pursuant to this section.

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

12 (1) contractors deciding whether to bid on De-
13 partment of State contracts would benefit from
14 greater understanding of the Department as a client;
15 and

16 (2) the Department should develop a forum
17 through which contractors can rate the Depart-
18 ment’s project management performance.

19 **SEC. 5. GROWTH PROJECTIONS FOR NEW EMBASSIES AND**
20 **CONSULATES.**

21 (a) IN GENERAL.—For each new embassy compound
22 project (NEC) and new consulate compound project
23 (NCC) in or not yet in the design phase as of the date
24 of the enactment of this Act, the Office of Management
25 Policy, Rightsizing, and Innovation of the Department of

1 State shall project growth over the estimated life of the
2 facility at issue using all available and relevant data, in-
3 cluding the following:

4 (1) Relevant historical trends for Department
5 personnel and personnel from other agencies rep-
6 resented at the NEC or NCC that is to be con-
7 structed.

8 (2) An analysis of the tradeoffs between risk
9 and the needs of United States Government policy
10 conducted as part of the most recent Vital Presence
11 Validation Process, if applicable.

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

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

17 (b) OTHER AGENCIES.—Each Federal agency rep-
18 resented at an embassy or consulate shall provide to the
19 Department of State, upon request, growth projections for
20 the personnel of such agency over the estimated life of
21 such embassy or consulate, as the case may be.

22 (c) BASIS FOR ESTIMATES.—The Department of
23 State shall base growth assumption for all NECs and
24 NCCs on the estimates required under subsections (a) and
25 (b).

1 (d) CONGRESSIONAL NOTIFICATION.—Any congres-
2 sional notification of site selection for a NEC or NCC sub-
3 mitted after the date of the enactment of this Act shall
4 include the growth assumption used pursuant to sub-
5 section (c).

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

7 (a) PLANS REQUIRED.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of the enactment of this Act and an-
10 nually thereafter for five years, the Secretary of
11 State shall develop—

12 (A) a comprehensive six-year Long-Range
13 Overseas Buildings Plan (LROBP) docu-
14 menting the Department of State’s overseas
15 building program for the replacement of over-
16 seas diplomatic facilities taking into account se-
17 curity factors under the Secure Embassy Con-
18 struction and Counterterrorism Act of 1999
19 and other relevant statutes and regulations, as
20 well as occupational safety and health factors
21 pursuant to the Occupational Safety and
22 Health Act of 1970 and other relevant statutes
23 and regulations, including environmental factors
24 such as indoor air quality that impact employee
25 health and safety; and

1 (B) a comprehensive six-year plan detailing
2 the Department's long-term planning for the
3 maintenance and sustainment of completed fa-
4 cilities, known as a Long-Range Overseas Main-
5 tenance Plan (LROMP), which takes into ac-
6 count security factors under the Secure Em-
7 bassy Construction and Counterterrorism Act of
8 1999 and other relevant statutes and regula-
9 tions, as well as occupational safety and health
10 factors pursuant to the Occupational Safety
11 and Health Act of 1970 and other relevant
12 statutes and regulations, including environ-
13 mental factors such as indoor air quality that
14 impact employee health and safety.

15 (2) INITIAL REPORT.—The first plan developed
16 pursuant to paragraph (1)(A) shall also include a
17 one-time status report on existing small diplomatic
18 posts and a strategy for establishing a physical dip-
19 lomatic presence in countries in which there is no
20 current physical diplomatic presence. Such report,
21 which may include a classified annex, shall include
22 the following:

23 (A) A description of the extent to which
24 each small diplomatic post furthers the national
25 interest of the United States.

1 (B) A description of how each small diplo-
2 matic post provides American Citizen Services,
3 including data on specific services provided and
4 the number of Americans receiving services over
5 the previous year.

6 (C) A description of whether each small
7 diplomatic post meets current security require-
8 ments.

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

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

14 (3) UPDATED INFORMATION.—The annual up-
15 dates of the plans developed pursuant to paragraph
16 (1) shall highlight any changes from the previous
17 year's plan to the ordering of construction and
18 maintenance projects.

19 (b) REPORTING REQUIREMENTS.—

20 (1) SUBMISSION OF PLANS TO CONGRESS.—Not
21 later than 60 days after the completion of the
22 LROBP and the LROMP, the Secretary of State
23 shall submit such plans to the appropriate congres-
24 sional committees.

1 (2) REFERENCE IN BUDGET JUSTIFICATION
2 MATERIALS.—In the budget justification materials
3 submitted to the appropriate congressional commit-
4 tees in support of the Department of State’s budget
5 for any fiscal year (as submitted with the budget of
6 the President under section 1105(a) of title 31,
7 United States Code), the plans specified in the
8 LROBP and LROMP shall be referenced to justify
9 funding requested for building and maintenance
10 projects overseas.

11 (3) FORM OF REPORT.—The plans required to
12 be submitted under paragraph (1) shall be submitted
13 in unclassified form but may include classified an-
14 nexes

15 (c) SMALL DIPLOMATIC POST DEFINED.—In this
16 section, the term “small diplomatic post” means any con-
17 sulate that has employed five or fewer United States Gov-
18 ernment employees on average over the 36 months before
19 the date of the enactment of this Act.

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

21 (a) FINDINGS.—Congress makes the following find-
22 ings:

23 (1) Federal departments and agencies are re-
24 quired to use value engineering (VE) as a manage-
25 ment tool, where appropriate, to reduce program and

1 acquisition costs pursuant to OMB Circular A-131,
2 Value Engineering, dated December 31, 2013.

3 (2) OBO has a Policy Directive and Standard
4 Operation Procedure, dated May 24, 2017, on con-
5 ducting risk management studies on all international
6 construction projects.

7 (b) NOTIFICATION REQUIREMENTS.—

8 (1) SUBMISSION TO AUTHORIZING COMMIT-
9 TEES.—The proposed allocation of capital construc-
10 tion and maintenance funds that is required by the
11 Committees on Appropriations of the House of Rep-
12 resentatives and the Senate not later than 45 days
13 after the date of the enactment of an Act making
14 appropriations for the Department of State, foreign
15 operations, and related programs shall also be sub-
16 mitted to the appropriate congressional committees.

17 (2) REQUIREMENT TO CONFIRM COMPLETION
18 OF VALUE ENGINEERING AND RISK ASSESSMENT
19 STUDIES.—The notifications required under para-
20 graph (1) shall include confirmation that the De-
21 partment of State has completed the requisite VE
22 and risk management studies described in subsection
23 (a).

1 (c) REPORTING AND BRIEFING REQUIREMENTS.—

2 The Secretary of State shall provide to the appropriate
3 congressional committees upon request—

4 (1) a description of each recommendation from
5 each study described in subsection (a) and a table
6 detailing which recommendations were accepted and
7 which were rejected; and

8 (2) a report or briefing detailing the rationale
9 for not implementing recommendations made by VE
10 studies that may yield significant cost savings to the
11 Department of State, if implemented.

12 **SEC. 8. BUSINESS VOLUME.**

13 Subparagraph (E) of section 402(c)(2) of the Omni-
14 bus Diplomatic Security and Antiterrorism Act of 1986
15 (22 U.S.C. 4852(c)(2)) is amended by striking “in 3
16 years” and inserting “cumulatively over 3 years”.

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

18 The Secretary of State shall provide to the appro-
19 priate congressional committees, upon request, informa-
20 tion on security deficiencies at United States diplomatic
21 posts, including—

22 (1) requests made over the previous year by
23 United States diplomatic posts for security up-
24 grades; and

1 (2) significant security deficiencies at United
2 States diplomatic posts that are not operating out of
3 a new embassy compound or new consulate com-
4 pound.

5 **SEC. 10. OVERSEAS SECURITY BRIEFINGS.**

6 Not later than 90 days after the date of the enact-
7 ment of this Act, the Secretary of State shall revise the
8 Foreign Affairs Manual to stipulate that the Bureau of
9 Diplomatic Security of the Department of State shall pro-
10 vide a security briefing or written materials with up-to-
11 date information on the current threat environment in
12 writing or orally to all United States Government employ-
13 ees traveling to a foreign country on official business. To
14 the extent practicable, such briefing or written materials
15 shall be provided to traveling Department employees via
16 teleconference prior to their arrival at a post.

17 **SEC. 11. CONTRACTING METHODS IN CAPITAL CONSTRU-**
18 **CTION.**

19 (a) **DELIVERY.**—Except in cases in which the Sec-
20 retary of State determines that such would not be appro-
21 priate, the Secretary shall make use of the design-build
22 project delivery system at diplomatic posts that have not
23 yet received design or capital construction contracts as of
24 the date of the enactment of this Act.

1 (b) NOTIFICATION.—Not later than 15 days after
2 any determination to make use of a delivery system other
3 than design-build in accordance with subsection (a), the
4 Secretary of State shall notify the appropriate congress-
5 sional committees in writing of such determination, includ-
6 ing the reasons therefor.

7 (c) PERFORMANCE EVALUATION.—Not later than
8 180 days after the date of the enactment of this Act, the
9 Secretary shall report to the appropriate congressional
10 committees regarding performance evaluation measures in
11 line with GAO’s “Standards for Internal Control in the
12 Federal Government” that will be applicable to design and
13 construction, lifecycle cost, and building maintenance pro-
14 grams of the Bureau of Overseas Building Operations of
15 the Department of State.

16 **SEC. 12. DEFINITIONS.**

17 In this Act:

18 (1) APPROPRIATE CONGRESSIONAL COMMIT-
19 TEES.—The term “appropriate congressional com-
20 mittees” means the appropriate congressional com-
21 mittees.

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

1 ment of State to provide design and construction
2 services.

3 (2) NON-STANDARD DESIGN.—The term “non-
4 standard design” means—

5 (A) a design for a new embassy compound
6 project or new consulate compound project that
7 does not utilize a standardized embassy design
8 for the structural, spatial, or security require-
9 ments of such embassy compound or consulate
10 compound, as the case may be; or

11 (B) a new embassy compound project; or
12 new consulate compound project that does not
13 utilize a design-build delivery method.

