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**(U) Management Assistance Report:
Noncompliance with Federal and
Department Procurement Policy at U.S.
Embassy Kabul, Afghanistan, Needs
Attention**

MANAGEMENT ASSISTANCE REPORT

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(U) Summary of Review

(U) The security situation in Kabul, Afghanistan, has continued to deteriorate in recent years. In response to increasing security threats, the Department of State (Department) has initiated a number of upgrades to the physical security features at the U.S. Embassy and other U.S. Government facilities around the city that are intended to improve the security posture of U.S. operations in Afghanistan.

(U) During an ongoing Office of Inspector General (OIG) audit of security-related construction projects at the U.S. Embassy in Kabul, OIG discovered that Embassy Kabul used a Justification for Other Than Full and Open Competition (JOFOC) to limit competition of construction contracts to a pool of 15 purportedly “known and vetted” local Afghan contractors. The JOFOC was initiated as an interim measure to address the need for urgent security upgrades and other embassy construction projects when a waiver that exempted overseas posts from soliciting foreign acquisition notices on the Federal Business Opportunities website (FBO.gov) lapsed in June 2016.¹ When the waiver lapsed, Embassy Kabul was concerned that publicly posting solicitations for construction projects would present security risks to the Embassy. As a result, in 2016, a JOFOC citing national security concerns was prepared by Embassy Kabul General Services Office (GSO) procurement officials to cover post-initiated construction projects.

(U) The 2016 JOFOC was developed in coordination with the Department’s Office of the Procurement Executive (OPE). However, the JOFOC was improperly renewed by Kabul Procurement Staff two more times, in 2017 and 2018, without consulting OPE. This occurred, in part, because procurement staff in Kabul incorrectly believed that the JOFOC could be unilaterally renewed as long as national security continued to be at risk because of the ongoing security threats at Embassy Kabul. Additionally, the Kabul JOFOC stated that contractors that were selected for inclusion were “known and vetted.” According to the former Kabul GSO Contracting Officer, this meant that, in addition to the Department’s standard counterterrorism vetting requirements, contractors selected for inclusion in the JOFOC would also undergo additional vetting by the Regional Security Office (RSO) in Kabul. However, OIG found no evidence that the 15 Afghan contractors selected were subject to such additional security vetting as a condition of service. According to the Kabul RSO, such vetting could help minimize the potential insider threat posed by temporary workers who could observe and report on the status of the Embassy Kabul compound and for this reason, Embassy Kabul adopted enhanced vetting practices for temporary workers in October 2018.

(U) In August 2018, following OIG inquiries about the validity of the JOFOC, OPE instructed Embassy Kabul to discontinue use of the JOFOC. According to OPE, the JOFOC was approved as a one-time exception in 2016 and was never intended to serve as a blanket exception for all construction acquisitions initiated by Embassy Kabul. Although OPE issued the cease and desist order to Embassy Kabul to stop using the JOFOC, the need for the timely completion of security-related construction projects at Embassy Kabul remains a priority and is critical to

¹ (U) FBO is the Federal Government's website (fedbizopps.gov) that publicly advertises all Federal procurement opportunities to interested contractors.

addressing emerging threats in the current security environment. OPE officials suggested that using an indefinite delivery/indefinite quantity (IDIQ) contract would be an appropriate approach to meet Embassy Kabul's ongoing needs. As a result, OIG is recommending that Embassy Kabul establish a procurement mechanism, such as an IDIQ contract, to help promote the timely execution of security-related construction and physical security upgrades at U.S. Mission Afghanistan. Furthermore, the Embassy Kabul staff has reported that it is not uncommon for those physical-security construction projects that are sent to the Regional Procurement Support Office (RPSO) in Frankfurt, Germany, or the Bureau of Administration's Office of Acquisitions Management Office of Acquisition (AQM) to face long delays in the procurement review and approval process. Accordingly, OIG is recommending that the Bureau of Acquisitions Management establish and implement a process to prioritize and expedite procurements in support of mission-critical, urgent physical security construction projects at Embassy Kabul and other high-threat posts.

(U) OIG also found that Embassy Kabul did not consistently record accurate procurement data in the Federal Procurement Data System (FPDS), which was established to collect, analyze, and disseminate Federal procurement data to Congress, the executive branch, and the public. Embassy Kabul staff members provided OIG with a sample data set of contract actions executed using the Kabul JOFOC from August 2016 to August 2018. OIG found errors in the procurement data entered into FPDS for all 18 contract actions. According to Embassy Kabul officials, the deficiencies are attributable to an incomplete understanding of how data should be recorded in FPDS as well as high turnover among the procurement staff in the General Services Office. By failing to ensure that the data entered by Embassy Kabul into FPDS are accurate, the purpose of the data and their usefulness to stakeholders are jeopardized. OIG is therefore recommending that Embassy Kabul develop detailed guidance for entering data into FPDS, provide additional training to GSO Procurement staff, as appropriate, and conduct periodic management reviews of the data entered into FPDS to ensure its accuracy. OIG made seven recommendations in this report that are intended to address the underlying cause of the deficiencies found and to help ensure that Embassy Kabul is in compliance with Federal and Department procurement policy. In response to a draft of this report, OPE and Embassy Kabul concurred with all seven recommendations. On the basis of OPE's and the Embassy's concurrence, OIG considers each recommendation resolved, pending further action. A synopsis of OPE and the Embassy's responses to the recommendations offered and OIG's reply follow each recommendation in the Results section of this report. OPE's and Embassy Kabul's responses to a draft of this report are reprinted in their entirety in Appendices A and B, respectively.

(U) BACKGROUND

(U) Ongoing Physical Security Upgrades at Embassy Kabul

(U) The U.S. Embassy in Kabul, Afghanistan, and other Government facilities in Kabul have faced increasing threats since the drawdown of the U.S.-led combat mission in 2013. Specifically, insurgents have carried out attacks throughout Kabul with increasing regularity, using a range of weapons, including suicide vests, rocket-propelled grenades, and vehicle-borne improvised

explosive devices. As recently as November 20, 2018, a suicide bomber killed at least 55 people and wounded another 94 at a religious gathering in Kabul.

(U) In response to the increasing threats, the Department has initiated a range of security-related construction projects at Embassy Kabul and other U.S. Government facilities around the city. These include higher and more robust perimeter walls, walls around temporary housing structures, and secure vehicle access gates. According to the Bureau of Diplomatic Security (DS) and the Kabul RSO, many of these projects are critical to protecting lives and must be completed as quickly as possible. Figures 1 and 2 are examples of security-related construction upgrades at U.S. Embassy Kabul.



(U) Figure 1: Reinforced wall under construction at Embassy Kabul. (Photo taken by OIG, October 2017)



(U) Figure 2: Vehicle gate and reinforced wall at Embassy Kabul. (Photo taken by OIG, July 2018)

(U) Department Bureaus and Offices Involved in Security-Related Construction at Embassy Kabul

(U) Several Department bureaus and offices are involved in the process of constructing security-related features at the Embassy and other U.S. Government facilities.

(U) Bureau of Diplomatic Security

(U) DS is responsible for, among other things, establishing and implementing security and protective procedures at posts and developing and implementing posts' physical security programs.² Overseas, DS is represented by special agents and other security professionals assigned to the RSO in every U.S. embassy and most consulates. The RSO is responsible for protecting personnel and property, documenting threats and security vulnerabilities, and identifying ways to mitigate those vulnerabilities. DS also oversees physical security features and upgrades and ensures that new construction projects conform to the Department's Overseas Security Policy Board³ security standards and other policies and procedures. At Embassy Kabul, the RSO has also been involved in directly managing a number of security-related construction projects, in part, because of the need to complete physical security upgrades quickly. Within DS, the High Threat Programs Directorate (DS/HTP) serves as the focal point for coordinating security programs at designated high-threat, high-risk posts. DS/HTP was created in response to recommendations from the Benghazi Accountability Review Board, which called for the Department to re-examine the organization and management of DS, with a particular emphasis on span of control for security policy planning for all overseas U.S. diplomatic facilities.

(U) Office of the Procurement Executive

(U) OPE, which operates within the Department's Bureau of Administration, is the procurement authority for the Department.⁴ OPE is responsible for providing management direction and Department-wide leadership and expertise in the areas of acquisition and Federal assistance. The Procurement Executive is also responsible for appointing Contracting Officers, who have the authority to enter into, administer, and terminate contracts.

² (U) Per 12 FAM 011, the mission of DS is to provide a safe and secure environment for the conduct of U.S. foreign policy.

³ (U) The Overseas Security Policy Board is an interagency body chaired by the Assistant Secretary of State for Diplomatic Security that carries out the statutory security responsibilities prescribed by the Omnibus Diplomatic Security and Antiterrorism Act of 1986. It establishes threat rankings for overseas posts and develops security standards for these posts, including administrative and procedural requirements to counter human intelligence threats.

⁴ (U) Per 14 FAM 212, OPE establishes acquisition policy for the Department of State. OPE provides overall policy and Department management procedures for the acquisition system and is responsible for the appointment of contracting officers, acquisition career management competition, advocacy, and review and/or approval of solicitations and contracts.

(U) The Office of Acquisitions Management

(U) AQM, which also operates within the Department's Bureau of Administration, is responsible for managing, planning, and directing the Department's acquisition programs and conducts contract operations in support of activities worldwide.⁵ AQM has RPSO in Frankfurt, Germany, which assists embassies and posts within a specified region with procurement efforts.

(U) General Services Office

(U) The GSO at embassies and other posts overseas provide management services that include procurement of goods and services. At Embassy Kabul, the official with the highest level of contracting authority is usually the General Services Procurement Officer.⁶ This official can typically procure acquisitions up to \$250,000. Any procurements greater than this amount require the involvement of AQM or RPSO.⁷

(U) Bureau of Overseas Buildings Operations

(U) The Foreign Affairs Manual (FAM) designates OBO as the authorized construction agent for the Department. Specifically, 15 FAM 113.1 states that "... [the Bureau of Overseas Buildings Operations] is responsible for establishing, implementing, and overseeing all policies and procedures governing the real property program." As noted previously, however, in the case of Embassy Kabul, the RSO has taken on primary responsibility for managing a number of physical security-related construction upgrades that must be completed quickly to address emerging security threats.

⁵ (U) According to 1 FAM 212.2-2, AQM manages, plans, and directs the Department's acquisitions programs and conducts contract operations in support of activities worldwide. AQM provides a full range of contract management services, including acquisition planning, contract negotiations, cost and price analysis, and contract administration.

⁶ (U) At most overseas posts, including Kabul, a Foreign Service Officer with limited procurement training (minimum of 16 hours or 2 days of refresher training within the past 3 years) is typically assigned to serve as the GSO Procurement Officer. In accordance with 14 FAM 214(c)(2), the GSO Procurement Officer is responsible for managing post-initiated procurements up to \$250,000.

⁷ (U) According to 14 FAM 214, Contracting Officers are appointed in writing by the Procurement Executive, pursuant to DOSAR 601.603. The Contracting Officer is the U.S. Government's authorized agent for soliciting offers, negotiating, awarding, modifying, and terminating contracts. Only qualified U.S. employees may be appointed as Contracting Officers. Employees who have successfully completed the 4-week GSO Acquisition Module are normally eligible for warrants up to \$250,000 (standard warrants).

(U) Federal Regulations Regarding Full and Open Competition

(U) Federal agencies must usually hold full and open competition when procuring goods and services. These requirements are set forth in the Competition in Contracting Act (CICA) of 1984⁸ and the Federal Acquisition Regulation (FAR).

(U) Language in FAR 6.101(a) states that, with certain limited exceptions, Contracting Officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts. When required by FAR 5.203, the Contracting Officer must establish a solicitation response time that will afford potential offerors a reasonable opportunity to respond to each proposed contract action in an amount estimated to be greater than \$25,000 but not greater than the simplified acquisition threshold. The notice must be published at least 15 days before issuance of a solicitation or a proposed contract action the Government intends to solicit and negotiate with only one source under the authority of 6.302 on fedbizopps.gov. The Department of State Acquisition Regulation (DOSAR) provides Department-specific guidance in accordance with policies cited in the FAR.

(U) Agencies may use other than competitive procedures only under certain circumstances. Language in 41 U.S.C. § 3304(a) sets forth those circumstances:

- (U) Only one responsible source can provide the supplies or services required, and no other type of property or services will satisfy the needs of the executive agency.
- (U) An agency's need for supplies or services is of such unusual and compelling urgency that the Federal Government would be seriously injured unless the executive agency is permitted to limit the number of sources from which it solicits bids or proposals.
- (U) It is necessary to award the contract to a particular source to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve industrial mobilization; requirements exist for essential engineering, developmental, or research capability; or expert services are needed.
- (U) The terms of an international agreement or treaty have the effect of requiring the use of procedures other than competitive procedures.
- (U) A statute expressly authorizes or requires that the procurement be made through another executive agency or from a specified source, or the agency's need is for a brand-name commercial item for authorized resale.

⁸ (U) 41 U.S.C. § 253 states that, with some exceptions, "an executive agency in conducting a procurement for property or services - (A) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this title and the Federal Acquisition Regulation; and (B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement." Exceptions include those related to: "Exclusion of particular source; restriction of solicitation to small business concerns," "Use of noncompetitive procedures," and "Simplified procedures for small purchases."

- (U) The disclosure of the executive agency's needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals.
- (U) An agency head determines that it is not in the public interest and provides written notification to Congress.

(U) The FAR provides the policies and procedures for circumstances in which an agency may pursue contracts without providing for full and open competition. FAR 6.302 implements CICA's exceptions for full and open competition. Under FAR 6.303, when a Federal agency requires an exception to the CICA competition requirements, the solicitation must be supported by a written justification—a Justification for Other than Full and Open Competition (JOFOC).⁹ For example, a JOFOC citing national security considerations as the rationale for not pursuing full and open competition must include detailed information that describes how national security would be compromised. Both the FAR and the DOSAR include criteria for approving a JOFOC on the basis of dollar thresholds.¹⁰

(U) Posting Federal Business Opportunities and Department Waivers of Pre-Solicitation Notices

(U) FAR 5.201 requires Federal agencies to publish an advance notice of proposed acquisition actions on FBO prior to or upon the release of the solicitation or a proposed contract action that the Government intends to solicit and negotiate with only one source under the authority of 6.302. The intent of this regulation is to improve the solicitation of American small business concerns in Government acquisitions and to enhance competition by identifying contracting and subcontracting opportunities. FAR 5.202(b) permits this requirement to be waived if the agency head determines that advance notice is neither appropriate nor reasonable.

(U) The Department of State's Assistant Secretary for Administration has the authority to waive the requirement for advance FBO notices for certain Department foreign acquisitions.¹¹ This waiver authority is typically invoked because of the impracticality of using U.S. firms for acquisitions in foreign locations. The Department has posts (i.e., embassies and consulates) located in many foreign countries, and the supplies and services awarded by those overseas posts are, in most cases, obtained to support the operation of their buildings and grounds. The Department's most common contracts awarded overseas are for janitorial, packing, shipping, and gardening services and minor repairs in which only local firms are normally interested. The expense that would be incurred by U.S. firms, along with the nature, timing, and small dollar amount of these contracts and simplified acquisitions, means that most U.S. small businesses are unable to respond to the requirements because they are not set up to operate in these countries. In addition, the Department has determined that, in many cases, the delays for FBO

⁹ (U) The specific contents required for the justification are set forth in FAR 6.303-2.

¹⁰ (U) See FAR 6.304 and DOSAR 606.3.

¹¹ (U) FAR 5.201 requires Federal agencies to publish and advance notice of proposed acquisition actions in FBO prior to or upon the release of the solicitation. FAR 5.202(b) permits this requirement to be waived if the agency head (as defined in DOSAR 605.202(b)) determines that the advance notice is neither appropriate nor reasonable.

notices create unreasonable burdens for overseas posts. As a result, the Department's Assistant Secretary for Administration regularly signs FBO waivers for overseas posts to facilitate the acquisition process.¹²

(U) However, on June 30, 2016, the existing FBO waiver lapsed, which meant that the Department's overseas posts were required to publish advance notice on FBO for all contract actions valued greater than \$25,000, beginning July 1, 2016. Overseas posts were advised to take any necessary action to advertise these procurements on FBO until the Department's Bureau of Administration issued a new waiver based on concurrence from the Office of Federal Procurement Policy (OFPP) and the Small Business Administration.

(U) Purpose of this Management Assistance Report and the Ongoing Audit

(U) This Management Assistance Report is intended to provide early communication of deficiencies OIG identified during its ongoing audit of the execution of security-related construction projects at the U.S. Embassy in Kabul, Afghanistan. The primary objective of the audit is to determine whether the Bureaus of Overseas Buildings Operations and Diplomatic Security have addressed challenges, including previously identified limitations, in executing security-related construction projects at U.S. Embassy Kabul.

(U) When conducting the audit, OIG identified deficiencies in the manner in which JOFOCs were prepared and used at Embassy Kabul. Accordingly, OIG prepared this Management Assistance Report to provide prompt information regarding these deficiencies. In performing the work in relation to this report, OIG interviewed officials from AQM, OBO, OPE, DS, Kabul RSO, Kabul Facility Management Services, Kabul GSO Procurement, and the Kabul Financial Management Office. OIG also examined Kabul JOFOCs issued between 2016 and 2018 and reviewed applicable criteria, including CICA, the FAR, and the DOSAR, as well as relevant supporting documentation.

(U) This report relates to overseas contingency Operation Freedom's Sentinel¹³ and was completed in accordance with OIG's oversight responsibilities described in Section 8L of the Inspector General Act of 1978, as amended. OIG conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that OIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

¹² (U) Procurement Information Bulletin 2018-02, states that as of January 1, 2018, the FBO waiver for supplies was \$180,000 and the threshold for construction services was \$250,000. This means that overseas posts that are granted waivers from the Department's Assistant Secretary for Administration are not required to post on FBO solicitations for supplies and services up to \$180,000 and for construction contracts up to \$250,000.

¹³ (U) Operation Freedom's Sentinel has two complementary missions: the U.S. counterterrorism mission against al Qaeda, the Islamic State of Iraq and Syria-Khorasan, and their affiliates in Afghanistan and the U.S. military participation in the NATO-led Resolute support mission to develop the capacity of the Afghan security ministries, and to train, advise, and assist Afghan Security forces.

(U) RESULTS

(U) Finding A: Embassy Kabul Improperly Renewed JOFOC Without Approval

(U) During an ongoing OIG audit of security-related construction projects at the U.S. Embassy in Kabul, Afghanistan, OIG found that Embassy Kabul used a JOFOC to limit competition of all construction contracts to a pool of 15 local Afghan contractors. According to Embassy Kabul GSO Procurement Officials who drafted the JOFOC, the 15 local contractors were “known and vetted.” The JOFOC was renewed by Embassy Kabul procurement staff in 2017 and 2018 without consulting OPE. This occurred, in part, because procurement staff in Kabul incorrectly believed that the JOFOC could be unilaterally renewed as long as national security continued to be at risk because of the ongoing security threats at Embassy Kabul. In August 2018, following OIG inquiries about the validity of the JOFOC, OPE issued a cease and desist order to Embassy Kabul to stop using the JOFOC. According to OPE, the Kabul JOFOC was allowed as a one-time exception in 2016 and was never intended to serve as a blanket exception for all construction acquisitions initiated by Embassy Kabul. Nonetheless, the need for the timely completion of security-related construction projects at Embassy Kabul remains a priority under the current security environment. Accordingly, OIG is issuing this Management Assistance Report to bring prompt attention to the deficiencies identified in light of the ongoing security threats facing U.S. Embassy Kabul.

(U) Situation at U.S. Embassy Kabul That Led to the JOFOC

(U) In 2016, the FBO waiver for U.S. Embassy Kabul lapsed.¹⁴ As a result, Embassy Kabul was required to publish advance notice of upcoming solicitations on FBO.gov, including solicitations for security-related construction projects. Embassy Kabul officials were concerned that the FBO requirement would present security risks to the embassy and result in delays to executing planned physical security upgrades. Specifically, RSO and GSO staff had reservations about the implications of posting solicitations for construction projects on a publicly accessible website on which anyone from around the world could view specifications for security-related projects. Similarly, Embassy Kabul staff were worried that posting scopes of work describing security or facility vulnerabilities and information on planned physical security enhancements to companies that reply to a given FBO pre-solicitation notice could present a security risk. That is, the Kabul RSO believed that “full and open competition on FedBizOpps would seriously affect the security posture of the embassy and would allow a method for unknown companies and actors to assess and exploit security vulnerabilities.” Furthermore, Embassy Kabul noted that soliciting construction services on FBO would permit companies from all over the world to register for site visits to the embassy compound as part of the solicitation process. Although the FAR states that offerors are “urged and expected” to inspect the site where the (construction)

¹⁴ (U) According to OPE, the Department has regularly worked with OFPP and the Small Business Administration and signed Determination and Findings Memos waiving the requirement for overseas posts to publish certain procurements meeting pre-defined dollar thresholds on FedBizOpps. These waivers have been communicated through Procurement Information Bulletins. In 2016, the FBO waiver lapsed because OPE did not receive responses from the Small Business Association and OFPP in time to put a new waiver in place.

work will be performed,¹⁵ both RSO and GSO staff at Embassy Kabul believed that inviting unknown potential contractors to participate in site visits as part of the pre-solicitation process would present potential security risks by allowing non-vetted companies and individuals to come on the Embassy Kabul compound and closely observe residential and office buildings, the overall security posture of the embassy, and the layout of the compound. OIG notes that Embassy Kabul expressed these concerns to OPE after the FBO waiver lapsed.¹⁶

(U) Embassy Kabul was also troubled by delays in executing needed physical security upgrades because of the Department's counterterrorism vetting requirements. In 2015, Embassy Kabul was required to participate in a pilot program called Risk Analysis and Management (RAM) vetting. RAM vetting occurs in the pre-award phase of a contract or grant and assesses the risk of U.S. Government funds inadvertently being given to terrorists or their supporters.¹⁷ As part of this program, the Department conducts counterterrorism vetting to check names and other personally identifiable information of individuals in organizations, including contractors, that would receive funds from the Department against information about terrorists and their supporters. After completing the vetting, the awarding bureau is notified if any negative information was found. The responsible program bureau ultimately determines whether the grantee or contractor should be withdrawn from consideration. According to the staff at Embassy Kabul, the RAM vetting process was still relatively new in 2015, the guidance was unclear, and as a result, the procurement process for construction services became very lengthy while post waited for the RAM vetting process to be completed.¹⁸ According to Kabul GSO Procurement staff, the mandated RAM vetting process for prospective construction contractors was not conducive to expediting urgent physical security projects. In addition, a January 2016 bombing near Camp Sullivan (one of the nearby camps that houses embassy staff and contractors) caused damage to some structures within the camp and repairs needed to be made quickly. The bombing served as a "wake-up call," according to the GSO procurement staff, and highlighted the need for an expedited process to procure construction services for urgent security projects.

¹⁵ (U) FAR 52.236-3 outlines the circumstances related to site investigations for construction work. It describes the conditions under which the contractor is expected to have taken steps to reasonably ascertain the nature and location of the work and satisfied itself as to the general and local conditions that can affect the work. Although site visits are not mandatory, physical security engineers in Kabul stated that not providing contractors the option for a site visit would likely result in inflated bids. Specifically, if site conditions could potentially affect material and labor costs, the contractors would err on the side of caution and bid high. For example, without conducting a site visit, contractors cannot determine if extensive earthwork will be required, what conditions will affect machine access, material storage, or water needs.

¹⁶ (U) Upon the expiration of the FBO waiver, Embassy Beirut likewise raised concerns to OPE about providing scopes of work, especially scopes of work that contain security and facility vulnerabilities or information on physical security enhancements, to every company that replies to FBO pre-solicitation notices. Similarly, Embassy Beirut raised concerns about potential security threat posts by allowing embassy compound access to attend site visits.

¹⁷ (U) RAM vetting is housed in the Bureau of Administration's Office of Logistics Management.

¹⁸ (U) As of September 2018 and according to Kabul GSO procurement staff, RAM vetting is still required for every procurement, but the vetting process has been streamlined and no longer significantly affects the timeliness of procurements.

(U) Because of these concerns and in light of the expiration of the FBO waiver, the Embassy felt it needed a reliable way to expedite urgent security-related construction projects. Accordingly, in July 2016, Embassy Kabul established a blanket JOFOC on the basis of national security considerations. OPE authorized DS/HTP to sign off on the JOFOC.¹⁹ The JOFOC limited competition of construction contracts to 15 “known and vetted” companies for execution of 25 construction projects on the Embassy compound. The Embassy developed a scope of work describing the type of construction projects to be completed in the coming year. The scope of work was posted online and an open call for contractors was made. This initial scope of work that was posted online was very broad and generally outlined the types of projects that Embassy Kabul anticipated might be needed over the course of the next year. According to the former Embassy Kabul Contracting Officer, it planned eventually to issue more detailed statements of work for each procurement issued under the JOFOC. Following the open call for contractors, a Technical Evaluation Panel evaluated the contractors’ proposals and narrowed the list of potential contractors to 15.

(U) The Initial JOFOC Did Not Comply With the FAR and Included No Evidence of Additional Contractor Vetting by the Kabul RSO

(U) OIG identified a number of shortcomings with the preparation of the initial JOFOC. Specifically, OIG found that the initial JOFOC did not comply with the FAR. Furthermore, although OPE authorized DS/HTP to sign off on the JOFOC, OPE never reviewed or approved the JOFOC itself. As a result, OPE was unaware that the JOFOC did not meet all the established FAR requirements.

(U) FAR 6.303-2(a) requires that justifications for other than full and open competition contain sufficient facts and rationale to justify the use of limited competition. The embassy cited concerns related to national security as the rationale for its use of the JOFOC. When national security is so cited, the FAR requires specific information to be included in the written justification. For example, FAR 6.303-2 states that each justification should include a “demonstration that the proposed contractor’s unique qualifications or the nature of the acquisition requires use of the authority cited.” Although the Kabul JOFOC cited national security concerns as its basis and therefore for the need for “known and vetted” contractors, it does not describe the “unique qualifications” of the 15 selected contractors.²⁰ Moreover, although the former Embassy Kabul Contracting Officer provided OIG a verbal description of the steps that were taken to select the 15 contractors, none of this information was included in the JOFOC itself. Indeed, the JOFOC did not specifically identify the selected contractors. Finally, contrary to FAR 6.303-2(b)(10), the Kabul JOFOC did not include a list of the contractors that expressed an interest in the award but were evaluated and eliminated by the Technical Evaluation Panel.

¹⁹ (U) Per 1 FAM 262.3(2), The Deputy Assistant Secretary and Assistant Director for DS/HTP serves as the focal point within DS for coordinating security programs at designated high-threat, high-risk posts.

²⁰ (U) In the case of the Kabul JOFOC, unique qualifications might have included previous experience with physical security construction projects or experience with construction work at Embassy Kabul.

(U) According to the former GSO Procurement Officer who helped to develop the 2016 JOFOC, the procurement office developed a Statement of Work describing the types of construction projects to be covered in the JOFOC, prepared a PowerPoint presentation for contractors interested in bidding on those projects, and convened a Technical Evaluation Panel to select the contractors. The FAR outlines the steps that must be taken to ensure that any proposal represents the best value. Specifically, FAR 15.303 outlines the policies and procedures for selection of sources in competitive negotiated acquisitions. However, after multiple inquiries from OIG, Embassy Kabul was unable to provide any of the supporting documentation used to select the 15 contractors for inclusion in the JOFOC, and the current Kabul GSO procurement staff stated that the documentation was lost. As a result, OIG has been unable to corroborate any of the information described by the former GSO Procurement Officer regarding how the 15 contractors included in the original 2016 JOFOC were selected. Without being able to review this documentation, OIG cannot confirm that Embassy Kabul followed appropriate steps in accordance with the FAR to select the original 15 contractors.

(U) Construction Contractors Did Not Undergo Additional Security Vetting at Embassy Kabul Beyond the Department's Standard Practices

(U) Although the initial 2016 Kabul JOFOC, as well as the two JOFOCs that followed in 2017 and 2018, cited national security and the need to use "known and vetted" contractors as the basis for limiting competition, OIG found no evidence that the 15 Afghan contractors selected were actually subject to additional security vetting by the Kabul RSO, as stated in the JOFOC as a condition of service. As noted previously, every prospective contractor in Afghanistan must undergo vetting conducted by the Risk Analysis and Management (RAM) team located within the Bureau of Administration, Office of Logistics Management.²¹ In addition, the embassy itself engages in standard security practices for all temporary workers. In particular, all such temporary workers, including construction workers, are subject to security screening upon entering the embassy compound.

(b) (7)(E)



²¹ (U) The Department's first formal guidance on counterterrorism vetting was issued in 2008, when then-Deputy Secretary Negroponte directed Assistant Secretaries and other senior officials to "make every reasonable effort to guard against the risk that U.S. Government activities could inadvertently benefit terrorist groups, their members, [and] their supporters." *Review of the Bureau of Administration, Office of Logistics Management, Critical Environment Contract Analysis Staff's Counterterrorism Vetting Function (Risk Analysis and Management (ISP-I-18-27, August 2018).*

(U) However, the former Kabul GSO Contracting Officer stated that contractors selected for inclusion in the JOFOC would also undergo additional vetting by the RSO in Kabul,²² and the JOFOC itself stated that the 15 named contractors were “known and vetted.” In fact, according to the Kabul RSO, no process was in place beyond the RAM vetting and the ordinary embassy security screening processes to vet temporary workers at the time the 2016 JOFOC was established.

(b) (7)(E)



(U) To confirm that this was the case, OIG provided the Kabul RSO with the names of the owners of each of the 15 contractors to determine whether they were subject to any additional security vetting as indicated in the JOFOC. According to the Kabul RSO, however, no records indicate that this occurred when the JOFOC was established in 2016 or that they underwent renewed vetting when the JOFOC was renewed in 2017 and 2018. As a result, OIG could not confirm that any of the owners of the 15 Afghan contractors or their workers underwent vetting beyond that conducted by RAM.

(U) The Embassy Kabul RSO implemented a new “Temporary Worker Access Policy” in October 2018 to govern compound access. The policy states that, going forward, all temporary workers must be vetted and cleared by RSO prior to gaining access to U.S. Embassy Kabul. This vetting includes both biometric enrollment, which entails inputting a local national worker’s information into the Biometric Enabled Watchlist, and background checks.²³ According to the policy, the new vetting and clearance procedure will consist of a multi-phase process involving RSO Vetting, the RSO Security Service Center, and the RSO Facilities Protection Division. The policy states that no temporary worker will be granted access to U.S. Embassy Kabul until all three phases of the vetting and clearance process have been completed, including: 1) Initial Screening, 2) Biometric Enrollment, and 3) Security Service Center Enrollment and Badging. According to the Kabul RSO officials, they implemented the new vetting process because they were concerned about the potential insider threat posed by temporary workers who could observe and report on the status of the Embassy Kabul compound.

(U) Department Guidance Governing Justifications for Other Than Full and Open Competition

(U) The JOFOC also failed to comply with Department-specific guidance found in the DOSAR regarding the preparation and approval of JOFOCs. For example, justifications for other than

²² (U) Among other things, the Kabul RSO vetting process was to consist of collecting full names, Tazkira numbers (Afghan national identity card which is proof of identity, residency, and citizenship), and contact information as well as conducting security checks on the submitted names and identifiers.

²³ (U) The Biometric Enabled Watchlist is a database maintained by the Department of Defense. It includes information about local nationals who have had contact with a U.S. Government agency, including any derogatory reports, as well as any time spent in prison. The information from the watchlist helps the RSO determine whether an individual can be trusted to work on the embassy compound.

full and open competition for reasons related to national security must include all the following information:

- (U) How national security would be compromised if the Department's (or other agencies') needs were disclosed in the Government-wide point-of-entry.²⁴
- (U) Why the Government-wide point-of-entry notice cannot be worded in such a manner that national security would not be compromised.
- (U) Necessity for access to classified information to perform the proposed contract and level of security clearance required.
- (U) Number and value of contracts that the justification covers.
- (U) Necessity for access to classified information to prepare technical and cost proposal and level of security clearance required.²⁵

(U) The JOFOC prepared by Embassy Kabul identified overall national security concerns related to physical security and highlighted concerns related to giving unknown contractors who had not been specifically vetted by embassy personnel access to the embassy compound. However, the Kabul JOFOC states that no access to classified information is required. The JOFOC therefore did not meet the DOSAR's requirements for limiting competition for reasons of national security. That is, the DOSAR as currently written does not include a mechanism to support national security JOFOCs when the risk is not related to information security. Specifically, DOSAR 606.302-6 assigns responsibility for reviewing and certifying JOFOCs to the Bureau of Intelligence and Research for acquisitions involving sensitive compartmented information and to the DS Office of Information Security, Security Infrastructure Directorate, for acquisitions involving national security information. However, the DOSAR assigns no responsibility to DS/HTP, which is responsible for direct support of U.S. diplomatic missions and consulates identified in the HTP portfolio.²⁶ To remedy the issue, the Procurement Executive authorized a one-time waiver on August 3, 2016, to the DOSAR requirement and authorized DS/HTP to certify the 2016 JOFOC prepared by Embassy Kabul. Accordingly, DS/HTP approved the 2016 Kabul JOFOC, as directed by OPE, on August 4, 2016.

²⁴ (U) FedBizOpps is the single Government-wide point-of-entry for Federal Government procurement opportunities greater than \$25,000.

²⁵ (U) DOSAR 606.302-6(c)(1) states that "[t]he Chief, Controls Division, Office of Intelligence Liaison, Directorate for Coordination, Bureau of Intelligence and Research is responsible for reviewing and certifying any proposed acquisitions derived from or funded or administered by intelligence community agencies that involve sensitive compartmented information and ensuring that the provisions of Executive Order 13526 and FAR 6.302-6 have been met. The Office Director, Office of Information Security, Security Infrastructure Directorate, Bureau of Diplomatic Security (DS/SI/IS) is responsible for reviewing and certifying all other proposed acquisitions funded by the Department of State that involve national security information and ensuring that the provisions of Executive Order 13526 and FAR 6.302-6 have been met."

²⁶ (U) As noted previously, DS/HTP supports diplomatic and consular posts by leading Department security operations at High-Threat, High-Risk posts around the world.

(U) Improper Renewal of the JOFOC Affected Competition

(U) OPE authorized a one-time waiver to existing DOSAR requirements in 2016 to permit DS/HTP to approve the Kabul JOFOC.²⁷ However, Embassy Kabul renewed the JOFOC in 2017 and again in 2018 without consulting OPE. In both years, GSO procurement staff in Kabul re-issued a copy of the 2016 JOFOC with updated signatures from senior Kabul management officials and DS/HTP so that the post could continue to limit post-initiated construction projects to the 15 local Afghan contractors first identified in 2016. However, OPE did not grant Embassy Kabul additional exemptions from following DOSAR requirements in 2017 and 2018. According to OPE, the Kabul JOFOC was approved as a one-time exception in 2016 and was never intended to serve as a blanket exception for all construction acquisitions initiated by Embassy Kabul. Nevertheless, the improper renewals occurred because procurement staff in Kabul incorrectly believed that the JOFOC could be unilaterally renewed on an annual basis without OPE approval as long as national security continued to be at risk. Consequently, and despite the fact that they did not have OPE approval to continue to bypass DOSAR requirements, Embassy Kabul improperly limited competition to the same 15 local Afghan contractors originally identified in 2016.

(U) By improperly renewing the JOFOC, Embassy Kabul excluded new contractors from submitting proposals for any construction projects at the embassy. According to the former GSO Procurement Officer who helped develop the original 2016 JOFOC, it was the embassy's intent to hold a new round of competition for any subsequent JOFOCs issued by Embassy Kabul after the initial 2016 JOFOC expired. However, this did not occur, and Embassy Kabul continued to limit competition for construction contracts to the same 15 contractors it identified when the 2016 JOFOC was first established. In August 2018, following OIG inquiries about the validity of the JOFOC, OPE issued a cease and desist order to Embassy Kabul to stop using the JOFOC. Embassy Kabul has accordingly discontinued its use of the JOFOC.

(U) Embassy Kabul Faces Delays in Obtaining Acquisition Support for Urgent Physical Security Upgrades

(U) Even though Embassy Kabul is no longer able to use the JOFOC, the Embassy has an ongoing need to implement construction projects, including physical security upgrades, on a regular basis. However, the GSO Procurement Officers at Embassy Kabul are Foreign Service Officers with limited procurement training and a warrant that only allows them to award procurements up to \$250,000.²⁸

(U) According to one Kabul GSO Procurement Officer, the number and complexity of procurements, including physical-security construction projects executed at Embassy Kabul, means that Embassy Kabul has unique contracting needs that go above and beyond those of many other overseas posts. According to a 2014 report issued by OPE, Embassy Kabul is the largest embassy procurement operation in the world.

²⁷ (U) The Procurement Executive signed a one-time waiver to DOSAR 606.302-6 specifically giving permission for DS/HTP to serve as the authority for JOFOC approval for upcoming physical security construction procurements in Kabul, Afghanistan.

²⁸ (U) See 14 FAM 214(c)(2).

(U) Because the GSO Procurement Officer in Kabul has a limited warrant to award contracts, procurements greater than \$250,000 must be sent to RPSO or AQM for administration and approval. However, DS officials have reported that a number of Kabul's requests for procurements in support of urgent physical security upgrades have languished for months at AQM and RPSO. A Contracting Officer at RPSO explained of the lack of RPSO staff to manage the current workload. The Contracting Officer further noted that RPSO has around 23 staff members, the majority of whom are contract specialists without authority to provide final approval of procurement requests. As a result, only four RPSO Contracting Officers can give final approval on all procurement actions. According to RPSO, awaiting this additional layer of review can further add to delays in the procurement process. Similarly, RSO and GSO Procurement staff in Kabul have reported that they are unaware of any prioritization process for those security-related construction projects administered by AQM. According to GSO Procurement staff, any project, regardless of whether or not it relates to embassy security, goes into a queue to await assignment to available contracting staff. According to the Kabul RSO, in one case, a physical security upgrade awaited administration at AQM for 4 months before Embassy Kabul was informed that the contracting specialist assigned to the procurement had left the Department. Embassy Kabul staff has similarly reported that it is not uncommon for physical-security construction projects, even projects deemed urgent, to face long delays in the procurement review and approval process at both AQM and RPSO.

(U) Since 2011, OIG has highlighted contracting and procurement as one of the key management challenges facing the Department. Furthermore, in 2017, OIG identified protection of people and facilities; oversight of contracts, grants, and foreign assistance; and operating in contingency and critical environments as among the top management challenges for the Department. Embassy Kabul's efforts to execute urgent physical security upgrades illustrate these challenges and how they intersect.

(U) IDIQ Contract for Urgent, Security-Related Construction Is Needed

(U) The need for the timely completion of security-related construction projects at Embassy Kabul remains a priority and is critical in addressing emerging threats in the current security environment. During audit fieldwork, officials from OPE stated that using an indefinite delivery/indefinite quantity (IDIQ) contract would be an appropriate approach to meet Embassy Kabul's construction needs. OIG agrees with this assessment because multiple award IDIQ contracts are awarded to one or more contractors for the same or similar products or services and are used when the exact quantities and timing for products or services is not known at the time of award.²⁹ Awardees of the IDIQ contract then compete for subsequent task orders under the IDIQ contract. IDIQ contracts also allow for a certain amount of contract process streamlining because negotiations are only with the selected contractor or contractors. As a result, an IDIQ contract would allow Embassy Kabul to procure construction services without continually opening up construction procurements to worldwide competition. An IDIQ contract would also address Embassy Kabul's concerns about limiting access to the embassy to known,

²⁹ (U) See FAR 16.504(a).

trusted contractors. Specifically, as was envisioned in the original Kabul JOFOC, the Embassy could ensure that each of the contractors selected for inclusion in the IDIQ contract is fully vetted, following Department RAM counterterrorism security guidance, as well as any additional vetting conducted by the Kabul RSO before awarding individual task orders for specific construction projects. Finally, an IDIQ contract could allow Embassy Kabul to realize the benefits of an ongoing, competitive environment through the duration of the contract, while, at the same time, minimizing some of the delays that would be involved in conducting a separate procurement for each requirement.

Recommendation 1: (U) OIG recommends that the Bureau of Administration's Office of Acquisitions Management, in collaboration with the Bureau of Diplomatic Security and the Bureau of Overseas Buildings Operations, establish and implement a process to prioritize and expedite procurements in support of mission-critical, urgent physical security construction projects at Embassy Kabul and other high-threat posts.

Management Response: (U) OPE concurred with the recommendation. OPE stated that it "agree[d] with OIG's statement regarding the efficiencies achieved when using an indefinite delivery/indefinite quantity (IDIQ) contract." OPE further stated that it "would coordinate among its offices to ensure that [IDIQ contracts] are the first choice solution for mission-critical, urgent physical security construction projects at Embassy Kabul and other high-threat posts."

OIG Reply: (U) On the basis of OPE's concurrence, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation that AQM, in collaboration with the Bureau of Diplomatic Security and the Bureau of Overseas Buildings Operations, has established and implemented a process to prioritize and expedite procurements in support of mission-critical, urgent physical security construction projects at Embassy Kabul and other high-threat posts.

Recommendation 2: (U) OIG recommends that the Bureau of Administration's Office of the Procurement Executive review and consider updating the Department of State Acquisition Regulation Part 606.302-6 to establish a mechanism to support justifications for other than full and open competition when citing national security considerations that do not relate to information security.

Management Response: (U) OPE concurred with the recommendation, stating that it "will conduct a review to determine if an update to [DOSAR] Part 606.302-6 is the best method to achieve the OIG's intent."

OIG Reply: (U) On the basis of OPE's concurrence, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation that OPE reviewed and considered updating DOSAR Part 606.302-6 to establish a mechanism to support justifications for other than full and open competition when citing national security considerations that do not relate to information

security. If OPE determines that an update to the DOSAR is not appropriate, this recommendation will be closed when OIG receives documentation indicating that OPE identified an appropriate alternative to support justifications for other than full and open competition when citing national security considerations that do not relate to information security.

Recommendation 3: (U) OIG recommends that U.S. Embassy Kabul, in collaboration with the Bureau of Administration's Office of Acquisitions Management and the Bureaus of Overseas Buildings Operations and Diplomatic Security, establish a procurement mechanism such as a multiple-award indefinite delivery, indefinite quantity contract to provide for the timely execution of security-related construction and physical security upgrades at U.S. Mission Afghanistan.

Management Response: (U) Embassy Kabul concurred with the recommendation, stating that, as of September 2018, it has "already implemented a procurement mechanism to hasten the execution of security-related construction projects" through Task Order 15 of the Afghanistan Life Support Services (ALiSS) contract. Embassy Kabul stated that the ALiSS contract addresses security-related construction projects and "serves the same purpose as the OIG-proposed solution of a multiple-award indefinite delivery, indefinite quantity (IDIQ) contract." The Embassy further stated that the entire contracting process for the ALiSS contract from pre-award through post-award is handled by the contractor, therefore "eliminating AQM/RPSO involvement." Embassy Kabul added that its procurement staff "does not currently have the expertise to create such a complicated contracting mechanism" as the multiple award IDIQ contract recommended by OIG. Embassy Kabul further stated that because ALiSS is already in place and "provides timely execution of construction projects" and because "the demand for such projects has decreased significantly since the time period addressed in the OIG report, there is no requirement to create such a multiple-award IDIQ contract."

OIG Reply: (U) On the basis of Embassy Kabul's concurrence, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives, reviews, and determines that Task Order 15 of the ALiSS contract serves as an appropriate mechanism to provide for the timely execution of security-related construction and physical security upgrades at U.S. Mission Afghanistan.

Recommendation 4: (U) OIG recommends that U.S. Embassy Kabul, in collaboration with the Bureau of Administration's Office of Acquisitions Management and the Bureaus of Overseas Buildings Operations and Diplomatic Security, delegate technically qualified Contracting Officer's Representatives with backgrounds in construction oversight to oversee security-related construction and physical security upgrades at U.S. Mission Afghanistan.

Management Response: (U) Embassy Kabul concurred with the recommendation, stating that "having a sufficient number of qualified Contracting Officer's Representatives (CORs) is essential to proper oversight of contractor activities." Embassy Kabul stated that it currently maintains 10 CORs at post and that "this number has proven to provide the appropriate

oversight coverage needed...” Embassy Kabul further stated that of these 10 CORs, 1 is trained to COR Level 3, 6 are trained to COR Level 2, and 3 are trained to COR Level 1. Additionally, Embassy Kabul stated that three ALISS CORs have appropriate experience and “maintain qualifications well above that which is required to provide oversight to these projects.” Lastly, Embassy Kabul added that it is “pursuing the addition of two (or possibly three) professional Level 3 CORs added to the Kabul COR office and reducing the ARSO CORs by a commensurate number. This will ultimately serve to consolidate and improve the professional capabilities of the CORs.”

OIG Reply: (U) On the basis of Embassy Kabul’s concurrence, OIG considers this recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating the assigned CORs have backgrounds in construction oversight to oversee security-related construction and physical security upgrades at U.S. Mission Afghanistan.

(U) Finding B: Embassy Kabul Did Not Accurately Record Procurement Data in the Federal Procurement Data System

(U) OIG found that Embassy Kabul did not consistently record accurate procurement data in the Federal Procurement Data System (FPDS). FPDS was established to collect, analyze, and disseminate Federal procurement data to Congress, the executive branch, and the public. However, OIG found errors in the procurement data entered into FPDS by Embassy Kabul staff for 18 contract actions executed at Embassy Kabul from August 2016 to August 2018. According to Embassy Kabul officials, the deficiencies are attributed to an incomplete understanding of how data should be recorded as well as high turnover among the staff in the GSO Procurement Office. By failing to ensure that the data entered by Embassy Kabul into FPDS are accurate, the purpose of the data and their usefulness to stakeholders are jeopardized.

(U) Accurately Recording Procurement Information in the Federal Procurement Data System for Transparency and To Inform Procurement Policy Decisions

(U) FPDS is a database of executive agencies’ procurement data that are used to measure the effects of Federal procurement on the nation’s economy and of full and open competition on the acquisition process.³⁰ OFPP with the Office of Management and Budget established FPDS in order to collect, analyze, and disseminate procurement data to Congress, the executive branch, and the public.

(U) In March 2014, the Government Accountability Office (GAO) reported on concerns with FPDS and specifically identified coding errors related to competition data for contracts awarded by the Departments of Defense and State as well as the U.S. Agency for International Development.³¹ Of 62 contracts GAO reviewed, GAO found that 28 were incorrectly

³⁰ (U) FPDS-NG User Manual.

³¹ (U) *Federal Contracting: Noncompetitive Contracts Based on Urgency Need Additional Oversight* (GAO-14-304), March 2014.

characterized under the “Extent Competed” field. In response to the report, OPE issued a bulletin providing guidance on entering information into FPDS.³²

(U) Despite the recommendations made by GAO and the subsequent bulletin issued by OPE, OIG identified ongoing issues with coding errors related to competition data recorded in FPDS for contracts awarded in Kabul from August 2016 to August 2018 under the blanket JOFOCs. Embassy Kabul GSO staff provided OIG with a sample list of contract actions awarded under each of the JOFOCs. OIG cross-referenced the identified contracts and modifications with procurement data entered into FPDS. Although each of the JOFOCs cites national security as the reason for using other than full and open competition, the procurement data for the contract actions did not reflect this rationale and so were not recorded correctly in FPDS. Specifically, OIG reviewed 18 contract actions awarded under the Kabul JOFOCs and found that none of the 18 contract actions cited “National Security” as the exception to the limited award, as required by the FAR.³³ For example, the individual entering the data into FPDS should have listed “National Security” as the exception for all 18 contract actions but instead recorded the contract actions under other exceptions such as “Urgency,” “Unique Source,” or “Only One Source-Other.” Furthermore, under the “Extent Competed” field, 5 of the 18 contract actions were characterized as having been competed under “Full and Open Competition,” despite having been awarded under 1 of the 3 national security JOFOCs that limited competition to 15 local Afghan contractors. Accurately recording data in FPDS provides meaningful mechanisms to ensure transparency in noncompetitive awards and strengthen oversight. Maintaining reliable data in FPDS is crucial to ensuring that agencies effectively manage the use of noncompetitive awards.

(U) A former Kabul GSO Procurement Officer acknowledged that accurate data entry in FPDS for Kabul procurements had been poor in the past. She stated that, during the time she was based in Kabul, the staff (some of whom were Afghans who spoke limited English) often selected the first listed description rather than selecting the appropriate codes from the drop-down list in FPDS. She added that these language barriers coupled with the high turnover of staff contributed to errors in FPDS. The officer further noted that the entire procurement team was terminated several years before her arrival at post because of allegations of improper contracting practices, including taking kickbacks and giving contracts to family members. This meant that the entire team lacked experience. The officer stated that, despite working to hire new staff and to provide them training, the workload did not slow. As a result, in 2016 when the JOFOC was first developed, the staff was focused on keeping up with the workload rather than accuracy in data entry.

(U) Another GSO Procurement Officer at Embassy Kabul agreed with OIG that some of the procurement data recorded in FPDS were incorrect and that data reliability has been a long-standing issue. He explained that contracts awarded using the JOFOCs were likely recorded in

³² (U) Procurement Information Bulletin No. 2012-19.

³³ (U) FAR 6.302-6(a)(2) National Security: Full and open competition need not be provided for when the disclosure of the agency’s needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals.

FPDS by procurement staff as “Full and Open Competition” because they were “competed” among the 15 Afghan contractors selected to execute construction contracts at Embassy Kabul. Nevertheless, he acknowledged that Embassy Kabul is ultimately responsible for correctly inputting the data into FPDS. The GSO Procurement Officer also noted that data entry in FPDS has significantly improved over the years. He stated that the staff now has to complete training for FPDS and that internal controls are in place to check data entry errors. For example, procurement staff entering data into FPDS receive an automated email highlighting any information that is inconsistent or needs to be corrected. Nonetheless, OIG found that procurement data in Kabul continue to be recorded incorrectly. GSO procurement staff acknowledged that the automated data entry checks in FPDS would not necessarily remedy mistakes related to competition data being recorded incorrectly.

(U) Complete and accurate information is essential for tracking public expenditures and ensuring compliance with Federal procurement policy. By failing to ensure that the data entered into FPDS by Embassy Kabul are accurate, the purpose and usefulness of the FPDS data to stakeholders is jeopardized. For example, the Federal Government uses the reported data to measure and assess the impact of Federal procurement on the nation’s economy, learn how awards are made to businesses in various socioeconomic categories, understand the impact of full and open competition on the acquisition process, and address changes to procurement policy. In addition, the OFPP Administrator requires that agencies establish and document procedures for validating and verifying contract data submitted to FPDS. Specifically, OFPP requires that each Federal department and agency certify annually that all data within FPDS are valid and complete. If the weaknesses in Embassy Kabul’s entries into FPDS are not successfully addressed, the Department will not have full assurance that its annual certification to OFPP is valid.

Recommendation 5: (U) OIG recommends that U.S. Embassy Kabul develop detailed instructions for Kabul General Services Office procurement staff for recording procurement data into the Federal Procurement Data System.

Management Response: (U) Embassy Kabul concurred with the recommendation, stating that “the contracting supervisor will develop a comprehensive checklist for agents to use when recording data in the Federal Procurement Data System (FPDS).” Embassy Kabul added that it will take this action by April 30, 2019.

OIG Reply: (U) On the basis of Embassy Kabul’s concurrence, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that Embassy Kabul has developed detailed instructions for Kabul GSO procurement staff to use when recording procurement data into FPDS.

Recommendation 6: (U) OIG recommends that U.S. Embassy Kabul collaborate with the Bureau of Administration’s Office of Acquisitions Management to provide training to Kabul General Services Office procurement staff to improve the consistency and accuracy of procurement data recorded in the Federal Procurement Data System.

Management Response: (U) Embassy Kabul concurred with the recommendation, stating that it will develop an FPDS training program that would address, at a minimum, “FPDS tracking reports, completing an FPDS task, completing an FPDS record, identifying the proper [Department] funding office codes, FPDS field definitions, FPDS error messages, and manually entering procurement actions into FPDS.” In addition, Embassy Kabul stated that the program will also “include current information about ‘best practices’ gleaned from the procurement community writ large.” Upon development of this training program, Embassy Kabul added that it “will administer this training to all current and future agents assigned to the procurement office” and “all new hires will be required to complete this training during their initial indoctrination.” Embassy Kabul stated that it will undertake these actions by May 15, 2019.

OIG Reply: (U) On the basis of Embassy Kabul’s concurrence, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that a training program has been developed and administered to Kabul General Services Office procurement staff to improve the consistency and accuracy of data recorded in FPDS.

Recommendation 7: (U) OIG recommends that U.S. Embassy Kabul develop and implement a process to validate procurement data recorded in the Federal Procurement Data System on a quarterly basis to ensure accuracy and completeness of procurement data recorded in Kabul.

Management Response: (U) Embassy Kabul concurred with the recommendation, stating that supervisors in the procurement office will conduct monthly spot checks on FPDS reporting and the results of these checks will be recorded and maintained in a spreadsheet. Embassy Kabul added that “any deficiencies will be identified and remedied on the spot by the supervisors” and that “these checks will commence as soon as the training has been administered. Embassy Kabul stated that it will undertake these actions by June 1, 2019.

OIG Reply: (U) On the basis of Embassy Kabul’s concurrence, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that Embassy Kabul has implemented a process to validate the accuracy and completeness of procurement data recorded in FPDS on a quarterly basis.

(U) RECOMMENDATIONS

Recommendation 1: (U) OIG recommends that the Bureau of Administration's Office of Acquisitions Management, in collaboration with the Bureau of Diplomatic Security and the Bureau of Overseas Buildings Operations, establish and implement a process to prioritize and expedite procurements in support of mission-critical, urgent physical security construction projects at Embassy Kabul and other high-threat posts.

Recommendation 2: (U) OIG recommends that the Bureau of Administration's Office of the Procurement Executive review and consider updating the Department of State Acquisition Regulation Part 606.302-6 to establish a mechanism to support justifications for other than full and open competition when citing national security considerations that do not relate to information security.

Recommendation 3: (U) OIG recommends that U.S. Embassy Kabul, in collaboration with the Bureau of Administration's Office of Acquisitions Management and the Bureaus of Overseas Buildings Operations and Diplomatic Security, establish a procurement mechanism such as a multiple-award indefinite delivery, indefinite quantity contract to provide for the timely execution of security-related construction and physical security upgrades at U.S. Mission Afghanistan.

Recommendation 4: (U) OIG recommends that U.S. Embassy Kabul, in collaboration with the Bureau of Administration's Office of Acquisitions Management and the Bureaus of Overseas Buildings Operations and Diplomatic Security, delegate technically qualified Contracting Officer's Representatives with backgrounds in construction oversight to oversee security-related construction and physical security upgrades at U.S. Mission Afghanistan.

Recommendation 5: (U) OIG recommends that U.S. Embassy Kabul develop detailed instructions for Kabul General Services Office procurement staff for recording procurement data into the Federal Procurement Data System.

Recommendation 6: (U) OIG recommends that U.S. Embassy Kabul collaborate with the Bureau of Administration's Office of Acquisitions Management to provide training to Kabul General Services Office procurement staff to improve the consistency and accuracy of procurement data recorded in the Federal Procurement Data System.

Recommendation 7: (U) OIG recommends that U.S. Embassy Kabul develop and implement a process to validate procurement data recorded in the Federal Procurement Data System on a quarterly basis to ensure accuracy and completeness of procurement data recorded in Kabul.

(U) APPENDIX A: OFFICE OF THE PROCUREMENT EXECUTIVE RESPONSE




United States Department of State

Washington, D.C. 20520

UNCLASSIFIED

March 28, 2019

MEMORANDUM

TO: OIG/AUD – Norman P. Brown
FROM: A/OPE –  Cathy J. Read
SUBJECT: Draft Report on *Management Assistance Report: Noncompliance with Federal and Department Procurement Policy at U.S. Embassy Kabul Needs Attention*

Thank you for the opportunity to provide a management response on the subject draft report. The point of contact for this report is the OPE Front Office ([A-OPEFrontOfficeAssistants@state.gov](mailto:OPEFrontOfficeAssistants@state.gov)).

Recommendation 1: OIG recommends that the Bureau of Administration's Office of Acquisitions Management, in collaboration with the Bureau of Diplomatic Security and the Bureau of Overseas Buildings Operations, establish and implement a process to prioritize and expedite procurements in support of mission-critical, urgent physical security construction projects at Embassy Kabul and other high-threat posts.

Management Response to Draft Report (03/28/2019): The Office of the Procurement Executive (OPE) concurs with the recommendation. Further, OPE agrees with OIG's statement regarding the efficiencies achieved when using an indefinite delivery/indefinite quantity (IDIQ) contract. OPE will coordinate among its offices to ensure IDIQs are the first choice solution for mission-critical, urgent physical security construction projects at Embassy Kabul and other high-threat posts.

Recommendation 2: OIG recommends that the Bureau of Administration's Office of the Procurement Executive review and consider updating the Department of State Acquisition Regulation Part 606.302-6 to establish a mechanism to support justifications for other than full and open competition when citing national security considerations that do not relate to information security.

Management Response to Draft Report (03/28/2019): OPE concurs with the recommendation and will conduct a review to determine if an update to Department of State Acquisition Regulation Part 606.302-6 is the best method to achieve the OIG's intent.

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(U) APPENDIX B: EMBASSY KABUL RESPONSE



Embassy of the United States of America

Kabul, Afghanistan

March 25, 2019

Mr. James Pollard
Director, Middle East Region Operations
1700 North Moore Street
Arlington, VA 22219

Dear Mr. Pollard:

Thank you for the opportunity to review and respond to the OIG's draft, "Management Assistance Report: Noncompliance with Federal and Department Procurement Policy at U.S. Embassy Kabul Needs Attention." We appreciate the effort your team puts into ensuring our compliance with Federal and Department policy. Our responses to the recommendations in your report follow.

Recommendation 1: OIG recommends that the Bureau of Administration's Office of Acquisitions Management (AQM), in collaboration with the Bureau of Diplomatic Security (DS) and the Bureau of Overseas Buildings Operations (OBO), establish and implement a process to prioritize and expedite procurements in support of mission-critical, urgent physical security construction projects at Embassy Kabul and other high-threat posts.

Response: This recommendation is beyond the scope of U.S. Embassy Kabul. Post stands ready to support any remedial actions determined necessary by the offices of primary responsibility (AQM, DS, and OBO).

Recommendation 2: OIG recommends that the Bureau of Administration's Office of the Procurement Executive review and consider updating the Department of State Acquisition Regulation Part 606.302-6 to establish a mechanism to support justifications for other than full and open competition when citing national security considerations that do not relate to information security.

Response: This recommendation is beyond the scope of U.S. Embassy Kabul. Post stands ready to support any remedial actions determined necessary by the office of primary responsibility (OPE).

Recommendation 3: OIG recommends that U.S. Embassy Kabul, in collaboration with the Bureau of Administration's Office of Acquisitions Management and the Bureaus of Overseas Buildings Operations and Diplomatic Security, establish a procurement mechanism such as a multiple-award indefinite delivery, indefinite quantity contract to provide for the timely execution of security-related construction and physical security upgrades at U.S. Mission Afghanistan.

Response: Concur (with comments): Post has already implemented a procurement mechanism that hastens the execution of security-related construction projects. This mechanism exists under Task Order (T.O.) 15 of the Afghanistan Life Support Services (ALiSS) contract, entitled "Physical Security Support Services" and serves the same purpose as the OIG-proposed solution of a multiple-award indefinite delivery, indefinite quantity (IDIQ) contract – providing for timely execution of security-related construction. T.O. 15 in the ALiSS contract specifically addresses security-related construction projects, and the entire contracting process from pre-award through post-award is handled by DynCorp, the ALiSS contractor. This expedites the timeline to contract award by bypassing Kabul's procurement office and competition requirements. It also allows for contracts of unlimited value to be awarded, thus eliminating AQM/RPSO involvement. Post recognized the problem with delays in critical construction and was able to get this T.O. implemented under the ALiSS contract in September 2018.

In reference to the specific OIG recommendation of establishing a multiple award IDIQ contract for security-related construction, Post agrees this to be another mechanism that could be used to reduce construction contracting timelines. That said, U.S. Embassy Kabul's procurement staff does not have the expertise to create such a complicated contracting mechanism. Construction projects vary widely in both scope and purpose. Because of this, creation of a construction IDIQ requires an experienced career contracting officer to put the package together, compete, award and administer such a contract. Additionally, Kabul's Contracting Officer is issued a warrant of only \$250,000. This is a limiting factor when it comes to construction projects since costs routinely exceed this amount. Given that there is already a mechanism in place that provides timely execution of construction projects (T.O. 15) and the demand for such projects has decreased significantly since the time period addressed in the OIG report, there is no requirement to create such a multiple-award IDIQ contract.

Finally, in addition to the above, 18 STATE 115308, released on November 16, 2018, states that posts are no longer required to solicit construction projects on FBO if they are less than \$250,000. This directly

addresses the **OIG finding** by eliminating the requirement for Post to solicit construction projects on FBO. The timeline to award is reduced, which serves to provide a solution to the root of the finding – timely execution of security-related construction projects.

Recommendation 4: OIG recommends that U.S. Embassy Kabul, in collaboration with the Bureau of Administration's Office of Acquisitions Management and the Bureaus of Overseas Buildings Operations and Diplomatic Security, delegate technically qualified Contracting Officer's Representatives with backgrounds in construction oversight to oversee security-related construction and physical security upgrades at U.S. Mission Afghanistan.

Response: Concur (with comments). Having a sufficient number of qualified Contracting Officer's Representatives (CORs) is essential to proper oversight of contractor activities. Currently, the RSO office at Post maintains ten ARSOs who are formally trained to be CORs for security-related construction projects and physical security upgrades at U.S. Embassy Kabul. This number has proven to provide the appropriate oversight coverage needed by Post. Of these ten RSO CORs, one is trained to COR Level 3, six are trained to COR Level 2, and three are trained to COR Level 1. (Note: Level 3 training is the highest level of COR training, enabling oversight of the most complicated projects.) Additionally, there are three ALiSS CORs who have the appropriate experience and maintain qualifications well above that which is required to provide oversight to these projects. That said, Post is pursuing the addition of two (or possibly three) professional Level 3 CORs added to the Kabul COR office and reducing the ARSO CORs by a commensurate number. This will ultimately serve to consolidate and improve the professional capabilities of the CORs.

Recommendation 5: OIG recommends that U.S. Embassy Kabul develop detailed instructions for Kabul General Services Office procurement staff for recording procurement data into the Federal Procurement Data System.

Response: Concur. Using the products available on the Integrated Logistics Management System (ILMS) website, Kabul's contracting supervisor will develop a comprehensive checklist for agents to use when recording data in the Federal Procurement Data System (FPDS).
DEADLINE: April 30, 2019.

Recommendation 6: OIG recommends that U.S. Embassy Kabul collaborate with the Bureau of Administration's Office of Acquisitions Management to provide training to Kabul General Services Office procurement staff to improve the consistency and accuracy of procurement data recorded in the Federal Procurement Data System.

Response: Concur. Using FPDS User Manual v.15 as a baseline, Post will develop an FPDS training program that will provide agents with an all-encompassing product addressing, at a minimum: FPDS tracking reports, completing an FPDS task, completing an FPDS record, identifying the proper DoS funding office codes, FPDS field definitions, FPDS error messages, and manually entering procurement actions into FPDS. Along with these topics, the program will include current information about "best practices" gleaned from the procurement community writ large. Upon development of this training program, Post will clear the product through AQM for their approval. Once approved, Post will administer the program to all agents assigned to the procurement office. All new hires will be required to complete this training during their initial indoctrination. **DEADLINE: May 15, 2019.**

Recommendation 7: OIG recommends that U.S. Embassy Kabul develop and implement a process to validate procurement data recorded in the Federal Procurement Data System on a quarterly basis to ensure accuracy and completeness of procurement data recorded in Kabul.

Response: Concur. Supervisors within the Kabul procurement office will conduct monthly spot checks on the FPDS reporting done by the agents. Results of these checks will be recorded and maintained in a spreadsheet. Any deficiencies will be identified and remedied on the spot by the supervisors. These checks will commence as soon as the training has been administered. **DEADLINE: June 1, 2019.**

As always, my staff stands ready to answer any questions you may have. Thank you again for your report.

Sincerely,



John R. Bass
Ambassador

(U) OIG AUDIT TEAM MEMBERS

James Pollard, Division Director
Middle East Region Operations
Office of Audits

Samantha Carter, Audit Manager
Middle East Region Operations
Office of Audits

Margaret Hardy, Senior Auditor
Middle East Region Operations
Office of Audits

Areeba Hasan, Management Analyst
Middle East Region Operations
Office of Audits

Aaron Caffrey, Management Analyst
Middle East Region Operations
Office of Audits

Russ Tolle, Senior Advisor for Construction and Contract Management
Office of Audits



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