



OIG

Office of Inspector General

U.S. Department of State • Broadcasting Board of Governors

AUD-MERO-18-01

Office of Audits

December 2017

Management Assistance Report: Lapse in Oversight at Embassy Islamabad, Pakistan, Allowed Design Change To Proceed Without the Contracting Officer's Knowledge

MANAGEMENT ASSISTANCE REPORT

Summary of Review

In September 2010, the Bureau of Administration, on behalf of the Bureau of Overseas Buildings Operations (OBO), awarded a firm-fixed-price, design-build contract to BL Harbert International, LLC, to build several structures at Embassy Islamabad, including three staff diplomatic apartment (SDA) buildings. In a design-build contract, the Department provides a scope of work in the request for proposal that defines its needs along with any specific requirements or criteria. The contractor is then responsible for developing the Final Design Documents, which should reflect the requirements set forth in the request for proposal.

During fieldwork for an ongoing audit of the contract to design and build the \$852.8 million New Embassy Compound and Housing Project in Islamabad, Pakistan, the Office of Inspector General (OIG) learned that BL Harbert was planning to make adjustments or alterations to the building materials on the facade of three buildings. BL Harbert set forth this change, among others, in an April 2016 internal document titled Bulletin 29. OIG alerted the Bureau of Administration and OBO in a draft of this report that a substitution of materials requires the approval of the contract's Contracting Officer (CO). OIG based its findings on the fact that the materials BL Harbert was planning to use for the facade of the SDA buildings deviated from the Final Design Documents that the contractor prepared under the terms of the contract and that were approved by OBO and the Contracting Officer in December 2012. In particular, in a deviation from the Final Design Documents, BL Harbert intended to decrease the use of metal panels and stone and to increase the use of stucco in the facade. Stucco is less expensive than either metal or stone.

In response to a draft of this report (see Appendix A), the Bureau of Administration and OBO stated for the first time that BL Harbert was not "substituting" building materials within the meaning of the contract but was simply changing the percentages of building material to be used to align with the initial request for proposal. According to OBO, the 2012 Final Design Documents themselves deviated from the request for proposal (RFP) criteria, which called for the use of a combination of metal panels, stone, and stucco; OBO further stated that the April 2016 Bulletin 29 was meant to correct the deviation. Moreover, OBO stated that because the changes in building materials are not considered "substitutions," the contract does not require the CO's involvement.

OBO has stated that the changes outlined in Bulletin 29 will result in the facade of the SDA buildings being built to the requirements as originally defined in the RFP. OBO's handling of the issue is nonetheless concerning for several reasons. First, even if the changes outlined in Bulletin 29 were not "substitutions" but were adjustments or alterations intended to conform the Final Design Documents with the RFP, the contract required the CO's approval of these adjustments before they were made. No such approval was sought or given, and no record shows that anyone authorized to approve changes ever agreed to the changes identified in Bulletin 29. The contractor was not authorized to make these adjustments unilaterally, regardless of the reason for doing so. Second, the interaction and communication between BL Harbert, OBO, and the CO were generally poor and uncoordinated and moreover were not

documented in the contract file as required. OIG only learned of the changes in the building material through interviews with OBO's architects at the embassy during a site visit 10 months after BL Harbert issued Bulletin 29. Indeed, in this audit, OIG found that the CO did not know of BL Harbert's actions until he spoke with OIG following OIG's return from Islamabad. Such communication and required documentation confirming those communications is important to ensure that all stakeholders (including Department officials in Washington, DC; current and future officials assigned to oversee the contract; and BL Harbert) are aware of activities conducted under the contract. Third, even though OBO construes the contract to mean that the contractor could unilaterally make the changes without the CO's involvement (a reading that OIG does not believe the contract supports), according to the Federal Acquisition Regulation (FAR), the CO is responsible for administering, modifying, and making related contract determinations and findings on behalf of the U.S. Government. The CO cannot consistently comply with these responsibilities without being aware of changes in planned construction (in this case, a change in the approach contemplated in the Final Design Documents that had been in place since 2012). Fourth, OBO did not have a COR in place to oversee the contract for 1 year.

In short, leaving aside that the changes made in this project were, in OIG's view, inconsistent with the governing contract, these factors also increase the risk that other changes, regardless of whether they were to correct deviations or for some other reason, may go unnoticed by the Department. It is fortunate that OBO has apparently chosen to accept the changes set forth in Bulletin 29, but the process flaws described in this report could result in a change that OBO ultimately does not approve. OIG is also troubled by the timing of OBO's contention that the changes were made to conform the project to the RFP: none of the several individuals with whom OIG spoke during fieldwork and none of the documents that OIG reviewed suggested that this was the rationale. This in and of itself suggests a significant lack of communication. OIG also notes that the use of stucco in other buildings has prompted the Department to file warranty claims with the contractor.

To ensure that the oversight of the New Embassy Compound and Housing Project in Islamabad, Pakistan, is robust, OIG made five recommendations to the Bureau of Administration, four of which were in coordination with OBO. The Bureau of Administration's Office of Logistics Management (A/LM), in coordination with OBO, represented that it concurred with four recommendations and did not concur with one recommendation. On the basis of the bureaus' responses and actions taken and planned, OIG considers four recommendations closed, and one recommendation unresolved. A synopsis of the bureaus' comments and OIG's reply follows each recommendation in the Audit Results section of this report. The bureaus' response to a draft of this report is reprinted in its entirety in Appendix A. OIG's reply to A/LM and OBO technical comments is presented in Appendix B.

BACKGROUND

In September 2010, the Bureau of Administration, on behalf of OBO, awarded a firm-fixed-price, design-build contract¹ to BL Harbert for the construction of the New Embassy Compound and Housing Project in Islamabad, Pakistan. The new construction is intended to replace the existing structures on the compound and provide secure housing for embassy personnel. As of September 2016, the total projected cost of the construction project was \$852.8 million.²

Work under the contract began in 2010 and was to be executed in two phases. In Phase 1, BL Harbert was required to develop the design for the New Embassy Compound and Housing Project and build a new chancery; a new office annex; a support annex; a warehouse; a utility building; a waste water treatment plant; three compound access controls; a Chief of Mission residence; a swing space for interim Marine security guard quarters, including health center, gym, commissary, bank, and barbershop; and a consular swing space. In Phase 2, BL Harbert was required to build a consular annex, a recreation center with outdoor pool, a parking garage, three SDA buildings, a Marine security guard residence, a second waste water treatment plant, and two additional compound access controls.

The RFP established a separate contract line item number (CLIN) for each building and major task.³ The separate CLINs were intended in part to facilitate the development of bid prices and assessment of each bidder's capabilities and proposed costs. In all, the contract consisted of 23 CLINs at the time the contract was awarded to BL Harbert in September 2010. Since then, the CO has executed modifications incorporating six additional CLINs.

This management assistance report focuses on the CLINs for construction of the three SDA buildings and for the design and construction projects that were subject to OBO's advance approval. Together, these three CLINs have a value of more than \$212.3 million, or 25 percent of the overall contract valued at \$852.8 million. Table 1 shows the cost, start dates, and projected construction completion dates for each of the SDA building construction projects.

¹ Contract number SAQMMA.10-C0284.

² The Departments FY 2017 Embassy Security, Construction and Maintenance operational plan, submitted to Congress in August 23, 2017, states that the completion date for NEC Islamabad is May 2018 and the total amount required for the project is \$1.08 billion.

³ Major tasks include the construction of new perimeter walls, compound access control buildings, temporary buildings, and the demolition of the buildings being replaced.

Table 1: Cost of SDA Building Construction with Start and Projected Completion Dates

Category	CLIN Value	Percentage of Project Total (%)	Construction Start Date	Projected Construction Completion Date
SDA-1	57,801,091	7	April 2016	June 2018
SDA-2	77,324,441	9	April 2016	June 2018
SDA-3	77,187,876	9	April 2016	June 2018
Total	212,313,408	25		

Source: OIG generated on the basis of analysis of contract information provided by Office of Acquisition and Management.

Contract Requirements

In a design-build contract, the Government provides a scope of work in the request for proposal that outlines its needs, along with any specific requirements or criteria. The contractor is then responsible for developing the Final Design Documents. In the contract with BL Harbert, CLIN 001 requires BL Harbert to develop the Final Design Documents for all structures to be constructed under the contract. As required by the contract, OBO approved the Final Design Documents on December 28, 2012.

Even though OBO approved the Final Design Documents, the contract states in various sections that acceptance of the Final Design Documents does not relieve the contractor of the duty to design and construct the building in full compliance with all requirements of the contract, including design criteria specified in the RFP. For example, Part I, paragraph E.5.2.2.1 states that "Government acceptance does not supersede the contractually documented design and construction requirements: acceptance of the [Final Design Documents] does not relieve the contractor of compliance with contract drawings, specifications, and design criteria, and performance requirements issued in the Request for Proposal."

The contract accordingly addresses how the parties should proceed if discrepancies are discovered between the RFP and the Final Design Documents. In particular, Part I, paragraph E.5.2.2.2 requires the contractor to "immediately notify the CO or COR of any discrepancies or omissions of design elements required by the contract drawings, specifications, and design criteria but not included in the Final Design Documents The notification shall include the proposed corrective action" ⁴

Part 1, paragraph E.5.2.2.3 more specifically sets forth the procedures if, after the Government has accepted the Final Design Documents, a contractor identifies and notifies the Government

⁴ Various other sections reinforce the contractor's ongoing obligation to comply with contractual requirements, regardless of the phase of the work in question. *See, for example*, paragraphs E.6.2.2 (requiring a "kick off meeting" to validate designs and review outstanding issues but emphasizing that the Government's "failure to identify non-compliant items" does not relieve the contractor of its duty to comply), E.6.6.2.8 (emphasizing that the "interim review" by the Government is intended to reduce the contractor's project risk but again stating that the contractor is required to comply with contractual standards regardless of whether the Government identifies "deficiencies"), and F.14.2.2.7 (explaining that the "interim review" does not replace required contractor quality control procedures or relieve the contractor of independent contractual duties).

of discrepancies between the RFP and those Final Design Documents. It states: "After acceptance of the Final Design Documents (DIFC) set by the Government, contractor initiated design and construction adjustments and alterations requests shall be processed and administered in accordance with the substitution provisions of the contract including H.39.1.6."

Part 1, paragraph H.39.1.6.1, in turn, expressly requires the CO's prior approval of any proposed adjustments or alterations to conform the Final Design Documents to the RFP. "Before substitutions proposed by the [c]ontractor, after acceptance of the Construction Documents, may be used in the project, the [c]ontractor must receive approval in writing from the Contracting Officer. Any substitution request must be accompanied by sufficient information to permit evaluation by the Government, including but not limited to the reasons for the proposed substitution and data concerning the design, appearance, performance, composition, and relative cost of the proposed substitute." That is, references in this paragraph to "substitution" are construed as "adjustments and alterations" as set forth in paragraph E.5.2.2.3.

As described in more detail, according to OIG's interview of the Contracting Officer and review of all contract documentation maintained by the Contracting Officer, the contractor made no attempt to request an adjustment or alteration to the Final Design Documents as required by the terms and conditions of the contract.

Contract Administration and Oversight Responsibilities

A/LM is responsible for the award and administration of the contract with BL Harbert. The bureau assigned the CO, who in accordance with the FAR, is responsible for awarding, negotiating, administering, modifying, terminating, and making related contract determinations and findings on behalf of the U.S. Government.⁵

To assist with contract oversight, the CO has authority to designate a COR.⁶ The CO's designation memorandum to the COR specifies the COR's responsibilities and authorities. The COR is responsible for enforcing the terms and conditions of the contract and ensuring that all materials, equipment, and standards of workmanship comply with contract requirements.⁷ The COR's oversight duties include performing inspections (to ensure that goods and services are delivered and performed in accordance with contractual requirements), conducting invoice reviews, and advising the CO on occurrences of unsatisfactory performance or factors that may cause a delay in performance. The COR is not authorized to make any commitments or changes that affect the price, quality, quantity, or delivery terms of a contract or modify the scope of work contained in the contract. The CO must give the COR a written designation defining the duties, responsibilities, and limitations of the COR's authority. These duties and responsibilities must also be stated in the contract so that the contractor understands them. The CO is also supported by an ACOR, who is appointed by the CO and serves during the absence of the COR.

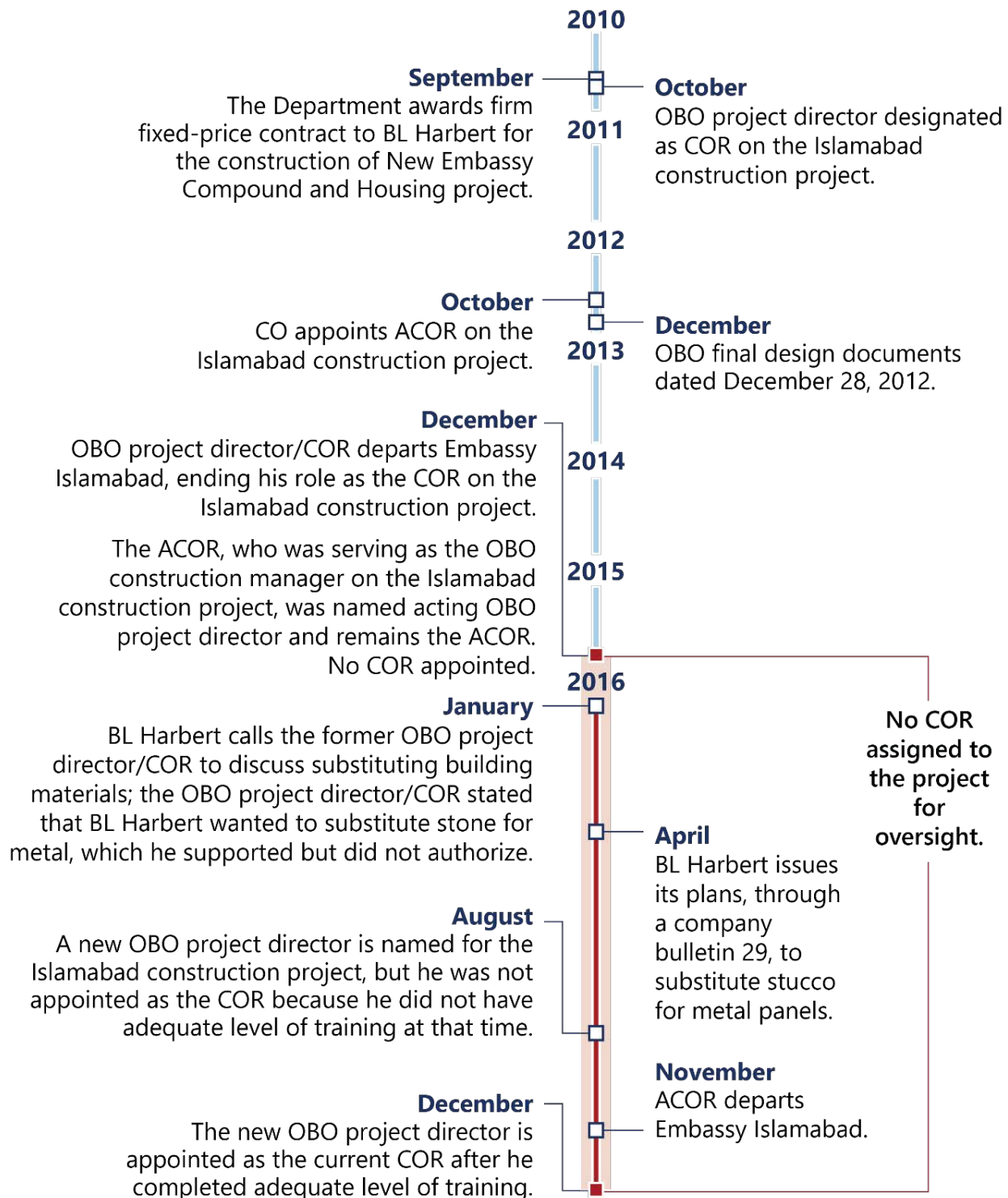
⁵ FAR 1.602-2(d), "Contracting Officers."

⁶ Under the Department of State Acquisition Regulation, 48 C.F.R. § 642.270, the CO may designate a COR to act as an authorized representative to assist in the administration of contracts.

⁷ OBO Construction and Commissioning Guidebook, Part 1, Section 1.2.1.5.

At the beginning of the contract with BL Harbert, the CO appointed the OBO Project Director at the embassy as the COR for the Islamabad construction project. This individual served as the COR from October 2010 through December 7, 2015, when he returned to OBO headquarters and assumed another position. The CO then relied upon the designated ACOR, who was serving in Islamabad as the acting Project Director, to help enforce the terms and conditions of the Islamabad construction contract. In August 2016, a new OBO Project Director was named. However, this individual was not designated by the CO as the COR for the Islamabad construction project until December 2016. Figure 1 shows the timeline of key events related to the design and construction of the three SDA buildings.

Figure 1: Timeline of Events Related to the Design and Construction of the Staff Diplomatic Apartment Buildings at Embassy Islamabad, Pakistan



Source: OIG generated on the basis of analysis of OBO information relating to the design and construction of the SDA buildings at Embassy Islamabad, Pakistan.

This Management Assistance Report was prepared in accordance with generally accepted government auditing standards. These standards require that OIG plan and perform the work to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions presented in this report.

AUDIT RESULTS

In December 2012, BL Harbert submitted the Final Design Documents which were approved by OBO and became the guide and direction for construction operations and execution. According to A/LM, the contractor stated that the Final Design Documents deviated from criteria included in the request for proposal provided to the two companies that bid on the project. Three years after OBO approved the contractor-prepared Final Design Documents, in January 2016, BL Harbert contacted the former OBO Project Director/COR to discuss changing the facade of the three SDA buildings. In April 2016, BL Harbert issued Bulletin 29 that outlined the change.⁸ According to OBO in a response to a draft of this report, this action was meant to "correct this deviation from the original requirements." Also in its response, OBO stated that, because the "correction" was not a "substitution" within the meaning of the contract, the contract did not require the CO's involvement.

Although OBO has stated that the changes outlined in Bulletin 29 have resulted in the facade of the SDA buildings being built to the requirements as originally defined in the request for proposal, the process by which this change occurred is fundamentally flawed. Perhaps most basically, the parties simply did not comply with relevant contractual provisions. The emphasis on whether the changes qualified, on their own, as "substitutions" disregards that specific contractual provisions required treating such changes in the same manner as "substitutions." Moreover, notwithstanding OBO's apparent willingness to accept the changes, the underlying process illustrates several oversight weaknesses. Those weaknesses include: 1) failure to obtain the CO's prior approval of the adjustments to the façade materials as required by the contract provisions discussed above, thus depriving the Government of an opportunity to evaluate the proposed adjustments in terms of their design, appearance, performance cost, and other qualities; 2) poor and uncoordinated interaction and communication between BL Harbert and OBO; 3) failure to document in the contract file interaction and communication regarding these issues; 4) lack of awareness by the CO of Bulletin 29 (he was informed of the changes by OIG); and 5) lack of an onsite COR to oversee the contract for 1 year. Even leaving aside the underlying failure to comply with the contract, these factors increase the risk that other changes, regardless of whether they were to correct deviations, may go unnoticed by the Department. It is fortunate that OBO has decided to accept the changes set forth in Bulletin 29, but the process flaws described in this report could result in a change that OBO ultimately does not approve.

⁸ The purpose of the company "bulletin" is to describe and communicate changes to the Islamabad construction project, in this case the SDA buildings, to BL Harbert construction personnel.

The Contracting Officer Was Unaware of the Proposed Changes to Conform the Final Design Documents to the RFP Until After the Fact

The Final Design Documents in the contract show that the SDA buildings' facades were to be completed using three materials: metal panels, stone, and stucco. As noted previously, Part I, paragraph E.5.2.2.2 of the contract requires BL Harbert to "immediately notify the CO or COR of any discrepancies or omissions of design elements required by the contract drawings, specifications, and design criteria but not included in the Final Design Documents The notification shall include the proposed corrective action and [e]ffect on contract performance schedule, if any." Once such notifications are made, any changes must proceed in accordance with paragraphs E.5.2.2.3 and H.39.1.6.1, which, as described previously, ultimately require CO approval in writing.

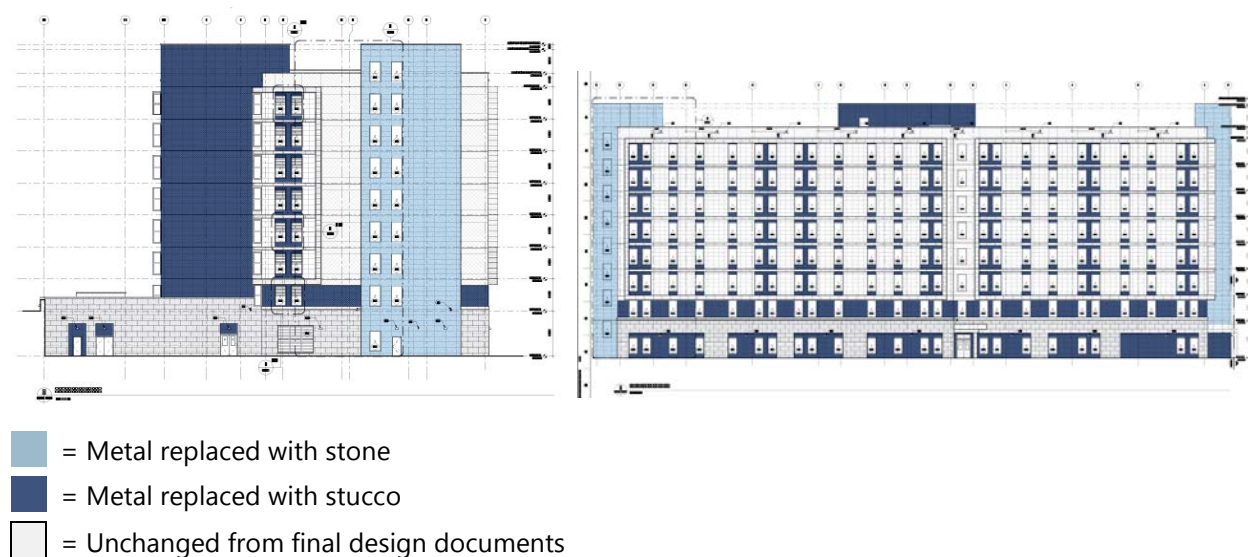
In January 2016, BL Harbert contacted the contract's former OBO Project Director/COR by telephone and asked if it could change the design of the facade. According to the former OBO Project Director/COR, BL Harbert wanted to use stone instead of the metal panels contemplated in the Final Design Documents. OIG notes, however, that BL Harbert did not state it planned to replace metal panels with stucco, as it ultimately represented in Bulletin 29. At the time of the phone call, the OBO Project Director had returned to OBO headquarters and *was no longer* serving as the COR for the Islamabad construction project. The former OBO Project Director/COR told OIG that he informed BL Harbert that he supported the proposed change because he believed that stone is a better product than metal panels. However, he emphasized that he did not approve or authorize the change and advised BL Harbert to coordinate with OBO's Architect/Design Manager. When OIG interviewed OBO's Architect/Design Manager, she was not aware that BL Harbert planned to replace metal panels with stucco until OIG showed her the contractor's Bulletin 29. Subsequently, OBO's Architect/Design Manager assisted OIG in preparation of Figure 2 below.

On April 21, 2016, 4 months after the conversation with the former Project Director/COR, BL Harbert issued Bulletin 29 showing the revised design change to the facade of the SDA buildings.⁹ Figure 2 depicts the design change proposed by BL Harbert for SDA-1.¹⁰ OIG was provided no documentation to support any claim that the Government—OBO or the CO—had reviewed or approved the design changes planned by BL Harbert.

⁹ In addition to describing the changes to the SDA buildings' façade, Bulletin 29 also describes changes to other buildings such as the Marine security guard quarters, the compound access center, the recreation center, and the consular support annex.

¹⁰ Figure 2 represents a comparison of the drawings from the OBO Final Design Documents dated December 28, 2012, with the drawings from Bulletin 29. OIG added color to the figure to depict the magnitude of the proposed design change.

Figure 2: SDA-1 East and North Design Elevations Showing Planned Changes



Note: Bulletin 29 is a technical document and does not describe in narrative the design change. Rather, Bulletin 29 shows sections of the facade where metal, stone, or stucco were to be used. OIG met with the OBO architect/design manager on March 17, 2017, and provided the architect/design manager with a comparison of the design documents for all four facades of SDA-1. She verified the design had changed and that BL Harbert was using more stucco than included in the Final Design Documents. OIG, with the assistance of the OBO architect/design manager, annotated the drawings to show where the changes occurred.

Source: OIG-generated from information obtained from OBO.

In the course of the audit fieldwork, on April 6, 2017, OIG met with the CO, who stated that BL Harbert did not communicate to him regarding the change in the materials. Instead, the CO learned of the changes to the Final Design Documents included in Bulletin 29 from OIG. OIG itself learned of the proposed changes outlined in Bulletin 29 through interviews with OBO's architects during site visits to the embassy. As noted previously, even though some Department employees stated that they were aware of the proposed changes, the Department provided no confirmatory documentation of any discussion between BL Harbert and Department officials regarding Bulletin 29 in the official contract file. Moreover, OIG could find no such documentation through its own efforts.

In response to a draft of this report, A/LM and OBO disagreed with OIG's characterization of BL Harbert's design change as a substitution in material (see Appendix A). They explained that BL Harbert had complied with the request for proposal criteria by using stucco for the facade of the three SDA buildings. The officials explained that the Final Design Documents showed that the facades of the three SDA buildings were to be built with more metal and less stone or stucco. Those officials further stated that those percentages of material to be used were not in line with the request for proposal criteria and that BL Harbert's Bulletin 29 corrected the deviation. They stated that because the contract is a design-build contract, BL Harbert "has the authority to correct the [final design] drawings and determine exact quantities of materials necessary to build the project." They also stated in their response to the draft of this report that "the contract

does not require the CO's involvement for adjustments and corrections that do not change the contract scope, cost, time, or quality."

OIG notes, however, that even though OBO construes the contract to mean that the contractor could take actions to address the deviations without the CO's involvement, the contract clauses discussed above expressly required the contractor to submit the proposed adjustments for prior review and approval by the CO.¹¹ OBO did not cite any provision of the contract or the FAR supporting its contrary interpretation. Also, according to FAR 1.602-2, "[C]ontracting [O]fficers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships." Accordingly, the CO cannot consistently comply with these responsibilities without being aware of changes in planned construction (in this case, a change in the approach contemplated in the Final Design Documents that had been in place since 2012).

Moreover, OIG emphasizes that the contention that the changes were made to bring the Final Design Documents in conformity with the RFP was not raised until well after OIG's fieldwork was complete. Indeed, the response to the initial draft of this report was the first time that any official within OBO and A/LM made this claim. When the CO learned of the design change from OIG, he made no mention that the Final Design Documents deviated from the request for proposal criteria, nor did he state that BL Harbert's proposed design change through Bulletin 29 was meant to correct the deviation. OIG also spoke with the ACOR and the COR ultimately assigned to the project after the OBO Project Director/COR departed. Both were aware of the proposed design change, but they did not explain that the proposed design change was meant to correct the Final Design Documents.

OIG also notes that OBO did not address in its response how OBO came to approve the Final Design Documents in the first place if they deviated from the request for proposal criteria as substantially as OBO now represents. In its response, OBO stated only that the request for proposal criteria and the Final Design Documents differed in the decrease in stucco in favor of metal panels and that "OBO took no exception to [the] change." OIG notes that the incorporation of more metal in the Final Design Documents was, in fact, a significant change, both in terms of appearance and in potential costs. Indeed, according to the COR, metal costs more than stucco, and the use of metal on the facades of the three SDA's would have a severe budgetary impact for the contractor. OBO's only comment on this issue is to say that the design change included in BL Harbert Bulletin 29 "corrected the deviation" and brought the design back in "compliance with the original Request for Proposal." At no point in the audit process, however, did Department officials explain its decision-making process or provide required documentation showing that the changes were appropriately reviewed and accepted.

¹¹ See Contract Part I, paragraphs E.5.2.2.2, E.5.2.2.3, H.39.1.6.1, described in the preceding background section.

Effective Oversight Requires Attentive Contracting Officer's Representatives and Communication with Stakeholders

The design change proceeded without the knowledge of the CO was due, in part, to inadequate attention on the part of the COR and the ACOR to ensure that BL Harbert's plans complied with the terms and conditions of the contract and were communicated and coordinated with the CO. In addition, the failure of the CO to designate a COR in a timely fashion to replace the initial OBO Project Director/COR contributed to this oversight lapse.

OIG spoke with the ACOR who was named acting OBO Project Director¹² when the initial OBO Project Director/COR departed Embassy Islamabad (December 2015). She stated that she was aware of the contractor's proposed material alterations and adjustments but was unable to explain who reviewed and approved the changes to the Final Design Documents in Bulletin 29. In November 2016, she departed Islamabad and no longer served as the ACOR for the New Embassy Compound and Housing Project in Islamabad. In any event, this individual did not—and could not—approve the proposed changes.

OIG also spoke with the current OBO Project Director/COR, who was not designated as the COR until December 2016. This individual became the OBO Project Director in August 2016, replacing the ACOR in this role prior to her departure from Islamabad in November 2016.¹³ His designation as the COR came 8 months after BL Harbert issued Bulletin 29 in April 2016, and 1 year after the initial OBO Project Director/COR departed Islamabad in December 2015. He stated that he learned of BL Harbert's design change through Bulletin 29, and like the ACOR, he was unable to explain who—if anyone—reviewed and approved the changes to the Final Design Documents included in Bulletin 29. He stated that he believed the design change was in line with the request for proposal criteria but did not state during this discussion with OIG that the Final Design Documents deviated from the request for proposal requirements. He also explained that BL Harbert's request to use stucco in place of the metal panels appeared to be "reasonable" because the cost of the metal panels was prohibitive and would "blow" BL Harbert's budget for building materials.¹⁴

As explained earlier, the CO can designate a COR to act as an authorized representative to assist in the administration of contracts. The CO can also designate an ACOR. In the case of the Islamabad construction project, the CO appointed both a COR and an ACOR for these purposes, but neither the current Project Director/COR nor the ACOR effectively communicated with the

¹² According to the ACOR, she was designated as the acting OBO Project Director and not named the COR for the contract because, at the time, she only had a Federal Acquisition Certification-Contracting Officer's Representative Level I training, which is generally appropriate for low-risk contract vehicles, such as supply contracts and orders.

¹³ The OBO Project Director was designated in August 2016 but could not be designated as the COR until he received additional training. He was designated as the COR in December 2016 after receiving that training to become a certified Level III COR, which is a requirement for the position.

¹⁴ This is a firm-fixed-price contract that places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss as described in FAR 16.202-1. Therefore, the COR's comments regarding BL Harbert's budget are misplaced because BL Harbert should have factored the cost of the materials into its price proposal.

CO and other stakeholders concerning the changes in materials for the facades of the three SDA buildings. Moreover, OIG could not find documentation of the sequence of events/decision making in the contract file.¹⁵ In this instance, interaction and communication between oversight officials as well as documentation of the sequence of events and related decisions is important to ensure that appropriate officials are aware of and can approve any proposed changes to determine if they were in the best interest of the Department and the U.S. taxpayer.

In addition, the CO failed to designate in a timely fashion a COR to replace the initial OBO Project Director/COR, which contributed to this oversight lapse. In response to a draft of this report, A/LM and OBO officials stated that, with the exception of 20 days between the time the original COR/Project Director departed in December 2015 and the time the replacement Project Director was named, no lapse in oversight occurred. The officials stated that the ACOR was delegated contract duties after the OBO Project Director/COR departed. Although OIG does not disagree that the ACOR was onsite following the departure of the initial Project Director/COR, OIG determined this individual was not qualified to provide the necessary oversight at that time because she only had a Federal Acquisition Certification-Contracting Officer's Representative Level I training. According to the Office of Management and Budget, a Level I COR is generally appropriate for low-risk contract vehicles, such as supply contracts and orders. Level I CORs require only 8 hours of training, and no experience is required. In contrast, a Level III COR must have received 60 hours of training and 2 years of experience.

The Office of Management and Budget states that "Level III CORs are the most experienced CORs within an agency and should be assigned to the most complex and mission critical contracts within the agency."¹⁶ This complex, high-value contract is just such a "mission-critical" contract. OIG also notes that, rather than receiving the Federal Acquisition Certification-Contracting Officer's Representative Level III training, the ACOR in April 2015 completed the Federal Acquisition Certification Program/Project Manager Expert/Senior Level training, which is not a substitute for Level III training required for a COR. According to the Office of Management and Budget, Office of Federal Procurement Policy, the Federal Acquisition Certification for Contracting Officer's Representatives (FAC-COR) program is for acquisition professionals in the Federal Government performing contract management activities and functions. The Federal

¹⁵ OIG also notes that, had OBO held the contractor to the quality control requirements of the contract, a documentation trail would have confirmed any communications that may have occurred. Specifically, paragraph E.5.1.5.7 states that, "quality control procedures shall be established to ensure individual drawings and other documentation are checked and that all documentation, including that of the supporting disciplines (e.g., civil, structural, mechanical, electrical) are coordinated and integrated. Deficiencies, ambiguities, conflicts, and inconsistencies shall be corrected prior to document submittal." Paragraph E.5.1.5.8 provides that, "the [contractor] shall ensure that documents, including subsequent changes, will be reviewed for adequacy, approved for release by authorized personnel, and properly conveyed to the Government. Persons responsible for reviewing, approving, and releasing new and revised documents shall be identified." Lastly, paragraph E.5.1.5.9 states that, "as part of each design submittal, draft interim, and final document phase, the Contractor shall designate a QMP Manager" who "shall be responsible for final review, verification, and certification of the documents before they are transmitted to the OBO Project Manager. cursory supervisory review will not satisfy the intent of this requirement."

¹⁶ Office of Management and Budget, *Memorandum for Chief Acquisition Officers, Senior Procurement Executives*, September 6, 2011.

Acquisition Certification for Program and Project Managers is built on competencies that refer to the knowledge, skills, and abilities that these officials must have in order to perform their program and project manager's duties. These officials cannot serve as the COR until FAC-COR Level III Certification from the Acquisition Career Manager is received.

Even aside from the question of qualifications, this ACOR was never properly designated as the COR. According to FAR Subpart 1.602-2 (d)(7), a COR "shall be designated in writing, with copies furnished to the contractor and the contract administration office—

- Specifying the extent of the COR's authority to act on behalf of the contracting officer.
- Identifying the limitations on the COR's authority.
- Specifying the period covered by the designation.
- Stating the authority is not redelegable.
- Stating that the COR may be personally liable for "unauthorized acts."

No documentation exists that designates this ACOR as the COR.

Conclusion

As set forth in the preceding report, OIG's concerns regarding the process by which the design changes were implemented are two-fold. First, notwithstanding OBO's protestations to the contrary, it is OIG's belief that neither the contractor nor OBO followed relevant contractual provisions. Second, the oversight weaknesses that allowed these changes to occur establish ongoing risks to project management, especially in the large, complex contracts that OBO must oversee.

OIG also expresses its concerns, however, with OBO's unwillingness to acknowledge flaws in the process or areas in need of improvement. On a related point, although OIG interacted with OBO for 7 months in the course of its fieldwork and moreover explained in a meeting discussing what its findings and recommendations would be, it was only after receiving a draft of this report that OBO stated that the design changes were intended to bring the project in conformity with the RFP. At the very least, the timing of this explanation reinforces the absence of communication among relevant parties and contributed substantially to delays in issuing this report.

OIG also notes that, notwithstanding OBO's seeming decision to accept the changes, BL Harbert's use of stucco on other embassy buildings in Islamabad has resulted in warranty claims. During audit fieldwork at Embassy Islamabad in February 2017, OBO facility management personnel raised concerns to OIG about the poor quality of the stucco finish on several buildings, including the Marine security guard quarters, the access control buildings, the warehouse, the support annex, the utility building, and the "swing-space building." They explained that they had filed warranty claims with BL Harbert to correct the poor quality stucco work on these completed structures. For example, they filed warranty claims requiring BL Harbert to repair rust from the metal stripping and corner molding that was bleeding through and staining the stucco of several buildings, including the Marine security guard quarters. To

correct these deficiencies, BL Harbert had to grind off the rust from the metal underneath the stucco, reapply new stucco, and repaint the affected portion of the exterior of those buildings. However, the paint applied to repair the areas with rust does not match the color of the existing paint and the result is a checkerboard appearance. See Figures 3 and 4.



Figure 3: Rust bleeding through stucco and running down exterior wall of Marine security guard quarters. Photo taken February 13, 2017.



Figure 4: Mismatched paint on exterior wall of support annex. Photo taken February 13, 2017.

Recommendation 1: OIG recommends that the Bureau of Administration instruct BL Harbert International, LLC, to provide to the Contracting Officer a detailed written request of all proposed material substitutions that change or alter the final design documents for the construction of staff diplomatic apartments 1, 2, and 3 as part of the New Embassy Compound and Housing construction project in Islamabad, Pakistan, in accordance with the contract terms and conditions prescribed in the contract No. SAQMMA-10-C0284.

Management Response: A/LM, in coordination with OBO, concurred with the recommendation to request BL Harbert to “submit a list of any material substitutions that may have required a revision to the design issued for construction [documents].” A/LM stated that on August 8, 2017, the CO requested that BL Harbert provide a listing of any material substitutions to the Design Issued for Construction documents (the final design documents), to which BL Harbert responded that “no substitution proposals have been or are expected to be provided for CO review.” A/LM and OBO further stated that BL Harbert had taken no action to date that meets the definition of a substitution and provided information in support of this position in both A/LM’s (Appendix A, Tab 1) and OBO’s (Appendix A, Tab 2) comments on the draft report.

OIG Reply: On the basis of the bureaus’ actions to implement the recommendation, OIG considers this recommendation closed. OIG notes, however, that the bureaus’ actions relied on a mechanistic reading of the contract to conclude that no material substitutions were proposed. In response to this recommendation, A/LM and OBO requested that BL Harbert submit a listing of any material substitutions that may require a revision to the Final Design

Documents, to which BL Harbert replied that “no substitution request submittals have been submitted.” Although they responded to the literal terms of the recommendation, A/LM and OBO failed to acknowledge that paragraph E.5.2.2.3 treats “contractor initiated design and construction adjustments and alterations,” which did occur here, as “substitutions” within the meaning of the contract. Such adjustments and alterations were to have been effected according to the procedure required for substitutions, even if they were not “substitutions.” OIG continues to express concern that neither A/LM nor OBO have acknowledged the flaws in the process that led to the changes described in this report.

Recommendation 2: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, reviews the proposed material substitutions that change or alter the final design documents (as referenced in Recommendation 1) from BL Harbert International, LLC, and, if the proposed material substitution is accepted, follow contract modification procedures to execute the decision in accordance with the Federal Acquisition Regulation with an appropriate adjustment in contract price. If it is determined that the proposed substitution is not in the public interest, then direct BL Harbert to immediately cease its plans to substitute building materials until such time that the Bureau of Administration and Bureau of Overseas Buildings Operations can determine the best course of action that is compliant with contract requirements.

Management Response: A/LM, in coordination with OBO, concurred with the recommendation to review any submissions from BL Harbert as a result of Recommendation 1. A/LM stated that on August 8, 2017, BL Harbert confirmed that “no substitution proposals have been or are expected to be provided for CO review,” and therefore, “no determination by the CO is required at this time.” A/LM stated that “in the future should any action by BL [Harbert] meet the criteria for a substitution, A/LM and OBO will take appropriate action in accordance with the contract.”

OIG Reply: On the basis of the bureaus’ concurrence and actions taken, OIG considers this recommendation closed. OIG notes, however, that the bureaus’ actions again relied on a mechanistic reading of the contract to conclude that no “substitutions” were proposed. Although they responded to the literal terms of the recommendation, A/LM and OBO failed to acknowledge that paragraph E.5.2.2.3 treats “contractor initiated design and construction adjustments and alterations,” which did occur here, as “substitutions” within the meaning of the contract. As noted previously, such adjustments and alterations were to have been effected according to the procedure required for substitutions, even if they were not “substitutions.” OIG continues to express concern that neither A/LM nor OBO have acknowledged the flaws in the process that led to the changes described in this report.

Recommendation 3: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, review the contract oversight activities of the Contracting Officer, Bureau of Overseas Buildings Operations Project Directors, Contracting Officer’s Representatives, and Alternate Contracting Officer’s Representatives assigned to the New Embassy Compound and Housing construction project in Islamabad,

Pakistan, between September 2010 and February 2017 to determine if unauthorized changes or alterations to the final design documents that require the Contracting Officer's approval have occurred and to take action to address those found not to be duly authorized.

Management Response: A/LM and OBO concurred with this recommendation, stating that a "joint review of contract oversight activities was conducted by A/LM and OBO as recommended in response to the draft report." A/LM and OBO concluded from their review that no unauthorized contract actions or unauthorized changes or alterations to the design issued for construction have occurred.

The bureaus stated that the CO did identify a 20-day lapse between the end of the ACOR appointment and the appointment of the successor COR. They explained that the delay in appointment was a result of the nominated COR needing to complete a required refresher training course in order to receive a required certification. The bureaus explained that the successor COR was already onsite and performing his role of OBO Project Director at the same time he was completing the refresher training and that they will endeavor to ensure that "future projects do not experience similar lapses to mitigate risks to the project and Department."

OIG Reply: On the basis of the concurrence and actions taken by A/LM and OBO, OIG considers this recommendation closed. OIG reviewed the bureaus' response in Appendix A, Tabs 1 and 2, demonstrating that A/LM, in coordination with OBO, reviewed the contract oversight activities.

With regard to A/LM's and OBO's comments about the 20-day lapse of oversight, OIG reiterates its conclusions that a COR was not, in fact, appointed by the CO in a timely manner and a vacancy existed for nearly 380 days. As noted earlier, the ACOR had not completed training required to be a COR appointed to a complex, critical mission project like the Embassy Islamabad NEC. Further, when the current COR arrived at the embassy in August 2016, he had not completed his training. According to the CO's appointment letter, the current OBO Project Director/COR was appointed on December 20, 2016, which is more than 1 year after the departure of the previous COR, who departed in December 7, 2015.

Recommendation 4: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, a) review the lines of communication between the contracting officer and oversight personnel in Islamabad, Pakistan, including the Contracting Officer's Representative and his assistant, b) determine whether communication mechanisms are in place and understood by all officials who keep the Contracting Officer appropriately aware of contractual proceedings related to contract oversight, and c) develop and implement corrective actions to address any deficiencies identified.

Management Response: A/LM and OBO concurred with the recommendation, stating that they conducted a joint review of lines of communications and communication activities. A/LM and OBO concluded from their review that "adequate mechanisms are in place and no

corrective action is required.” A/LM and OBO further stated that communication among the CO, the COR, the ACOR, and the project team “is routinely conducted by telephone, instant messaging application, and email for the Islamabad projects as with all other A/LM and OBO projects.” In addition, A/LM and OBO stated that the CO visited Islamabad to review project progress first-hand on several occasions between November 2010 and April 2016 to ensure open and appropriate communications.

OIG Reply: On the basis of the concurrence and actions taken by A/LM and OBO, OIG considers this recommendation closed.

OIG emphasizes that—notwithstanding the communication that A/LM and OBO officials represent is occurring among the CO, the COR, and the ACOR—the CO did not know of BL Harbert’s change in design until OIG informed him of this fact.

Recommendation 5: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, establish and implement internal controls to ensure that the Contracting Officer for the New Embassy Compound and Housing construction project in Islamabad, Pakistan, designates replacement Contracting Officer’s Representatives for contract oversight prior to the departure of the incumbents.

Management Response: A/LM and OBO did not concur with the recommendation, stating that the CO, the COR, and the ACOR—as explained in the responses to Recommendations 3 and 4—“reviewed the existing internal controls and found they are sufficient.” The bureaus stated that in the future, “the CO will ensure a COR and ACORs are nominated and appointed prior to departure of the incumbent personnel and will work with OBO to ensure COR and ACOR changes are adequately forecasted, broadcast, and appointed as needed.”

The bureaus added that OIG, in pointing out the lapse in COR delegation as of December 2015, did not consider that “an ACOR was onsite and fully capable of performing contract oversight in lieu of an appointed COR.” A/LM stated that it acknowledges the ACOR appointment letter is not as robust in content as a COR appointment letter; however, A/LM stated that the ACOR was nonetheless delegated contract oversight duties. The bureaus concluded that the CO determined that no lapse in contract oversight occurred, with the exception of the 20 days between the end of the ACOR appointment and the delegation of duties to the successor COR.

OIG Reply: On the basis of A/LM’s and OBO’s nonoccurrence with the recommendation, OIG considers this recommendation unresolved. A COR to oversee the project was not appointed for more than 1 year after the preceding COR departed in December 2015. Although an onsite ACOR was present, that ACOR could not perform contract oversight in lieu of an appointed COR. At the time of the review, the ACOR had a Federal Acquisition Certification-Contracting Officer’s Representative Level I training, which according to the Office of Management and Budget, is “generally appropriate for low-risk contract vehicles, such as contracts and orders.” This was not a low-risk contract. Moreover, rather than receiving the Federal Acquisition Certification-Contracting Officer’s Representative Level III training, the

ACOR completed the Federal Acquisition Certification Program/Project Manager Expert/Senior Level training in April 2015. As described in the report, these two types of training are not interchangeable.

Moreover, according to FAR Subpart 1.602-2 (d)(7), a COR "shall be designated in writing, with copies furnished to the contractor and the contract administration office" stating, among other things, that "the [COR] authority is not redelegable." No documentation exists that designates this ACOR as the COR on this contract.

OIG requests that in its response to the final report, A/LM provide documentation showing evidence of the actions taken to ensure that lapses in COR and ACOR appointments are not repeated. Specifically, this recommendation will be considered resolved when A/LM concurs with the recommendation and provides a corrective action plan, including estimated milestones for implementation. This recommendation will be closed when OIG receives and accepts documentation showing that A/LM established and implemented internal controls to ensure that the Contracting Officer for the New Embassy Compound and Housing construction project in Islamabad, Pakistan, designates replacement CORs for contract oversight prior to the departure of the incumbents.

RECOMMENDATIONS

Recommendation 1: OIG recommends that the Bureau of Administration instruct BL Harbert International, LLC, to provide to the contracting officer a detailed written request of all proposed material substitutions that change or alter the final design documents for the construction of staff diplomatic apartments 1, 2, and 3 as part of the New Embassy Compound and Housing construction project in Islamabad, Pakistan, in accordance with the contract terms and conditions prescribed in the contract No. SAQMMA-10-C0284.

Recommendation 2: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, reviews the proposed material substitutions that change or alter the final design documents (as referenced in Recommendation 1) from BL Harbert International, LLC, and, if the proposed material substitution is accepted, follow contract modification procedures to execute the decision in accordance with the Federal Acquisition Regulation with an appropriate adjustment in contract price. If it is determined that the proposed substitution is not in the public interest, then direct BL Harbert to immediately cease its plans to substitute building materials until such time that the Bureau of Administration and Bureau of Overseas Buildings Operations can determine the best course of action that is compliant with contract requirements.

Recommendation 3: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, review the contract oversight activities of the contracting officer, Bureau of Overseas Buildings Operations project directors, contracting officer's representatives, and alternate contracting officer's representatives assigned to the New Embassy Compound and Housing construction project in Islamabad, Pakistan, between September 2010 and February 2017 to determine if unauthorized changes or alterations to the final design documents that require the contracting officer's approval have occurred and to take action to address those found not to be duly authorized.

Recommendation 4: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, a) review the lines of communication between the contracting officer and oversight personnel in Islamabad, Pakistan, including the contracting officer's representative and his assistant, b) determine whether communication mechanisms are in place and understood by all officials who keep the contracting officer appropriately aware of contractual proceedings related to contract oversight, and c) develop and implement corrective actions to address any deficiencies identified.

Recommendation 5: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, establish and implement internal controls to ensure that the contracting officer for the New Embassy Compound and Housing construction project in Islamabad, Pakistan, designates replacement contracting officer's representatives for contract oversight prior to the departure of the incumbents.

APPENDIX A: BUREAU OF ADMINISTRATION'S OFFICE OF LOGISTICS MANAGEMENT AND THE BUREAU OF OVERSEAS BUILDINGS OPERATIONS RESPONSES



United States Department of State


Washington, D.C. 20520

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August 16, 2017

MEMORANDUM

TO: OIG/AUD – Norman P. Brown

FROM: A/LM – Jennifer A. McIntyre 

SUBJECT: Draft Report – *Management Assistance Report: Lapse in Construction Contract Oversight at Embassy Islamabad Allowed Proposed Material Substitution to Proceed Without Contracting Officer Approval*

Thank you for the opportunity to provide our comments on the subject draft OIG Management Assistance Report.

Recommendation 1: OIG recommends that the Bureau of Administration instruct B.L. Harbert International, LLC, to provide to the Contracting Officer (CO) a detailed written request of all proposed material substitutions that change or alter the final design documents for the construction of staff diplomatic apartments 1, 2, and 3 as part of the New Embassy Compound and Housing construction project in Islamabad, Pakistan, in accordance with the contract terms and conditions prescribed in the contract No. SAQMMA-10-C0284.

Management Response to Draft Report: The Bureau of Administration's Office of Logistics Management (A/LM), in coordination with the Bureau of Overseas Building Operations (OBO), concurs with the recommendation to request B.L. Harbert International, LLC (BLHI) submit a list of any material substitutions that may have required a revision to the design issued for construction (DIFC). A/LM will provide as supplement to OIG verification that the CO requested BLHI provide a listing of any material substitutions to the DIFC, and that BLHI confirmed no substitution proposals have been or are expected to be provided for CO review. Further, A/LM and OBO concur no action taken by BLHI to-date meets the definition of a substitution, and have provided further information in support of this position in both A/LM's (Tab 1) and OBO's (Tab 2) comments on the draft report.

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Recommendation 2: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, reviews the proposed material substitutions that change or alter the final design documents (as referenced in recommendation 1) from B.L. Harbert International, LLC, and, if the proposed material substitution is accepted, follow contract modification procedures to execute the decision in accordance with the Federal Acquisition Regulation with an appropriate adjustment to the contract price. If it is determined that the proposed substitution is not in the public interest, then direct B.L. Harbert to immediately cease its plans to substitute building materials until such time that the Bureau of Administration and Bureau of Overseas Buildings Operations can determine the best course of action that is compliant with contract requirements.

Management Response to Draft Report: A/LM, in coordination with OBO, concurs with the recommendation to review any submissions from BHLI as a result of Recommendation 1 and make a determination. A/LM will provide as supplement to OIG verification that no substitution proposals have been or are expected to be provided for CO review. As such, no determination by the CO is required at this time. In the future should any action by BLHI meet the criteria for a substitution A/LM and OBO will take appropriate action in accordance with the contract.

OIG Recommendation 3: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, review the contract oversight activities of the contracting officer, Bureau of Overseas Buildings Operations project directors, contracting officer's representatives, and alternate contracting officer's representatives assigned to the New Embassy Compound and Housing construction project in Islamabad, Pakistan, between September 2010 and February 2017 to determine if unauthorized changes or alterations to the final design documents that require the contracting officer's approval have occurred and to take action to address those found not to be duly authorized.

Management Response to Draft Report: A/LM and OBO concur with this recommendation. A joint review of contract oversight activities was conducted by A/LM and OBO as recommended in response to the draft report. A/LM and OBO conclude no unauthorized contract actions nor unauthorized changes or alteration to the DIFC have occurred. The CO did identify a 20-day lapse between the end of the Alternate Contracting Officer Representative (ACOR) appointment and the appointment of the successor Contracting Officer Representative (COR). The delay in appointment was result of the nominated COR needing to complete a

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training. A/LM and OBO will endeavor to ensure future projects do not experience similar lapses to mitigate risks to the project and Department.

A/LM's and OBO's comments at Tabs 1 & 2 provide additional background on project oversight and the experience of the collective project team. An additional consideration regarding oversight is that the drawings and bulletins produced by a design-build (D/B) contractor represent their statement of intent as to how they intend to comply with contractual requirements. In a D/B contract, OBO or the D/B construction contractor may make corrections to the design where the drawings deviate from the contract requirements. However, as noted above, none of the corrections referenced in Recommendation 1 have been determined to require a modification to the contract.

OIG Recommendation 4: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, a) review the lines of communication between the contracting officer and oversight personnel in Islamabad, Pakistan, including the contracting officer's representative and his assistant, b) determine whether communication mechanisms are in place and understood by all officials who keep the contracting officer appropriately aware of contractual proceedings related to contract oversight, and c) develop and implement corrective actions to address any deficiencies identified.

Management Response to Draft Report: A/LM and OBO concur with the recommendation. A joint review of lines of communications and communication activities was conducted by A/LM and OBO as recommended in response to the draft report. A/LM and OBO conclude adequate mechanisms are in place and no corrective action is required. A/LM and OBO would like to emphasize that communication between the Contracting Officer, COR, ACOR and project team is routinely conducted by telephone, instant messaging application, and email for the Islamabad projects as with all other A/LM and OBO projects. In addition, the CO visited Islamabad to review project progress first-hand and ensure open and appropriate communications as follows:

- 11/15/2010 to 11/18/2010 (4 days)
- 10/07/2011 to 10/11/2011 (5 days)
- 11/08/2012 to 11/12/2012 (5 days)
- 06/07/2015 to 06/11/2015 (5 days)
- 04/04/2016 to 04/06/2016 (3 days)

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- 04/04/2016 to 04/06/2016 (3 days)

Note: during the time period of late calendar year 2012 through mid-2015 travel to the project site could not be achieved by the CO due to challenges in obtaining a visa from the host Government.

OIG Recommendation 5: OIG recommends that the Bureau of Administration, in coordination with the Bureau of Overseas Buildings Operations, establish and implement internal controls to ensure that the contracting officer for the New Embassy Compound and Housing construction project in Islamabad, Pakistan, designates replacement and contracting officer's representatives for contract oversight prior to the departure of the incumbents.

Management Response to Draft Report: A/LM and OBO disagree with the recommendation. The CO, COR and ACORs, as explained in the responses to Recommendations 3 & 4, have reviewed the existing internal controls and found they are sufficient. In the future, the CO will ensure a COR and ACORs are nominated and appointed prior to departure of the incumbent personnel and will work with OBO to ensure COR and ACOR changes are adequately forecasted, broadcast, and appointed as needed.

The lapse in COR delegation as described by the OIG as of December 2015 does not consider that an ACOR was onsite and fully capable of performing contract oversight in lieu of an appointed COR. A/LM acknowledges the ACOR appointment letter is not as robust in content as a COR appointment letter, however, the ACOR was nonetheless delegated contract oversight duties. The CO has determined no lapse in contract oversight occurred with the exception of the 20-day lapse between the end of the ACOR appointment and the delegation of duties to the successor COR. Additional explanation is provided by A/LM and OBO at Tabs 1 & 2.

Attachments:

- Tab 1 – A/LM comments on draft report.
- Tab 2 – OBO comments on draft report.

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APPENDIX A: TAB 1

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Tab 1 – A/LM Comments on *Draft Management Assistance Report: Lapse in Construction Contract Oversight at Embassy Islamabad Allowed Proposed Material Substitution to Proceed Without Contracting Officer Approval*
(Report No. AUD-MERO-17-XX, August 2017)

Factual Corrections:

- The revision to the percentages or mix of materials comprising the façade of staff diplomatic apartments 1, 2, and 3 was not a substitution as described in the contract. See Contracting Officer email to the contractor sent on August 7, 2017 that is included in Tab 3. Also, contract Section/Paragraph F.15.10.2 states:

The contractor shall immediately notify the CO or COR of any discrepancies or omissions of design elements required by the contract drawings, specifications, and design criteria but not included in the Final Design Documents or DIFC. The notification shall include the proposed corrective action and effect on contract performance schedule, if any.

BLHI discussed the proposed correction contained in Bulletin 29 with OBO management and OBO architect in February 2016 and with the Islamabad site team including the ACOR prior to its issuance.

- A replacement COR had been identified and was to report for duty in Islamabad, but just prior to departure the individual decided to retire from the DOS. The result of the unexpected departure was lessened by the fact that a fully trained and experienced Alternate COR with over 3 years' experience in the position in Islamabad remained on site to head up the OBO site team.

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APPENDIX A: TAB 2

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Tab 2 – OBO Comments on *Draft Management Assistance Report: Lapse in Construction Contract Oversight at Embassy Islamabad Allowed Proposed Material Substitution to Proceed Without Contracting Officer Approval*
(Report No. AUD-MERO-17-XX, August 2017)

General Comments:

- The construction contract for the New Embassy Compound (NEC) and Housing project in Islamabad, Pakistan, was a design-build (D/B) contract, not a design-bid-build (D/B/B) contract. OBO would recommend to the OIG that we further discuss the differences between the two types of contracts to avoid future misunderstandings. OBO strongly believes that this management assistance report could have been avoided with further education.
- In D/B contracts, the designer of record authority rests with the contractor, not with the U.S. government or a third-party contract designer. The U.S. government provides a framework design and performance specifications to a construction contractor, and the construction contractor then has the authority to correct the drawings and determine exact quantities of materials necessary to build the project.
- Had this contract been a D/B/B contract, the OIG assertion that the contractor made an inappropriate substitution of materials would be correct. The U.S. government would rightfully expect to get the materials in the exact quantities in our design documents. However, we again point out that the NEC in Islamabad was a D/B contract; therefore there were no inappropriate substitutions.
- The title of the OIG Management Assistance Report and many of the headers are editorial comments and opinions. OBO requests that OIG simply present its findings.

Factual Corrections:

- Due to the nature of D/B contracts, the title of the Management Assistance Report is factually incorrect. As explained above, there were no material substitutions in violation of the contract. Additionally, there was never a lapse in construction contract oversight (see timeline below).
- The Summary of Review (page 1-2) is factually incorrect. The OIG report alleges that OBO's site management team allowed the general contractor to substitute building façade materials without informing or receiving approval from the Contracting Officer. Per the D/B contract, OBO does not consider the adjustments made by the contractor to the building façades a substitution, and moreover, the contract does not require the Contracting Officer's involvement for adjustments and corrections that do not change contract scope, cost, time, or quality.
- On page 1, the following statement is factually incorrect: "Second, although both the alternate contracting officer's representative (ACOR) and the COR ultimately assigned to the project after the OBO project director/COR were aware of the proposed material substitution, they had assumed appropriate contract actions were completed on the basis of B.L. Harbert's April 2016 bulletin, when, in fact, they were not." There was never an assumption that contract actions were taken based on the April 2016 bulletin. It is

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standard for OBO/Wash to work directly with the contractor's U.S.-based designer to resolve design issues this is the primary reason for a ACOR at SA-6.

- At the conclusion of the Summary of Review on page 2, the OIG states that façade work on the staff dependent apartments (SDAs) has not commenced. Work has commenced at SDAs 1, 2, and 3 at the date of this draft report. The stonework at SDA 1 and 3 is complete and will soon be finished with the stucco. The stonework at SDA 2 is being installed now.
- Figure 1 on page 5. As written, OIG is implying that there was a lapse in oversight of the construction contract, which is factually incorrect. Please see the timeline below:

Adi Kanga, OBO Project Director/COR onsite 10-27-2010 to 12-07-2015

Leslie Taggart, OBO Construction Manager/ACOR onsite 12-07-2012 to 11-30-16

Neil Mosley, OBO Project Director/COR onsite 12-20-2016 to 08-20-2017

29 years of experience in construction industry

19 years of experience within OBO

OBO project assignments:

CM, Dar es Salaam NEC

CM, Panama NEC

PD, Cairo Physical Security Upgrades

PD, Guayaquil New Consulate Compound

PD, Oslo New Embassy Compound

PD, Islamabad New Embassy Compound

- OBO had intended to replace Mr. Kanga in late 2015 with a very experienced Foreign Service Construction Engineer (FSCE), who would serve as COR for the contract. This FSCE retired unexpectedly in December 2015.
- Ms. Taggart had full FAC-COR Level III certification when the COR departed Post permanently in December 2015. We would like to note that Ms. Taggart received the FSCE of the Year award this year in 2017, emphasizing that she had OBO's full confidence to manage this project.
- During this period, Ms. Taggart, Mr. Kanga, and Mr. Vivian stated they were in nearly constant weekly telephone and email contact on matters concerning this contract.
- As previously noted Neil Mosley has been an OBO Project Director and certified COR on multiple OBO projects with 19 years of experience with our organization. At time of his arrival at Post in August 2016, he was actively working to renew his FAC-C.
- Regarding Bulletin 29, correction of the IFC drawings is within the terms and conditions of the contract, the revisions made are performance requirements of the contract, and the corrections are not a substitution; therefore, no adjustment to the contract price or date of completion is necessary or appropriate.
- Additionally, the material adjustments made in Bulletin 29 were to bring the building elevations into compliance with the original Request for Proposal (RFP) requirements. The differences between the contract bridging documents and the IFC documents

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decreased stucco in favor of additional metal panels, and OBO took no exception to this change. In February 2016, the contractor became aware that metal panels had been overused on the facades, and stone and stucco had decreased significantly from the Bridging documents. In order to correct this deviation from the original requirements, BL Harbert notified the ACOR that they were revising the building elevations to comply with the original requirements, and this is the impetus for Bulletin #29. Again, this is well within their contractual right under the contract.

- The table below summarizes the changes that were made in Bulletin 29. The summary is for CSX, SDA's, & REC, since these are the only buildings that were revised.

**Islamabad NEC
Bulletin 29
Façade Review**

	RFP	Original IFC	Bulletin 29 IFC Rev
Material	Area (SM)	Area (SM)	Area (SM)
Stone	23,707.90	17,889.10	22,717.70
MP-1	3,249.20	15,693.80	4,198.40
Stucco	10,432.20	3,115.70	9,782.70
	Percentage (%)	Percentage (%)	Percentage
Stone	63%	49%	62%
MP-1	9%	43%	11%
Stucco	28%	8%	27%

- On page 8, the following statement is incorrect: OIG spoke with the ACOR – who was named the acting OBO project director when the initial OBO project director/COR departed Embassy Islamabad (December 2015) and she stated that she was aware of the proposed material substitution and assumed appropriate contracting actions had been completed. Again, there was never an assumption that contract actions were taken based on Harbert's April 2016 bulletin. It is not uncommon for OBO/Wash to work directly with the contractor's U.S.-based designer to resolve design issues.
- On page 8, note 11 is factually incorrect: According to the ACOR, she was designated as the acting OBO project director and not named the COR for the contract because at the time, she only had a Federal Acquisition Certificate – Contracting Officer's Representative Level I training which does not meet the requirement to be a COR. The ACOR in fact notified the OIG that she had FAC Level III training (see timeline).

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- OBO feels strongly that B.L. Harbert International, LLC, has met the intent and letter of the construction contract regarding the Islamabad NEC residential façades, and that no substitution in the contractual sense has taken place.
- Figure 3 on Page 10, showing rust spots seeping through stucco material, is an issue that has been raised to our contractor.
- Regarding the stucco issues on pages 9-10, during the past year OBO, Post, and BL Harbert worked cooperatively to identify workmanship problems in how the Phase I stucco was applied. The number of locations needing attention has been a cause for concern for all parties, and the corrective action to fix these problems has been discussed at length. The contractor acknowledges having problems with the Phase I plaster products and taken responsibility to take remedial action where needed. They have since proposed (and OBO approved) alternative stucco system for Phase II. The contractor has used this same product line worldwide, and has successfully finished other OBO projects. The OBO project team can also attest that stucco quality issues have been prime topic of both QC meetings and Project Meetings since my arrival onsite.
- The most recent walk through Phase I occurred last spring, and the contractor has completed all the remedial work that was identified. There are currently no locations on Phase I pending corrective actions.
- Figure 4 on Page 10 shows different colors between stucco areas that have been corrected as stated above. Our field teams would like to emphasize that the patches have been painted with the exact paint used to paint the original, and that over time weathering will reduce the shading differences between the panels.

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APPENDIX B: OIG REPLY TO THE BUREAUS OF ADMINISTRATION AND OVERSEAS BUILDINGS OPERATIONS TECHNICAL COMMENTS

In addition to its official response, the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management (A/LM) and the Bureau of Overseas Buildings Operations (OBO) provided technical comments to a draft of this report. The Office of Inspector General (OIG) reviewed the technical comments and added clarifying language in the report where appropriate. Some of the bureaus' comments are similar to each other; in those instances, OIG summarized them and grouped them. Table B.1 summarizes the bureaus' technical comments and OIG's reply.

Table B.1: The Bureau of Administration and Bureau of Overseas Operations Technical Comments and OIG Reply

Comment Number	Technical Comment
A/LM's comments, Tab 1	<p>A/LM stated that the revision to the percentages or mix of materials comprising the façade of staff diplomatic apartments 1, 2, and 3 was not a substitution as described in the contract because the Design Issued for Construction documents deviated from the request for proposal criteria. Therefore, Bulletin 29 was intended to correct the oversight and align the Final Design Documents with the request for proposal criteria. Moreover, BL Harbert discussed the proposed correction contained in Bulletin 29 with OBO management and the OBO architect in February 2016 and with the Islamabad, Pakistan, site team, including the Alternate Contracting Officer's Representative (ACOR) before it was issued.</p> <p>OIG Reply: With regard to the statement that the revisions conformed to the request for proposal, no official interviewed for this audit informed OIG that the Final Design Documents deviated from the request for proposal or that Bulletin 29 was meant to correct the deviation. This includes meetings with officials, including the Contracting Office (CO), the Contracting Officer's Representative (COR), and ACOR, who should have known such facts. More important, no records that support these statements are included the contract file. Part II, paragraph I.8 of Contract No.SAQMMA-10-C-0284 incorporates DOSAR 652.243-70 which requires that any notice or request relating to this contract shall be in writing and mailed or delivered by hand to the other party at the address provided in the schedule of the contract. Part I, Section D.2 of the Schedule for Contract No.SAQMMA-10-C-0284 provides the Department of State delivery, mail, and courier addresses.</p> <p>With regard to the statement that BL Harbert informed OBO officials and the ACOR of the contemplated plans, the audit found that: (1) the COR with whom BL Harbert spoke was no longer the official COR on the project at that time, (2) the ACOR was not authorized to perform as a COR, and (3) the CO was not made aware of the proposed design change. Part I, paragraph E.5.2.2.2 of the contract requires BL Harbert to "immediately notify the CO or COR of any discrepancies or omissions of design elements required by the contract drawings, specifications, and design criteria but not included in the Final Design Documents. The notification shall include the proposed corrective action and [e]ffect on contract performance schedule, if any."</p>

Comment	
Number	Technical Comment
A/LM's comments, Tab 1	<p>A/LM stated that a replacement COR had been identified and was to report for duty in Islamabad, but, just prior to departure, the individual decided to retire from the Department. The result of the unexpected departure was lessened by the fact that a fully trained and experienced ACOR with over 3 years of experience in the position in Islamabad remained on site to head up the OBO site team.</p> <p>OIG Reply: OIG appreciates that A/LM attempted to provide a qualified COR for the Islamabad project. However, the fact remains that, because of the replacement COR's retirement, the Islamabad construction project did not have a qualified COR appointed onsite for approximately 1 year. Even though he was named Project Director, according to the appointment letter, the current COR was appointed on December 20, 2016, more than 1 year after the departure of the previous COR who departed in December 7, 2015. OIG asked the individual who had been the ACOR during the lapse why she had not been appointed as the COR, and she stated on March 22, 2017, that she did not have the requisite training. Rather than receiving the Federal Acquisition Certification-Contracting Officer's Representative Level III training, the ACOR completed the Federal Acquisition Certification Program/Project Manager Expert/Senior Level training in April 2015. As described in the report, these officials cannot serve as the COR until FAC-COR Level III Certification from the Acquisition Career Manager is received.</p>

Comment	
Number	Technical Comment
OBO's comments, Tab 2	<p>OBO stated that the construction contract for the New Embassy Compound and Housing Project was a design-build contract, not a design-bid-build contract. OBO recommended that OIG and OBO engage in further discussions regarding the differences between the two types of contracts in order to avoid what OBO termed "future misunderstandings." OBO "strongly believes" that this management assistance report could have been "avoided with further education." According to OBO, OIG misunderstands the implications of a design-build contract. In particular, OBO explained that in design-build contracts, the designer of record authority rests with the contractor, not with the U.S. Government or a third-party contract designer. The U.S. Government provides a framework design and performance specifications to a construction contractor, and the construction contractor then has the authority to correct the drawings and determine exact quantities of materials necessary to build the project. Had the contract with BL Harbert been a design-bid-build contract, OBO stated that the OIG assertion that the contractor made an inappropriate substitution of materials would be correct.</p> <p>OIG Reply: OBO's extensive discussion of this issue is largely beside the point. Regardless of the nature of the contract, relevant oversight officials were not informed of changes to Final Design Documents that had been in place for over three years. Moreover, the parties did not comply with relevant contractual provisions.</p> <p>Under the definitions in FAR 36.102: "Design-bid-build" means the traditional delivery method where design and construction are sequential and contracted for separately with two contracts and two contractors. "Design-build," in contrast, means combining design and construction in a single contract with one contractor. The choice of the "Design-Build" contract, in itself, does not eliminate the need for Government approval. In its response, OBO stated that the contractor has "the authority to correct the drawings and determine exact quantities of materials necessary to build the project." The definition of the "Design-Build" contract does not itself confer the authority that OBO cites, nor does this definition supersede specific contractual or [FAR] provisions. OIG relied on the language in the contract. Specifically, Part 1, paragraph E.5.2.2.3 of the contract states that "after acceptance of the Final Design Documents (DIFC) set by the Government, contractor initiated design and construction adjustments and alterations requests shall be processed and administered in accordance with the substitution provisions of the contract including H.39.1.6." Part 1, paragraph H.39.1.6.1, in turn, expressly requires the CO's prior approval of any proposed adjustments or alterations to conform the Final Design Documents to the RFP. It states that, "before substitutions proposed by the Contractor, after acceptance of the Construction Documents, may be used in the project, the Contractor must receive approval in writing from the Contracting Officer. Any substitution request must be accompanied by sufficient information to permit evaluation by the Government, including but not limited to the reasons for the proposed substitution and data concerning the design, appearance, performance, composition, and relative cost of the proposed substitute."</p>

Comment	
Number	Technical Comment
OBO's comments, Tab 2	<p>OBO requests that OIG amend the title of the management assistance report. OBO stated that the title and section headers are editorial comments and opinions, and should simply state the findings. Additionally, because the contract is a design-build contract (which is explained in OBO's previous comment), the title is factually inaccurate.</p> <p>OIG Reply: OIG amended the title and made other revisions to the draft as appropriate. However, the title and the focus of the management assistance report were based on findings the auditors developed during fieldwork. No official interviewed for this audit informed OIG during fieldwork that the Final Design Documents deviated from the request for proposal or that Bulletin 29 was meant to correct the deviation. This includes meetings with officials, including the CO, the COR, and the ACOR, who should have known such facts.</p>
OBO's comments, Tab 2	<p>OBO stated that there was no lapse in construction contract oversight as the title and report suggest. Additionally, OBO stated that Figure 1 in the report incorrectly implied that there was a lapse in oversight.</p> <p>OIG Reply: The CO did not know of Bulletin 29 until the OIG informed him. As the person responsible for awarding, negotiating, administering, modifying, terminating, and making related contract determinations and findings on behalf of the U.S. Government as required by the Federal Acquisition Regulation, he should have been made aware of this document. Moreover, as set forth in the report itself and in Figure 1, a qualified COR was not assigned to the contract for approximately 1 year. Lastly, even though an ACOR was onsite, this person was not designated to perform the duties of the departed COR. According to the ACOR, she was the acting OBO Project Director but was not named the COR for the contract because, at the time, she only had a Federal Acquisition Certification-Contracting Officer's Representative Level I training, which is generally appropriate for low-risk contract vehicles, such as supply contracts and orders. Level I CORs require only 8 hours of training, and no experience is required. In contrast, a Level III COR should have received 60 hours of training and 2 years of experience. The Office of Management and Budget states that "Level III CORs are the most experienced CORs within an agency and should be assigned to the most complex and mission critical contracts within the agency." This was just such a "mission critical" contract. Moreover, rather than receiving the Federal Acquisition Certification-Contracting Officer's Representative Level III training, the ACOR completed the Federal Acquisition Certification Program/Project Manager Expert/Senior Level training in April 2015. As described in the report, these officials cannot serve as the COR until FAC-COR Level III Certification from the Acquisition Career Manager is received.</p>

Comment	
Number	Technical Comment
OBO's comments, Tab 2	<p>OBO stated that per the design-build contract with BL Harbert, OBO does not consider the adjustments made by BL Harbert to the building façade a substitution, and moreover, the contract does not require the CO's involvement for adjustments and corrections that do not change the contract scope, cost, time, or quality.</p> <p>OIG Reply: According to the Federal Acquisition Regulation (FAR), the CO is responsible for administering, modifying, and making related contract determinations and findings on behalf of the U.S. Government. As such, the CO cannot consistently comply with these responsibilities without being aware of changes in planned construction (in this case, a change in the approach contemplated in the Final Design Documents that had been in place since 2012). In this audit, OIG found that the CO did not know of BL Harbert's planned actions; he instead learned of the changes from discussions with OIG.</p> <p>OIG also questions OBO's suggestion that the proposed changes would not affect the cost of the contract. OIG did not ask for cost information resulting from the changes to the facades' design because it was out of scope of the management assistance report. As noted in the report, however, Figure 3 shows rust bleeding through and running down exterior wall of the Marine security guard quarters, thereby supporting OIG's point that the quality of the project may be affected. Accordingly, the CO should have been made aware of Bulletin 29.</p>
OBO's comments, Tab 2	<p>OBO stated that OIG's statement that "...although both the alternate contracting officer's representative (ACOR) and the COR ultimately assigned to the project after the OBO Project Director/COR were aware of the proposed material substitution, they had assumed appropriate contract actions were completed on the basis of BL Harbert's April 2016 bulletin, when, in fact, they were not" is factually incorrect. OBO stated that it was never assumed that contract actions were taken on the basis of the April 2016 bulletin and that it is standard for OBO or Washington to work directly with BL Harbert's U.S.-based designer to resolve design issues.</p> <p>OIG Reply: OIG revised the draft to more accurately reflect statements from the ACOR and the COR. Both the ACOR and the COR were unable to explain how the revisions in Bulletin 29 were reviewed and accepted. The statement is based on interviews with the ACOR on March 22, 2017, and the COR on February 1, 2017. Regardless of their understanding of the decision-making process, Part 1, paragraph E.5.2.2.3 of the contract states that "after acceptance of the Final Design Documents (DIFC) set by the Government, contractor initiated design and construction adjustments and alterations requests shall be processed and administered in accordance with the substitution provisions of the contract including H.39.1.6." Part 1, paragraph H.39.1.6.1, in turn, expressly requires the CO's prior approval of any proposed adjustments or alterations to conform the Final Design Documents to the RFP. It states that "before substitutions proposed by the Contractor, after acceptance of the Construction Documents, may be used in the project, the Contractor must receive approval in writing from the Contracting Officer. Any substitution request must be accompanied by sufficient information to permit evaluation by the Government, including but not limited to the reasons for the proposed substitution and data concerning the design, appearance, performance, composition, and relative cost of the proposed substitute."</p>

Comment	
Number	Technical Comment
OBO's comments, Tab 2	<p>OBO stated work on the façade on the staff diplomatic apartments has commence. OBO requested that OIG revise its report to reflect this progress.</p> <p>OIG Reply: OIG has modified the report to reflect events that occurred since it prepared the draft of this report.</p>
OBO's comments, Tab 2	<p>OBO stated that the ACOR had full FAC-COR Level III certification when the COR departed Post permanently in December 2015. OBO emphasized that the ACOR had OBO's full confidence to manage this project.</p> <p>OIG Reply: During an interview on March 22, 2017, the ACOR told OIG that she could not be designated the COR because she did not meet the training requirements for FAC-COR III certification. OIG was provided a copy of her certification, which showed a Level I designation. According to the Office of Management and Budget, a Level I COR is generally appropriate for low-risk contract vehicles, such as supply contracts and orders. Level I CORs should have 8 hours of training, and no experience is required. In contrast, a Level III COR should have received 60 hours of training and 2 years of experience. The Office of Management and Budget states that "Level III CORs are the most experienced CORs within an agency and should be assigned to the most complex and mission critical contracts within the agency." This complex, high-value contract is just such a "mission critical" contract. Rather than receiving the Federal Acquisition Certification-Contracting Officer's Representative Level III training, the ACOR completed the Federal Acquisition Certification Program/Project Manager Expert/Senior Level training in April 2015. OIG also has a copy of this certification.</p>
OBO's comments, Tab 2	<p>OBO stated that the CO, COR, and ACOR were in nearly constant weekly telephone and email contact on matters concerning this contract.</p> <p>OIG Reply: According to the bureaus' responses, BL Harbert issued Bulletin 29 to correct the Final Design Documents. Yet, the ACOR, the COR, and the CO did not inform OIG that the Final Design Documents deviated from the request for proposal and that Bulletin 29 was meant to correct the deviation. Moreover, despite the nearly constant weekly telephone and email contact, in an interview with the CO on April 7, 2017, he stated that he was not aware of BL Harbert's proposed design change described in Bulletin 29.</p>

Comment	
Number	Technical Comment
OBO's comments, Tab 2	<p>OBO stated that Bulletin 29 (correcting the Final Design Documents) is within the terms and conditions of the contract, the revisions made are performance requirements of the contract, and the corrections are not a substitution. Therefore, OBO states that no adjustment to the contract price or date of completion is necessary or appropriate. Additionally, the material adjustments made in Bulletin 29 were to bring the SDA buildings into compliance with the original request for proposal requirements.</p> <p>OIG Reply: Although OBO has stated that the changes outlined in Bulletin 29 will result in the façade of the SDA buildings being built to the requirements as originally defined in the request for proposal, the report points out several weaknesses in oversight. Those weaknesses include: 1) poor and uncoordinated interaction and communication between BL Harbert and OBO; 2) a failure to document in the contract file any interaction and communication regarding these issues; 3) a lack of awareness by the CO of Bulletin 29 (as noted, he was informed by OIG of the changes); and 4) lack of a COR to oversee the contract for 1 year. Together, these factors increase the risk that other changes, regardless of whether they were "to correct" deviations may go unnoticed by the Department. OBO agreed with the changes set forth in Bulletin 29, but the process flaws described in this report could result in a change that OBO ultimately does not approve.</p>
OBO's comments, Tab 2	<p>OBO stated that, "in order to correct [the] deviation from the original requirements, B.L. Harbert notified the ACOR that they were revising the building elevations to comply with the original requirements, and this is the impetus for Bulletin 29."</p> <p>OIG Reply: OIG does not dispute that the ACOR was informed about the revisions to the Final Design Documents when Bulletin 29 was issued by BL Harbert, although she maintained any discussions between BL Harbert and OBO took place in Washington, D.C. The CO, however, was not informed even though he is "responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships" according to the FAR. As such, the CO cannot consistently comply with these responsibilities without being aware of changes in planned construction (in this case, a change in the approach contemplated in the Final Design Documents that had been in place since 2012).</p>

Comment	
Number	Technical Comment
OBO's comments, Tab 2	<p>OBO stated that it "feels strongly" that BL Harbert has met the intent and letter of the construction contract regarding the Islamabad NEC residential façade, and that no substitution in the "contractual sense" has taken place.</p> <p>OIG Reply: Although OBO has stated that it is satisfied with the changes outlined in Bulletin 29 because the façade of the SDA buildings are now being built to the requirements as originally defined in the request for proposal, the report points out several weaknesses in oversight. Those weaknesses include: 1) poor and uncoordinated interaction and communication between BL Harbert and OBO; 2) a failure to document in the contract file any interaction and communication regarding these issues; 3) a lack of awareness by the CO of Bulletin 29 (he was informed of the changes by OIG) ; and 4) lack of a COR to oversee the contract for 1 year. Together, these factors increase the risk that other changes, regardless of whether they were "to correct" deviations, may go unnoticed by the Department. OBO agreed with the changes set forth in Bulletin 29, but the process flaws described in this report could result in a change that OBO ultimately does not approve.</p>
OBO's comments, Tab 2	<p>OBO stated that the issues associated with Figure 3, which shows rust spots seeping through stucco material, has been raised with BL Harbert. OBO further stated that BL Harbert acknowledges having problems with plaster products and has accepted responsibility to take remedial actions where needed. OBO stated that BL Harbert will use an alternative stucco system during Phase II of the construction process.</p> <p>OIG Reply: OIG acknowledges that OBO is taking action to address this issue with BL Harbert. At this time, OIG does not know if BL Harbert is charging the Department for remedial actions. However, the audit team will visit the embassy to conduct additional fieldwork on the ongoing audit of the New Embassy Compound and Housing Project focusing on invoice reviews in the fall. OIG will follow-up on this issue and inform OBO if it identifies additional concerns.</p>
OBO's comments, Tab 2	<p>OBO stated that the most recent walk through of Phase I work occurred last spring and BL Harbert completed all remedial work that was identified.</p> <p>OIG Reply: OIG acknowledges that OBO has taken actions to complete all remedial work identified. The audit team will visit the embassy to conduct additional fieldwork on the ongoing audit of the New Embassy Compound and Housing Project focusing on invoice reviews in the fall. OIG will inform OBO if it identifies additional concerns.</p>
OBO's comments, Tab 2	<p>OBO stated Figure 4 shows different colors between stucco areas that have been corrected and that the change in coloring is the result of weathering overtime.</p> <p>OIG Reply: OIG acknowledges that OBO has taken actions to correct the discoloration issue. The audit team will visit the embassy to conduct additional fieldwork on the ongoing audit of the New Embassy Compound and Housing Project focusing on invoice reviews in the fall. OIG will inform OBO if it identifies additional concerns.</p>

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