



Office of Inspector General
United States Department of State

AUD-MERO-20-20

Office of Audits

February 2020

Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan

MIDDLE EAST REGION OPERATIONS



HIGHLIGHTS

Office of Inspector General
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What OIG Audited

In September 2014, the Department of State (Department) awarded Caddell Construction Co., LLC (Caddell), a \$196 million contract to design and construct a New Embassy Compound (NEC) in Ashgabat, Turkmenistan. The Turkmen Government imposes a “red line” concept that requires constructed buildings in Ashgabat to be set back a certain distance from the road to ensure an aesthetic alignment. The NEC construction project, which is managed by the Bureau of Overseas Buildings Operations (OBO), was initially scheduled to be completed in July 2018. In June 2019, the Office of Inspector General (OIG) learned of circumstances that affected the construction of the New Office Building (NOB), which was intended to serve as the embassy’s chancery, and is one of 13 NEC buildings being constructed.

OIG initiated this review to determine the genesis of the delays encountered in constructing the NEC, the status of efforts to complete construction of the NOB, and the operational and financial implications of the delays on both the Department and U.S. taxpayers.

What OIG Recommends

OIG made eight recommendations to the Undersecretary for Management and OBO to address the deficiencies identified in this report. On the basis of the Under Secretary for Management’s and OBO’s response to a draft of this report, OIG considers all eight recommendations resolved, pending further action. A synopsis of the Department’s responses to the recommendations offered and OIG’s reply follow each recommendation in the Review Results section of this report. The Department’s responses to a draft of this report are reprinted in Appendices B and C.

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OFFICE OF AUDITS

MIDDLE EAST REGION OPERATIONS

Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan

What OIG Found

The genesis of the delays encountered completing the construction of the NEC in Ashgabat is attributable to complications associated with the construction of the NOB. Specifically, in July 2016, the Government of Turkmenistan halted construction of the NOB because it was being constructed in a location that violated the city’s red line. This error occurred, in part, because OBO personnel failed to follow internal procedures that guide the planning of construction projects. Specifically, the OBO project managers overseeing the project failed to ensure that the legal assessment describing Ashgabat’s red line requirement was maintained in an OBO document database and shared appropriately. Moreover, they did not require the Architectural and Engineering firm that prepared the project bridging design to deliver required planning documentation that would have alerted OBO about the proper placement of the NOB. In addition, the construction contractor, Caddell, failed to obtain required construction permits from the Turkmen Government prior to initiating construction. As a result, construction of the NOB was halted after approximately \$26 million had been expended to construct the facility.

The Department has made repeated attempts to persuade the Turkmen Government to reverse its decision and allow the NOB construction to continue at its current location. However, as of January 2020, all requests and proposed options to do so had been rejected by the Turkmen Government. The operational and financial implications from the improper placement of the NOB are profound. Specifically, because construction of the NOB has not been completed, embassy operations continue to be conducted from multiple locations. According to OBO’s FY 2014 Congressional Notification for constructing the NEC, this arrangement creates security and safety risks. In addition, OBO estimates that it will cost the Department between \$90 million and \$125 million to rebuild a new NOB in an approved location. This amount is approximately twice what was originally budgeted to construct the NOB.

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OBJECTIVE

The Office of Inspector General (OIG) conducted this review to determine the genesis of the delays encountered in constructing the New Embassy Compound (NEC) in Ashgabat, Turkmenistan; the status of efforts to complete construction of the New Office Building (NOB); and the operational and financial implications of the delays to both the Department of State (Department) and the U.S. taxpayer. OIG initiated this review in June 2019 after learning of circumstances that impacted the construction of the NOB. See Appendix A for the purpose, scope, and methodology of this review.

BACKGROUND

The United States established diplomatic relations with Turkmenistan in 1992 following its independence from the Soviet Union. Embassy Ashgabat is presently located in central Ashgabat and consists of a centrally located modular chancery office building and other leased commercial office space at various locations throughout the city. In 1998, the U.S. and Turkmen Governments entered into a 99-year land lease agreement for a 17.3-acre site in Ashgabat, which is located at the intersection of Archabil Street and Ataturk Street, about 5 miles from the current chancery, with the intent of eventually constructing a New Embassy Compound (NEC). The lease, which supplanted a 1994 land lease for the same property, allowed the U.S. Government to construct or modify buildings on the NEC site, contingent upon the approval of the Ashgabat Mayor's Office.

The Case for a New Embassy Compound in Ashgabat

According to an FY 2014 Congressional Notification developed by the Department's Bureau of Overseas Buildings Operations (OBO),

The chancery is overcrowded, and off-compound operations are spread throughout the city in leased commercial office space. In addition, a separate residential compound is located a few miles from the city center. The residential compound also houses the health unit, administrative office space, a warehouse, and a small recreational area. The Department has significant security concerns due to the scattered locations of current facilities and the country's proximity to regions of instability and violence.¹

Additionally, Ashgabat's location in a seismic zone creates safety concerns for embassy personnel living or working in the vulnerable buildings.² For example, a seismic study prepared for OBO noted that of 13 residences surveyed, 4 buildings were rated as poor and one as very

¹ Department of State's FY 2014 Congressional Notification of the Department's Spend Plan for the Embassy Security, Construction, and Maintenance Appropriation, March 21, 2014.

² In 1948, Ashgabat had an earthquake that destroyed all but six buildings in the city and killed tens of thousands of people.

poor.³ OBO concluded in its Congressional Notification that “construction of an NEC is the only feasible alternative to provide a consolidated, secure, safe, and functional embassy in Ashgabat.”

Concept of the “Red Line” in Turkmenistan Architecture

U.S. Embassy Ashgabat describes Ashgabat as a city of white marble and geometrical architecture style.⁴ During fieldwork for this review in Ashgabat, OIG observed clusters of white marble buildings aligned in straight rows (see Figure 1), a pattern the Turkmen Government imposes using a “red line” concept. The concept, which dates to the period when Turkmenistan was part of the Soviet Union, requires buildings to be set back a certain distance from the road to achieve an aesthetic alignment.



Figure 1: Building cluster in Ashgabat, Turkmenistan. (OIG photo, September 2019)

OBO’s Guidance for Constructing New Embassy Compounds

As the overseas real property manager for the Department, OBO has the lead role in acquiring, designing, building, and maintaining the Department’s facilities overseas. For most design and construction work, OBO contracts with private sector firms and is responsible for providing detailed requirements and guidance to ensure that the facilities meet Department needs and specific building codes and standards.

OBO’s Project Manager’s Handbook, a comprehensive reference used by its project managers for large-scale projects, describes the work that must be completed before the award of a construction contract.⁵ The Handbook divides this construction planning process into three periods: the study period, the acquisitions period, and the operations period. A key element of the study period is the Project Development Survey (PDS), during which time OBO is supposed

³ Final report prepared for OBO by Wiss, Janney, Elstner Associates, Inc., *Buildings Seismic Survey/Assessment Ashgabat, Turkmenistan*, November 15, 2018, 6.

⁴ U.S. Embassy Ashgabat Turkmenistan, *Ground Breaking Fact Sheet*, October 2015, 1.

⁵ OBO, *Project Manager’s Handbook: A Framework for Success*, March 2010. There is a more current guidebook, but the 2010 version was in use at the time planning for the NEC was underway.

to attain a detailed understanding of the local laws, rules, and processes involved with a U.S. contractor performing a construction project in a foreign country. OBO describes the PDS as mandatory, critical to OBO's comprehensive planning, and "the foundation for detailed project development."⁶ The PDS seeks to identify issues that, if not identified early in the process, can affect cost and schedule during construction. The PDS has three parts: (1) a Legal Assessment, prepared by a local firm contracted by an embassy or post on OBO's behalf, which details the building permit approval process, local building codes, and any other host country requirements; (2) a Local Post Administrative Assessment completed by the embassy or post; and (3) an Architectural Engineering Assessment completed by an Architectural and Engineering (A&E) firm contracted by OBO.

The A&E firm is responsible for collating the information from all three parts of the PDS into one cohesive document and for providing support for the project development process. Other services can also include collection of project-specific information, preparation of project-specific drawings, and preparation of the bridging design.⁷ The involvement of the A&E firm may begin as early as the site selection and continue through the preparation of the Request for Proposal for construction. The project manager serves as the Contracting Officer's Representative (COR) for the A&E contract. After selecting an A&E firm, specific tasks orders are issued identifying the services and products to be provided by the A&E firm to OBO.

Preparation for a New Embassy Compound in Ashgabat

Embassy Ashgabat officials began working with Government of Turkmenistan officials in July 2010 to obtain approval for the construction of the NEC. In December 2010, OBO hired Yost Grube Hall Architecture (YGH) as its A&E firm to assist in planning and developing the initial design documents for the NEC.⁸ Planning continued through July 2014, when the Office of Acquisitions Management requested proposals from firms to complete the design and construction of the NEC. In September 2014, the Department's Office of Acquisitions Management awarded a \$196 million contract to Caddell Construction Co., LLC (Caddell), to complete the design and construct the NEC. The contract included the construction of a multi-building campus consisting of 13 buildings, including a New Office Building, a 23-unit apartment building, four Compound Access Control buildings, a warehouse, a utility building, a U.S. Marine Security Guard residence, a support annex, shops, and recreational facilities. The buildings are "designed within the context of Ashgabat, a city of white marble and geometrical architecture style."⁹ Construction began in November 2015 and was originally expected to be completed in July 2018. However, in a November 2019 electronic mail communication, OBO told OIG that it

⁶ Ibid, 11-2.

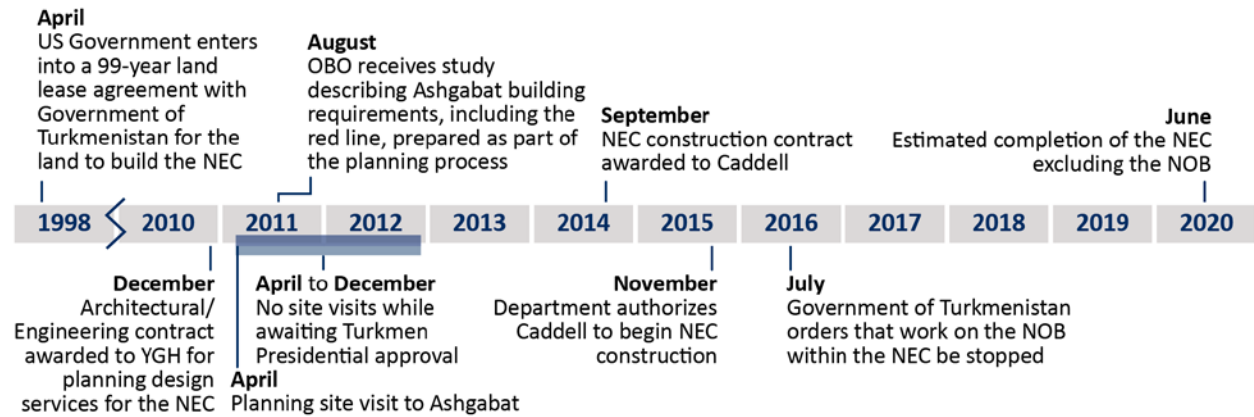
⁷ Bridging documents convey design and construction requirements to firms submitting proposals for the design/build construction contract. Requirements are conveyed through a summary of work, technical requirements, plans, project constraints, reference materials, and contractual requirements. Bridging is an industrywide accepted delivery method.

⁸ The Office of Acquisitions Management awarded a \$3.3 million task order to YGH in December 2010. Through a series of contract modifications, including requiring YGH to provide project development services, the task order value reached \$6.7 million in May 2014.

⁹ U.S. Embassy Ashgabat Turkmenistan *Ground Breaking Fact Sheet*, October 2015, 1.

estimated that construction of the buildings on the NEC, excluding the NOB, would not be completed until June 2020. Figure 2 provides a summary of the timeline of events.

Figure 2: Timeline of NEC Ashgabat Events



Source: Generated by OIG based on information provided by OBO and Embassy Ashgabat officials.

REVIEW RESULTS

Result A: Failure To Follow Construction Planning Guidance and Contract Requirements Has Resulted in Costly Errors

OIG found that the delays in completing the construction of the NEC in Ashgabat, which was originally scheduled for completion in July 2018, were attributable to complications associated with the construction of the NOB. Specifically, in July 2016, the Government of Turkmenistan ordered a halt to construction of the NOB because it was being constructed in a location that violated the city’s red line, which is a requirement that buildings be set back a certain distance from the road to achieve an aesthetic alignment. That is, the partially constructed NOB, which is one of 13 NEC buildings being constructed on the 17.3-acre NEC site, did not adhere to the aesthetic alignment required by the Turkmen Government. Figure 3 shows an overhead view of the NEC with an OIG-generated red line superimposed to denote the NOB’s incorrect placement.

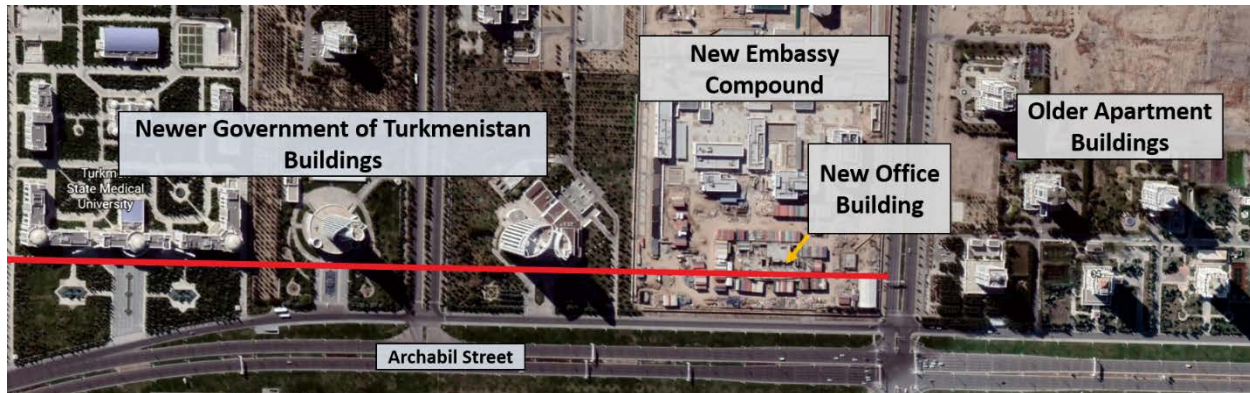


Figure 3: Overhead view of New Office Building and surrounding buildings at New Embassy Compound Ashgabat. (Image from Google Earth, accessed on August 29, 2019).

According to the Turkmen Government, the partially constructed NOB, which was to serve as the embassy's chancery, should be aligned with the cluster of government buildings adjacent to the NEC along Archabil Street. The NOB was erroneously built in a prohibited location in part because OBO personnel failed to follow internal procedures that guide the planning of construction projects. Specifically, the OBO project managers overseeing the project failed to ensure that the legal assessment describing Ashgabat's red line requirement was maintained in an OBO document database and shared appropriately. In addition, they allowed a key site visit to be conducted before the legal assessment was completed and did not require the A&E firm designing the bridging documents to deliver required planning documentation that would have alerted OBO to the proper placement of the NOB. Separately, the construction contractor, Caddell, failed to obtain required construction permits from the Turkmen Government prior to initiating construction. Had Caddell appropriately obtained the necessary permits during the permitting process the red line would have been superimposed on the site layout master plan by the City Architect's Office. This, in turn, would have identified the fact that the NOB's position violated the red line. As a result of these errors, construction of the NOB was halted after approximately \$26 million had been expended.¹⁰ Construction continued on the other 12 NEC buildings, however, and they are expected to be completed in June 2020.

OBO Project Manager Failed To Ensure Legal Assessment Was Maintained and Shared Appropriately

The first reason that the NOB was built in a prohibited location was because the initial OBO project manager overseeing the project failed to follow internal procedures that guide the planning of construction projects.¹¹ Specifically, the OBO project manager failed to properly file and share the Legal Assessment prepared in 2011. The Legal Assessment is a document that describes the building permit approval process and local building codes prepared by a local firm contracted by an embassy or post on behalf of OBO. The Legal Assessment for the NEC in

¹⁰ The \$26 million cost includes \$9.1 million for actual construction and a portion of project-wide costs, i.e., design, mobilization, and project supervision.

¹¹ The initial OBO project manager oversaw the NEC project from its inception in July 2010 through the project manager's retirement in January 2012.

Ashgabat was prepared by a Turkmen firm contracted by Embassy Ashgabat in April 2011 and provided to OBO in August 2011.

OIG reviewed the Legal Assessment and confirmed that it discusses both the “red line” requirement and general permitting process in Turkmenistan. According to the assessment, “buildings should not go beyond the ‘red line,’ i.e. building line surrounding buildings.” The Legal Assessment also noted that the red line would be superimposed by the Ashgabat Chief Architect on the copy of the site master plan.¹²

When the Legal Assessment was completed, Embassy Ashgabat emailed it to the OBO project manager. According to OBO’s Project Manager’s Handbook, the OBO project manager should have uploaded the Legal Assessment into OBO’s project document repository, OBOLink,¹³ and provided it to the contracted A&E firm, YGH, so that it could be incorporated into the PDS.¹⁴ However, neither of these important actions occurred. In addition, when the OBO project manager left the project in January 2012, the Legal Assessment was never transferred to his replacement, who was the OBO project manager for the NEC in Ashgabat at the time of this review. In fact, that OBO project manager was unaware of the Legal Assessment’s existence until OIG brought it to his attention in September 2019.

The Legal Assessment was the first opportunity to avoid the costly error of constructing the NOB in a prohibited location. Had the Legal Assessment been maintained in the appropriate location and shared properly (i.e., uploaded into OBOLink, provided to the A&E firm, and transitioned to the new OBO project manager in January 2012), the requirements involving the red line would have been known. Because there is no assurance that a project manager will remain on a project until its completion and to avoid the potential for this error to recur, OBO should implement a process that ensures that all project documentation is properly transitioned when an OBO project manager departs or is reassigned. In addition, improved supervisory attention over the OBO project managers is needed. OIG is therefore offering the following recommendations.

Recommendation 1: OIG recommends that the Bureau of Overseas Buildings Operations develop and implement a formal process, including a checklist of required project documentation that must be maintained for each period of the construction planning process (the study period, the acquisitions period, and the operations period) to ensure that required project documentation is properly transferred when project managers depart or are reassigned.

¹² In addition, OIG found that the term “red line” is discussed in the March 1994 land lease agreement with the Government of Turkmenistan. Specifically, the agreement describes the authorizations required to construct several buildings on the site, construction tasks, and permissions that must be obtained in order to proceed with construction. The agreement stated, “Land Surveying of the Land Site with its Boundaries or Place of its Location, *Red Lines* [emphasis added].”

¹³ The Project Manager’s Handbook requires project managers to use OBOLink to store any project records.

¹⁴ OBO’s contract with YGH also stated that OBO would provide YGH with the Legal Assessment for incorporation into the PDS.

Management Response: OBO concurred with the recommendation, stating that it “will prepare an integrated checklist of required project documentation that must be maintained for each period of the construction planning process, to ensure that required project documentation is properly transferred when Project Managers depart or are reassigned.”

OIG Reply: On the basis of OBO’s concurrence with the recommendation and actions planned, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that OBO has developed and implemented a formal process, including an integrated checklist of required project documentation that must be maintained for each period of the construction planning process, to ensure that required project documentation is properly transferred when project managers depart or are reassigned.

Recommendation 2: OIG recommends that the Bureau of Overseas Buildings Operations take the following actions: (a) assess its supervisory oversight of its project managers to ensure that all required project documentation is maintained in the official project file and (b) design and implement internal control activities that ensure that project managers achieve agency objectives and that hold project managers accountable for implementing their internal control responsibilities.

Management Response: OBO concurred with the recommendation, stating that it has “established a set of five priorities to drive OBO’s mission of providing safe, secure, functional, and resilient facilities worldwide.” OBO further stated that “one of these priorities, Embassy After Next, aims to improve project management and oversight during design and construction with a focus on scope, schedule, and budget” and that “as part of this effort, OBO is currently conducting a Project Performance Management initiative to develop metrics, a suite of effective project controls, implementation of industry best practices, and a formal change management process.” OBO also stated that the issues described in this report occurred during the planning process in 2011 and that it has “taken numerous steps since then to ensure better supervisory oversight and internal controls to hold project managers accountable.” OBO listed several examples of these steps in its response.

OIG Reply: On the basis of OBO’s concurrence with the recommendation and stated actions, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that OBO has (a) assessed its supervisory oversight of its project managers to ensure that all required project documentation is maintained in the official project file and (b) designed and implemented internal control activities that ensure that project managers achieve agency objectives and that hold project managers accountable for implementing their internal control responsibilities.

OBO Project Manager Failed To Require the Architectural and Engineering Firm To Deliver Contractually Required Deliverables

A second reason that the NOB was constructed in a prohibited location was because the OBO project managers overseeing the project failed to enforce the terms and conditions of the YGH contract. The YGH contract required the firm to develop and submit a complete PDS consisting of the Legal Assessment (Part 1), the Local Post Administrative Assessment (Part 2), and the Architectural Engineering Assessment (Part 3). As previously described, the initial OBO project manager overseeing the project failed to properly file and share the Legal Assessment. In May 2011, YGH submitted a draft PDS to OBO that included Parts 2 and 3 and noted that the Legal Assessment would be provided by OBO.¹⁵ However, the OBO project manager never provided YGH with the Legal Assessment, and YGH never requested that OBO do so. Furthermore, YGH never submitted a final PDS to OBO, as contractually required, and OIG could find no evidence that the initial OBO project manager or the OBO project manager who replaced him had attempted to enforce this contract requirement. The individual who was the OBO project manager at the time of this review told OIG that this oversight error likely occurred because OBO management believed that it had all the information necessary to move the NEC project forward. Had OBO enforced all the terms and conditions of the A&E contract and required delivery of the final PDS, which would have included the Legal Assessment, OBO and YGH would have been alerted to the existence of the red line and could have planned the NOB construction project accordingly.

Furthermore, in developing the PDS, YGH was required to conduct a site visit. However, the visit occurred prematurely. YGH's contract, as well as the OBO 2010 Project Manager's Handbook, stated that the Legal Assessment (and Local Post Administrative Assessment) should be completed and provided to the contractor at least 10 working days prior to the site visit. Furthermore, the Handbook stated that during the site visit, the contractor should review and confirm the Legal and Post Assessments with post, the local attorney, the local A&E firm, and any other host country resources necessary to ensure that all three parts of the PDS are consolidated and made consistent and accurate. OBO and YGH made a site visit to Ashgabat in April 2011. However, as discussed earlier, the Legal Assessment was not completed until August 2011. Consequently, under the terms of YGH's contract, the site visit should not have occurred before August 2011, when the Legal Assessment was completed. Compliance with the contract terms regarding timing of the site visit would have alerted both OBO and YGH to the red line requirement and provided the opportunity to discuss it with the Turkmen Government. Current OBO staff were unable to explain why the site visit occurred before the Legal Assessment had been completed and provided to YGH.

In addition, YGH's contract required it to engage the services of a local Turkmen A&E firm to assist with the collection of project-specific data. The contract also required YGH to submit the local firm's qualifications for OBO approval. Among other standards, the local firm's personnel were required to be proficient in English, have experience in working with the country's permitting authorities, and have knowledge of large and complex construction projects.

¹⁵ In May 2011 the Legal Assessment was still being prepared and was not completed until August 2011.

Although YGH contracted a Turkmen A&E firm, YGH officials stated that the company's three workers were not proficient in English, did not provide advice about local permitting or zoning requirements, and were not knowledgeable about large and complex construction projects. Therefore, the Turkmen A&E firm did not meet YGH's contract requirement. Moreover, OIG did not find evidence that YGH submitted the local firm's qualifications to OBO for approval, nor did it find any evidence that the initial OBO project manager or the OBO project manager who replaced him attempted to enforce any of these contract provisions.

The Bureau of Administration, Office of the Procurement Executive, Office of Acquisitions Management, is responsible for the award and administration of the Department's contracts.¹⁶ According to the Federal Acquisition Regulation (FAR), Contracting Officers are responsible for awarding, administering, modifying, or terminating contracts, including ensuring compliance with the terms of the contract.¹⁷ The Contracting Officer has the authority to designate and authorize in writing and, in accordance with agency procedures, CORs to assist in fulfilling these responsibilities, and the COR's appointment letter specifies the scope of this authority.¹⁸ For the YGH contract, the COR for the NEC Ashgabat project was the OBO project manager, and the appointment letter specifically stated that the COR does not have the authority to modify or alter the order or any of its terms and conditions and waive the Government's rights with regard to the contractor's compliance with the specifications, price, delivery, or any other terms or conditions. To the contrary, the only person who has the authority to change the terms and conditions of the contract is the Contracting Officer, and doing so requires the Contracting Officer to modify the contract.¹⁹ Therefore, OIG determined that by not enforcing the terms and conditions of the A&E contract, such as requiring the delivery of the complete PDS, the OBO project manager for the Ashgabat NEC implicitly waived contractually required deliverables, thereby exceeding his COR authority.²⁰

According to the Department's Foreign Affairs Handbook, "both the contracting officer and the [COR] have an interest in monitoring contractor performance because unsatisfactory

¹⁶ 1 FAM 212.2-2 Office of Acquisitions (April 3, 2019).

¹⁷ FAR 1.602-1(a), "Contracting Officers," FAR 43.102(a) "Policy."

¹⁸ FAR 1.602-2(d), "Responsibilities;" Department of State Acquisition Regulation 642.270, "Contracting Officer's Representative."

¹⁹ FAR 43.102(a) states, "Only contracting officers acting within the scope of their authority are empowered to execute contract modifications on behalf of the Government. Other Government personnel shall not—(1) Execute contract modifications; (2) Act in such a manner as to cause the contractor to believe that they have authority to bind the Government; or (3) Direct or encourage the contractor to perform work that should be the subject of a contract modification."

²⁰ OIG emphasizes that it has previously reported instances in which an OBO project official improperly waived contractually required deliverables. Specifically, in August 2019, OIG reported that contractually required documents associated with the construction of staff diplomatic apartments at Embassy Kabul, Afghanistan, were either not provided at all or were not provided when required. These documents included the Basis of Design and quality control reports. See OIG, *Audit of the Bureau of Overseas Buildings Operations Commissioning of Diplomatic Housing at U.S. Embassy Kabul, Afghanistan* (AUD-MERO-19-37), p. 10. The basis of design records the concepts, calculations, decisions, and product selections used to meet project requirements.

performance may jeopardize a project or even an entire program.”²¹ In this instance, because the OBO project manager failed to enforce the terms and conditions of the YGH contract, a second opportunity to recognize and plan for Ashgabat’s red line requirements was missed.

Recommendation 3: OIG recommends that the Bureau of Overseas Buildings Operations, in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor, (a) determine why the project managers acted outside their delegated authority to deviate from required contract deliverables, and (b) determine whether the program managers’ actions regarding the contract deliverables in the Architectural and Engineering contract constitute an official government act that relieves the contractor from providing the deliverables.

Management Response: OBO concurred with the recommendation, stating that it “will work with [the Bureau of Administration] and [the Office of the Legal Advisor] to determine if the actions of the Project Manager constitutes an official government act that relieves the contractor from providing deliverables.”

OIG Reply: On the basis of OBO’s concurrence with the recommendation and actions planned, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that OBO has (a) determined why the project managers acted outside their delegated authority to deviate from required contract deliverables and (b) determined whether the program managers’ actions regarding the contract deliverables in the Architectural and Engineering contract constituted an official government act that relieves the contractor from providing the deliverables.

Recommendation 4: OIG recommends that the Bureau of Overseas Buildings Operations, in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor and following the determination specified in Recommendation 3, determine whether the Architectural and Engineering contractor is liable for damages for not fulfilling all the terms and conditions of the Architectural and Engineering contract and report the final disposition of the recovery.

Management Response: OBO concurred with the recommendation, stating that it “will inform OIG of [the Office of the Legal Advisor’s] findings [regarding] whether the Architectural and Engineering contractor is liable for damages for not fulfilling all the terms and conditions of the contract.”

OIG Reply: On the basis of OBO’s concurrence with the recommendation and actions planned, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that OBO has determined whether the Architectural and Engineering

²¹ 14 FAH-2 H-521, “Elements of Contract Administration.”

contractor is liable for damages for not fulfilling all the terms and conditions of the Architectural and Engineering contract and reported the final disposition of the recovery.

Recommendation 5: OIG recommends that the Bureau of Overseas Buildings Operations (OBO), in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor and following the determination specified in Recommendation 3(a), (regarding why the project managers acted outside their delegated authority to deviate from required contract deliverables), establish and implement appropriate policies and procedures that ensure that Contracting Officer's Representatives and other OBO personnel administering construction projects do not exceed their authority by deviating from the contract deliverables.

Management Response: OBO concurred with the recommendation, stating that "as described in our response to recommendations 1 and 2, OBO has already implemented measures to properly maintain and transfer project documentation." Additionally, OBO stated that "supervisors will ensure that OBO personnel administering construction projects do not exceed their authority by waiving contract deliverables" via annual in-service training and bi-annual COR re-certification training.

OIG Reply: On the basis of OBO's concurrence with the recommendation and stated actions, OIG considers the recommendation resolved, pending further action. However, OIG emphasizes that although implementing measures to maintain documentation and requiring CORs to attend training is helpful, these actions alone will not ensure that CORs do not exceed their authority and waive contract deliverables. To achieve the intent of this recommendation, policies and procedures must be implemented that ensure that Contracting Officer's Representatives and others do not exceed their authority and deviate from required contract deliverables. This recommendation will be closed when OIG receives and accepts documentation demonstrating that OBO has implemented appropriate policies and procedures that ensure that CORs and other OBO personnel administering construction projects do not exceed their authority by deviating from the contract deliverables.

The Contractor, Caddell, Did Not Obtain Building Permits or Verify That They Had Been Obtained

OIG also found that the construction contractor, Caddell, failed to obtain required construction permits from the Turkmen Government prior to initiating construction. Specifically, Caddell began constructing the NEC in November 2015 before securing the required building permits to construct any of the buildings, including the NOB. According to the FAR, the Department of State Acquisition Regulation (DOSAR), and the terms and conditions of the Department's construction contract with Caddell, Caddell was responsible for obtaining the necessary permits or verifying that they had been obtained before beginning construction.

A range of regulations and construction contract provisions make explicit the contractor's responsibilities to obtain necessary documents. The FAR, clause 52.236-7 (which is incorporated into Section I of Caddell's contract), states, "the Contractor shall, without

additional expense to the Government, be responsible for obtaining any necessary licenses and permits.” Moreover, DOSAR, clause 652.242-73 (also incorporated into Section I of Caddell’s contract), states that the contractor warrants “that it has obtained all necessary licenses and permits required to perform this contract; and, that it shall comply fully with all laws, decrees, labor standards, and regulations of said country or countries during performance of this contract.”

In addition, other sections of Caddell’s contract required the company to obtain building permits prior to the start of construction. For example,

- “The Contractor shall, without additional expense to the Government, be responsible for complying with all laws, codes, ordinances, and regulations applicable to the performance of work, including those of the host country.” Section H.14.1.
- “[T]he Government may, in its sole discretion, undertake to provide additional services for or on behalf of the Contractor which are not required of the Government under this contract, such as assisting the Contractor in obtaining . . . permits and approvals from local governmental authorities. However, the Government shall be under no obligation to do so, and neither the provision nor failure to provide such services . . . shall relieve the Contractor of or excuse the Contractor from any of its responsibilities under the contract.” Section H.20
- “[T]he offeror shall confirm and verify all information and shall not rely on data provided by the Government concerning the host country It is the responsibility of the Offeror to determine and gather the information necessary to perform this contract.” Section H.44.1
- Note 4 on the Contract Drawings states, “The completed installation shall conform to all applicable federal, state, and local codes, ordinances and regulations. Permits, licenses and inspections required by the governing authorities for the execution and completion of work shall be secured by the contractor prior to commencing construction, unless directed otherwise by the Project Director.”

As part of this review, OIG met with Caddell representatives in September 2019 to discuss the circumstances that led to construction of the NOB in a prohibited location. According to Caddell representatives, it was their understanding that OBO had obtained the necessary building permits to begin construction of the NOB.²² Specifically, Caddell officials stated that OBO’s Request for Proposal and the contract itself (Section C.1.5.1) state that “OBO has obtained land use agreements, zoning and construction permits as described in Attachment J.3.” Attachment J.3, in turn, contains project-specific requirements documents, including a stamped NEC design

²² In a July 2016 letter directed to the attention of the Office of Acquisitions Management Contracting Officer, Caddell stated that it had been told by OBO that all necessary permits had been obtained on four separate occasions – in the Request for Proposal, in the construction contract, during the Pre-Bid site visit, and during the Post Award kick-off meeting. However, according to the Contracting Officer, the statements made in the Pre-Bid site visit and Post Award kick-off meeting were not contractually binding and Caddell needed to obtain the necessary building permits or verify that they had been obtained prior to commencing construction.

document approved by the Government of Turkmenistan. However, in fact, the only “approval” that OBO had obtained from the Government of Turkmenistan was for the overall conceptual design of the NEC. While this conceptual design approval cleared the way to engage with local government authorities for obtaining the construction permits, it was not approval to begin construction.

In addition, Caddell officials stated that the “order of precedence”—the process by which parties interpret conflicting information within a contract—relieved the company of any responsibility for obtaining permits. Specifically, Caddell officials stated that, based on the order of precedence, the permitting language included in Section C.1.5.1 takes precedence over the subsequent clauses listed in the previous paragraph. Section H.23 of the contract describes the order of precedence as follows: (1) the RFP/Contract Part I – The Schedule (Sections B-H); (2) RFP/Contract Part III – Representations and other instructions (Section J); (3) RFP/Contract Part II – Contract Clauses (Section I); and (4) Other documents, exhibits, and attachments. According to senior Caddell leadership, because Section C ranks higher in the order of precedence than does Section H, OBO’s statement that it had obtained zoning and construction permits relieved the company of any further permitting responsibility. This included verifying whether OBO had secured any construction permits. Caddell officials stated that this was the reason that they did not attempt to obtain any permits before construction began on the NEC or request copies of any permits OBO had obtained to include in its own files.

OIG does not at this point opine on the legal merits of Caddell’s position but does reiterate that Section I of the contract explicitly incorporates the FAR provision requiring the contractor to obtain any necessary permits. Moreover, OIG notes that questions also remain regarding Caddell’s “order of precedence” analysis in situations in which a contractual provision incorporates a regulatory provision (namely, a FAR provision).

After the July 2016 halt in construction of the NOB, officials from Embassy Ashgabat, OBO, and Caddell worked with the Government of Turkmenistan to obtain building permits, and in January 2018, the Turkmen Government issued a retroactive building permit for the 12 buildings being constructed on the NEC that had not violated the red line. However, as of January 2020, the Turkmen Government had refused to issue a construction permit to continue construction of the NOB in its current location. As a result, there has been no resolution to the questions of whether and how construction of the NOB will be completed. OBO estimated that approximately \$26 million had been expended to construct the partially completed NOB. If it is ultimately necessary to demolish the partially completed NOB because it was erroneously constructed in a prohibited location, OIG considers the approximately \$26 million expended as wasteful spending and will report the entire amount to Congress as funds that could have been put to better use. OIG is also offering the following recommendation.

Recommendation 6: OIG recommends that the Bureau of Overseas Buildings Operations, in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor, take the following actions: (a) assess whether Caddell Construction Co., LLC, is liable for damages for not fulfilling the terms and conditions of its contract and (b) recover

all monetary damages for which Caddell is liable and report the final disposition of the recovery to the Office of Inspector General.

Management Response: OBO concurred with the recommendation, stating that it “will inform OIG of [the Office of the Legal Advisor’s] findings [regarding] whether Caddell is liable for damages for not fulfilling the terms and conditions of its contract.”

OIG Reply: On the basis of OBO’s concurrence with the recommendation and stated actions, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that OBO has (a) assessed whether Caddell Construction Co., LLC, is liable for damages for not fulfilling the terms and conditions of its contract and (b) recovered all monetary damages for which Caddell is liable.

Result B: The Status of Efforts To Complete the New Office Building and the Operational and Financial Implications of the Delay

OIG found that the Department had made repeated attempts to persuade the Turkmen Government to reverse its decision and allow the NOB construction to continue at its current location. Nonetheless, more than 3 years have passed since the Government of Turkmenistan ordered a halt to construction of the NOB. As of January 2020, all requests and proposed options to complete the NOB in its current location had been rejected by the Turkmen Government. As a result, the NOB remains unfinished and without a clear path forward for completion. Furthermore, even aside from the direct expenditure of funds on the construction of the NOB itself, the operational and financial implications from the improper placement of the NOB are profound. Because construction of the NOB has not been completed, embassy operations continue to be conducted from multiple locations. According to OBO’s Congressional Notification for constructing the NEC, this arrangement creates security and safety risks. In addition, OBO estimates that it will cost the Department between \$90 million and \$125 million to rebuild a new NOB in an approved location. This is more than twice the amount that was originally budgeted to construct the NOB.²³

Attempts To Receive Approval To Complete Construction of the NOB in its Current Location

Since the Government of Turkmenistan halted construction of the NOB in July 2016, the Department has repeatedly attempted to find a path forward to resolve the impasse associated with the red line. These efforts have involved at least seven high-level meetings between senior Department and Turkmen officials, beginning with a senior Department delegation visit in August 2016.²⁴ In that meeting, the Turkmen Government proposed demolishing part of the

²³ The initial NOB construction cost was estimated at \$50 million.

²⁴ The delegation included the Bureau of Near Eastern Affairs and South and Central Asian Affairs Deputy Executive Director, the Bureau of South and Central Asian Affairs Principal Deputy Assistant Secretary, and OBO’s Principal Deputy Director.

first floor of the NOB as a compromise in lieu of demolishing the entire building. However, Department officials did not believe that this alternative was feasible. In the August 2016 meeting and subsequent meetings, Department officials also proposed building an earthen berm to conceal the building's protrusion over the Turkmen Government's red line. These proposals were not accepted.

By January 2019, the U.S. Ambassador to Turkmenistan informed OBO that he saw no realistic chance the Turkmen Government would allow the building to be completed in its current location, and he advised OBO that the only path forward was to demolish the NOB and rebuild it in accordance with the Turkmen Government's red line requirement. In June 2019, the newly appointed U.S. Ambassador met with the President of Turkmenistan and again attempted to find a solution other than demolishing and rebuilding the NOB. In response, the Turkmen President reiterated that the red line is Turkmen law and must be upheld. Subsequently, OBO began engaging with local officials in preparation for demolishing and rebuilding the NOB. However, before making any decision or adopting any particular proposal, the Office of the Under Secretary for Management expressed interest in ensuring that there was a consensus among all internal stakeholders. In November 2019, the Deputy Under Secretary for Management informed OIG that the Department and the Turkmen Government were in discussions to determine whether a cost-sharing arrangement to demolish and rebuild the NOB could be reached.

Operational and Financial Implications From the Improper Placement of the NOB Are Profound

OIG found that the ongoing impasse over the NOB has had significant operational and financial implications. Specifically, because construction of the NOB has not been completed, embassy operations continue to be conducted from multiple locations. According to OBO's Congressional Notification for constructing the NEC, this arrangement creates security and safety risks. In addition, OBO estimates that it will cost the Department between \$90 million and \$125 million to demolish and rebuild the NOB in an approved location.²⁵ This is more than twice the amount that was originally budgeted to construct the NOB.

As described in the FY 2014 Congressional Notification for an NEC in Ashgabat, the Department continues to face many of the operational challenges described in the notification because the NOB has not been completed. Embassy Ashgabat remains overcrowded, and its operations are conducted from multiple locations throughout the city. The current chancery has limited secured areas for discussing classified information and lacks a safe haven.²⁶ As noted in the OBO Congressional Notification for the NEC, these deficiencies constitute significant security

²⁵ The Deputy Undersecretary for Management asked OBO to develop cost estimates for three solutions for completing the NOB. They were to (1) build a berm, (2) demolish the part of the NOB that extends over the red line and rebuild that part behind the red line, or (3) completely demolish and rebuild the NOB in an approved location. OBO determined that the first two options were likely not viable.

²⁶ The Foreign Affairs Manual, 12 FAM 013, "Definitions of Diplomatic Security Terms," defines safe haven/area as a designated area within a building that serves as an emergency sanctuary.

and safety issues. Moreover, the current chancery does not comply with the Americans with Disabilities Act²⁷ and fails to meet security requirements established by the Bureau of Diplomatic Security, such as having appropriate setback distances from the road.²⁸

In addition, maintaining the current embassy while awaiting the completion of the NOB is resulting in increased operation and maintenance costs for repairs and upgrades. Short-term capital improvement projects, mainly security related, are underway at the current chancery as stopgap measures until the NOB impasse can be resolved and construction completed. Further, Embassy Ashgabat officials stated that the embassy needs an additional 20 maintenance staff members to support split operations between the existing embassy building and the 12 buildings on the NEC. Finally, according to the Bureau of South and Central Asian Affairs Office of Central Asian Affairs Office Director, the current U.S. embassy in Ashgabat is considered a temporary facility and was intended to be in use for no more than 10 years. However, it has now been in use for 25 years, including the more than 3 years since the Government of Turkmenistan ordered a halt to construction of the NOB.

According to OBO construction cost estimates, the cost to construct an NOB in accordance with the Turkmen Government's red line requirement is between \$90 million and \$125 million.²⁹ In addition to these costs, the Contracting Officer anticipates that Caddell will submit requests for equitable adjustment for the cost and time impacts related to the period it was required to stop work on the NOB. In 2018 and 2019 correspondence with OBO, Caddell officials repeatedly asserted that the company reserves the right to "submit any and all claims for an extension of performance time and/or monetary damages due to suspensions of work, delays, working out of sequence, disruption, hindrances, interferences, accelerations, compression, loss of efficiency, breach of contract, and/or other impact costs."

It has been more than 3 years since the Government of Turkmenistan halted construction of the NOB, and all requests and proposed options to complete the NOB in its current location have been rejected by the Turkmen Government. Because of the profound operational and financial implications resulting from the error and the impasse, OIG concludes that it is of paramount importance that the Department decide upon a path forward. In addition, OIG considers the estimated \$90 million to \$125 million to demolish and rebuild the NOB, which is more than twice the amount that was originally budgeted to construct the NOB, to be wasteful

²⁷ Americans with Disabilities Act Standards for Accessible Design 2010 state that "each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992." 28 C.F.R. § 35.151.

²⁸ The Secure Embassy Construction and Counterterrorism Act, 22 U.S.C. § 4865(3)(A), states, "Each newly acquired U.S. diplomatic facility must be placed not less than 100 feet from the perimeter of the property on which the facility is to be situated." See also 12 FAM 313(a)(2), which states, "Each newly acquired U.S. diplomatic facility must be sited not less than 100 feet (30.48 m) from the perimeter of the property on which the facility is to be situated."

²⁹ In addition to the cost to resolve the NOB placement issue, OBO is expending \$3.3 million to relocate key control systems needed to allow the other 12 buildings on the NEC to be occupied. These systems, which were to be placed in the NOB, allow for central control of entry gates, communications systems, and other systems.

spending and will report the entire amount to Congress as funds that could have been put to better use. To help address the deficiencies identified, OIG is offering the following recommendations.

Recommendation 7: OIG recommends that the Under Secretary for Management, in coordination with the Bureau of Overseas Buildings Operations and the Office of the Legal Advisor, take action to end the impasse regarding the construction of the New Office Building on the New Embassy Compound in Ashgabat, Turkmenistan.

Management Response: The Under Secretary for Management concurred with the recommendation, stating that it “plans to meet with Ambassador Klimow, the OBO Director, and other Department leadership as necessary in February 2020 to determine next steps for addressing the impasse regarding construction of the New Embassy Compound.”

OIG Reply: On the basis of the Under Secretary for Management’s concurrence with the recommendation and actions planned, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation demonstrating that the Under Secretary for Management has taken action to end the impasse regarding the construction of the New Office Building on the New Embassy Compound in Ashgabat, Turkmenistan.

Recommendation 8: OIG recommends that the Bureau of Overseas Buildings Operations, following the Under Secretary for Management’s decision in Recommendation 7 to end the impasse regarding construction of the New Office Building on the New Embassy Compound in Ashgabat, Turkmenistan, take appropriate action to execute the decision and report to the Office of Inspector General the actual amount of funds, which could be as much as \$125 million, placed under contract to finalize construction of the New Office Building.

Management Response: OBO concurred with the recommendation, stating that it “will inform OIG of the actual amount of funds placed under contract to finalize construction of the New Office Building.”

OIG Reply: On the basis of OBO’s concurrence with the recommendation and actions planned, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when OIG receives and accepts documentation of the actual amount of funds placed under contract to finalize construction of the New Office Building.

RECOMMENDATIONS

Recommendation 1: OIG recommends that the Bureau of Overseas Buildings Operations develop and implement a formal process, including a checklist of required project documentation that must be maintained for each period of the construction planning process (the study period, the acquisitions period, and the operations period) to ensure that required project documentation is properly transferred when project managers depart or are reassigned.

Recommendation 2: OIG recommends that the Bureau of Overseas Buildings Operations take the following actions: (a) assess its supervisory oversight of its project managers to ensure that all required project documentation is maintained in the official project file and (b) design and implement internal control activities that ensure that project managers achieve agency objectives and that hold project managers accountable for implementing their internal control responsibilities.

Recommendation 3: OIG recommends that the Bureau of Overseas Buildings Operations, in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor, (a) determine why the project managers acted outside their delegated authority to deviate from required contract deliverables, and (b) determine whether the program managers' actions regarding the contract deliverables in the Architectural and Engineering contract constitute an official government act that relieves the contractor from providing the deliverables.

Recommendation 4: OIG recommends that the Bureau of Overseas Buildings Operations, in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor and following the determination specified in Recommendation 3, determine whether the Architectural and Engineering contractor is liable for damages for not fulfilling all the terms and conditions of the Architectural and Engineering contract and report the final disposition of the recovery.

Recommendation 5: OIG recommends that the Bureau of Overseas Buildings Operations (OBO), in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor and following the determination specified in Recommendation 3(a), (regarding why the project managers acted outside their delegated authority to deviate from required contract deliverables), establish and implement appropriate policies and procedures that ensure that Contracting Officer's Representatives and other OBO personnel administering construction projects do not exceed their authority by deviating from the contract deliverables.

Recommendation 6: OIG recommends that the Bureau of Overseas Buildings Operations, in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor, take the following actions: (a) assess whether Caddell Construction Co., LLC, is liable for damages for not fulfilling the terms and conditions of its contract and (b) recover all monetary damages for which Caddell is liable and report the final disposition of the recovery to the Office of Inspector General.

Recommendation 7: OIG recommends that the Under Secretary for Management, in coordination with the Bureau of Overseas Buildings Operations and the Office of the Legal Advisor, take action to end the impasse regarding the construction of the New Office Building on the New Embassy Compound in Ashgabat, Turkmenistan.

Recommendation 8: OIG recommends that the Bureau of Overseas Buildings Operations, following the Under Secretary for Management's decision in Recommendation 7 to end the impasse regarding construction of the New Office Building on the New Embassy Compound in Ashgabat, Turkmenistan, take appropriate action to execute the decision and report to the Office of Inspector General the actual amount of funds, which could be as much as \$125 million, placed under contract to finalize construction of the New Office Building.

APPENDIX A: PURPOSE, SCOPE, AND METHODOLOGY

The Office of Inspector General (OIG) conducted this review to determine the genesis of the delays encountered in constructing the New Embassy Compound (NEC) in Ashgabat, Turkmenistan; the status of efforts to complete construction of the New Office Building (NOB); and the operational and financial implications of the delays to both the Department of State (Department) and the U.S. taxpayer. Specifically, OIG examined the factors that contributed to the July 2016 halt to construction of the NOB, which serves as the embassy's chancery and is one of 13 NEC buildings being constructed, and the Department's attempts to find a solution that avoided demolishing the partially constructed NOB. In addition, OIG sought to determine the operational and financial implications from the improper placement of the NOB. OIG conducted this review in accordance with the Quality Standards for Inspection and Evaluation that the Council of Inspectors General on Integrity and Efficiency issued in 2012. OIG believes that the evidence obtained provides a reasonable basis for its findings and conclusions.

OIG's Office of Audits and Office of Inspections collaborated to conduct fieldwork for this review from June to November 2019 in Washington, DC; Ashgabat, Turkmenistan; Portland, Oregon; and Montgomery, Alabama. To address the review objectives, OIG interviewed more than 45 Department and contractor personnel involved with the project and several Government of Turkmenistan officials. OIG also reviewed the requirements in the Federal Acquisition Regulation, the Department of State Acquisition Regulation, the Bureau of Overseas Buildings Operations Project Manager's Handbook: A Framework for Success, March 2010 (the version in use at the time planning for the NEC was underway), and the Government Accountability Office's *Standards for Internal Control in the Federal Government*. OIG also reviewed the terms and conditions of the Department's project development services contract with Yost Grube Hall Architecture and the construction contract with Caddell Construction Co., LLC. Finally, OIG reviewed thousands of pages of documents related to the planning and construction of NEC Ashgabat and relevant reports and analyses created and maintained by the Department. These documents included the cost data developed by the Bureau of Overseas Buildings Operations regarding the costs incurred to build the NOB in its current location and the cost estimates to rebuild the NOB in an approved location.

Previous OIG Work Involving Embassy Ashgabat

OIG conducted inspections of Embassy Ashgabat in 2008 and 2015.¹ Both inspections found various challenges attributable to inadequate facilities on the embassy compound, of which the following were the most notable:

- In 2008, OIG inspectors reported that the chancery was overcrowded, required significant maintenance, and had several physical security issues.

¹ OIG, *Limited Scope Inspection of Embassy Ashgabat, Turkmenistan* (ISP-I-08-46, August 2008), and *Inspection of Embassy Ashgabat, Turkmenistan* (ISP-16-13A, March 2016).

- In 2015, OIG inspectors reported that one American employee was managing more than 300 locally employed staff. Embassy Ashgabat personnel stated that additional supervisory positions had not been requested because there was no space for the positions. In addition, the OIG inspectors reported that the embassy had not completed 7 of 12 required reports pertaining to safety, health, and environmental programs. Further, an annual fire inspection survey had not been conducted since 2013. Embassy officials told OIG that the safety, health, and environmental program reports and fire inspection surveys had been neglected because of embassy efforts to relocate residences and annexes in preparation for the construction of the NEC.

APPENDIX B: RESPONSE FROM THE UNDER SECRETARY FOR MANAGEMENT



United States Department of State

Washington, D.C. 20520

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February 18, 2020

MEMORANDUM

TO: OIG – Steve Linick

FROM: Under Secretary for Management (M) – Brian J. Bulatao

SUBJECT: Response to the Draft Report – Reviews of Delays Encountered Constructing
the New Embassy Compound in Ashgabat, Turkmenistan

Thank you for the opportunity to review the draft report of the Audit on Reviews of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan.

The Bureau of Overseas Buildings Operations (OBO) will respond to Recommendations 1-6 and 8 under separate cover.

Regarding Recommendation 7, please see my response below.

Recommendation 7: OIG recommends that the Under Secretary for Management, in coordination with the Bureau of Overseas Buildings Operations and the Office of the Legal Advisor, take action to end the impasse regarding the construction of the New Office Building on the New Embassy Compound in Ashgabat, Turkmenistan.

Management Response: M concurs with this recommendation, and plans to meet with Ambassador Klimow, the OBO Director, and other Department leadership as necessary in February 2020 to determine next steps for addressing the impasse regarding construction of the New Embassy Compound.

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Approved: M/SS – Jim Schwab (OK)

Drafted: M/SS – Camille Pellegrino, 202-647-1285

Cleared: M/SS: M Longstreth (OK)
M/SS B Pomainville (OK)
M: L Ockerman (OK)
OBO: A Davis (OK)
L/BA: D Gallagher (OK)
NEA/SCA-EX: M Weiller (OK)

APPENDIX C: RESPONSE FROM THE BUREAU OF OVERSEAS BUILDINGS OPERATIONS



United States Department of State

Washington, D.C. 20520

UNCLASSIFIED

February 18, 2020

MEMORANDUM FOR NORMAN BROWN – OIG/AUD

FROM: OBO – Addison D. Davis, IV/s/

SUBJECT: (U) Draft Report – *Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan*;
AUD-MERO-20-XX, January 2020

(U) Thank you for the opportunity to review the draft report of the Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan.

(U) OBO was assigned recommendations 1-6 and 8 for action. The Under Secretary for Management will respond to recommendation 7 under separate cover.

(U) Attached is the Bureau of Overseas Buildings Operations' response to recommendations 1-6 and 8.

Attachment:

As stated.

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Office of Inspector General
Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat
(AUD-MERO-20-XX, January 2020)

OBO Comment:

OIG's assessment of events surrounding construction of the New Embassy Compound (NEC) in Ashgabat does not fully factor in the intricacies of gaining approvals from host-nation governments. The Department faced substantial challenges in Ashgabat which led to delays. OBO acknowledges that some internal processes were not followed, however throughout the planning phase there was a lack of clarity from the Government of Turkmenistan regarding the redline, and a substantial delay in advising OBO of the discrepancy.

OIG Recommendation 1: OIG recommends that the Bureau of Overseas Buildings Operations develop and implement a formal process, including a checklist of required project documentation that must be maintained for each period of the construction planning process (the study period, the acquisitions period, and the operations period) to ensure that required project documentation is properly transferred when Project Managers depart or are reassigned.

OBO Response, February 2020: OBO concurs with this recommendation and will prepare an integrated checklist of required project documentation that must be maintained for each period of the construction planning process, to ensure that required project documentation is properly transferred when Project Managers depart or are reassigned.

OIG Recommendation 2: OIG recommends that the Bureau of Overseas Buildings Operations take the following actions: (a) assess its supervisory oversight of its project managers to ensure that all required project documentation is maintained in the official project file and (b) design and implement internal control activities that ensure that project managers achieve agency objectives and that hold project managers accountable for implementing their internal control responsibilities.

OBO Response, February 2020: OBO concurs with this recommendation. OBO has established a set of five priorities to drive OBO's mission of providing safe, secure, functional, and resilient facilities worldwide. One of these priorities, Embassy After Next, aims to improve project management and oversight during design and construction with a focus on scope, schedule, and budget. As part of this effort, OBO is currently conducting a Project Performance Management initiative to develop metrics, a suite of effective project controls, implementation of industry best practices, and a formal change management process. These efforts will help to improve both oversight as well as internal controls. OBO is briefing OIG on these efforts on February 25.

The issues described by OIG occurred during the planning process in 2011. OBO has taken numerous steps since then to ensure better supervisory oversight and internal controls to hold project managers accountable. OBO has updated the Project Manager performance metrics to require specific documentation and the utilization of OBOLink project-specific folders for maintaining documents, to ensure that project managers achieve agency objectives and are accountable for implementing their internal control responsibilities.

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OBO recently updated its Project Manager Guidebook, a comprehensive reference guide for OBO Project Managers. The guidebook includes detailed descriptions of all aspects of managing projects at OBO, including file management and the directive that OBOLink is OBO's official project records repository.

Additional OBO initiatives include a formal design review process; a project summary award memo that identifies the record course of action and location of project files in OBOLink; and the implementation of control gates which are used by OBO management to assess project viability, and to validate project progress.

OIG Recommendation 3: OIG recommends that the Bureau of Overseas Building Operations, in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor, (a) determine why the project managers acted outside their delegated authority to waive required contract deliverables, and (b) determine whether waiving the contract deliverables in the Architectural and Engineering contract constitutes an official government act that relieves the contractor from providing the deliverables.

OBO Response, February 2020: OBO concurs with this recommendation and will work with A/LM and L/BA to determine if the actions of the Project Manager constitutes an official government act that relieves the contractor from providing deliverables.

OIG Recommendation 4: OIG recommends that the Bureau of Overseas Buildings Operations, in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor and following the determination specified in Recommendation 3, determine whether the Architectural and Engineering contractor is liable for damages for not fulfilling all the terms and conditions of the Architectural and Engineering contract and report the final disposition of the recovery.

OBO Response, February 2020: OBO concurs with this recommendation and will inform OIG of L/BA's findings whether the Architectural and Engineering contractor is liable for damages for not fulfilling all the terms and conditions of the contract.

OIG Recommendation 5: OIG recommends that the Bureau of Overseas Buildings Operations (OBO), in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor and following the determination specified in Recommendation 3(a), (regarding why the project managers acted outside their delegated authority to waive required contract deliverables), establish and implement appropriate policies and procedures that ensure that Contracting Officer's Representatives and other OBO personnel administering construction projects do not exceed their authority by waiving contract deliverables.

OBO Response, February 2020: OBO concurs with this recommendation. As described in our response to recommendations 1 and 2, OBO has already implemented measures to properly maintain and transfer project documentation. Additionally, OBO supervisors will ensure that OBO personnel administering construction projects do not exceed their authority by waiving contract deliverables. This is supported by annual in-service training and bi-annual COR re-certification training required of all CORs.

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OIG Recommendation 6: OIG recommends that the Bureau of Overseas Buildings Operations, in coordination with the Office of Acquisitions Management and the Office of the Legal Advisor, take the following actions: (a) assess whether Caddell Construction Co., LLC, is liable for damages for not fulfilling the terms and conditions of its contract and (b) recover all monetary damages for which Caddell is liable and report the final disposition of the recovery to the Office of Inspector General.

OBO Response, February 2020: OBO concurs with this recommendation and will inform OIG of L/BA's findings whether Caddell is liable for damages for not fulfilling the terms and conditions of its contract.

OIG Recommendation 8: OIG recommends that the Bureau of Overseas Buildings Operations, following the Under Secretary for Management's decision in Recommendation 7 to end the impasse regarding construction of the New Office Building on the New Embassy Compound in Ashgabat, Turkmenistan, take appropriate action to execute the decision and report to the Office of Inspector General the actual amount of funds, which could be as much as \$125 million, placed under contract to finalize construction of the New Office Building.

OBO Response, February 2020: OBO concurs with this recommendation and will inform OIG the actual amount of funds placed under contract to finalize construction of the New Office Building.

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APPENDIX D: OIG REPLY TO THE BUREAU OF OVERSEAS BUILDINGS OPERATIONS GENERAL COMMENT

In addition to responding to the recommendations offered in the report, the Bureau of Overseas Buildings Operations (OBO) provided a general comment in its response. The general comment and the Office of Inspector General's (OIG) reply are as follows:

OBO General Comment

OBO stated: "OIG's assessment of events surrounding construction of the New Embassy Compound (NEC) in Ashgabat does not fully factor in the intricacies of gaining approvals from host-nation governments. The Department faced substantial challenges in Ashgabat which led to delays. OBO acknowledges that some internal processes were not followed, however throughout the planning phase there was a lack of clarity from the Government of Turkmenistan regarding the redline, and a substantial delay in advising OBO of the discrepancy."

OIG Reply

OIG recognizes that building embassy compounds in countries throughout the world presents challenges and that building the New Embassy Compound Ashgabat was no exception. However, as set forth in the report itself, OIG believes that had OBO more consistently complied with its own standards, many of those difficulties could have been avoided in this case. Most notably, OBO's Project Manager's Handbook, a comprehensive reference used by its project managers for large-scale projects, describes the work that must be completed before the award of a construction contract. This work includes preparation of the Project Development Survey (PDS), during which time OBO should attain a detailed understanding of the local laws, rules, and processes applicable to having a U.S. contractor develop and implement a construction project outside of the United States. OBO describes the PDS as mandatory, critical to OBO's comprehensive planning, and "the foundation for detailed project development." The PDS seeks to identify issues that, if not identified early in the process, can affect cost and schedule during construction. Put another way, the Project Manager's Handbook is intended to provide precisely the type of guidance required to enable a construction project to proceed smoothly and efficiently. To take but one example, had OBO followed these internal procedures, it would have understood the Turkmen permitting requirements and the existence of the red line prior to commencing construction. OIG hopes that this report will assist OBO in ensuring the proper application of its internal control procedures to avoid such circumstances in the future.

ABBREVIATIONS

A&E	Architectural and Engineering firm
COR	Contracting Officer's Representative
Department	Department of State
DOSAR	Department of State Acquisition Regulation
FAR	Federal Acquisition Regulation
NEC	New Embassy Compound
NOB	New Office Building
OBO	Bureau of Overseas Buildings Operations
OIG	Office of Inspector General
PDS	Project Development Survey
YGH	Yost Grube Hall Architecture

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