



OIG Office of Inspector General
U.S. Department of State • Broadcasting Board of Governors

“REVIEW OF THE NEW LONDON EMBASSY PROJECT”

**STATEMENT BY
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**BEFORE THE COMMITTEE ON
OVERSIGHT AND GOVERNMENT REFORM**

**UNITED STATES HOUSE OF REPRESENTATIVES
DECEMBER 8, 2015**

Chairman Chaffetz, Ranking Member Cummings, and Members of the Committee, thank you for inviting me to testify today regarding the work of the Office of Inspector General (OIG) for the Department of State (Department) and the Broadcasting Board of Governors.

It is my honor to have led the State OIG for the past two years. OIG's mandate is broad and comprehensive, involving oversight of 280 missions and facilities worldwide, and more than \$40 billion in operational and foreign assistance funding.

Protecting the people who work for the Department is a top priority for both the Department and OIG. Since the September 2012 attack on U.S. diplomatic facilities and personnel in Benghazi, Libya, OIG has significantly increased its oversight efforts related to security, including targeted audits and evaluations. We help safeguard the lives of people who work in or visit U.S. posts abroad by performing independent oversight to help the Department improve its security posture. Our achievements in this area are not reflected in our monetary "return on investment" statistics. However, our security contributions are a great source of pride because the safety of Department personnel is of paramount importance. OIG will continue to highlight security deficiencies to the Department and Congress and provide value-added recommendations to address vulnerabilities.

Today, I am discussing a performance audit conducted by OIG on the new embassy compound (NEC) in London scheduled to open in 2017. This audit, its findings, and recommendations have implications for future construction projects.

I. BACKGROUND CONCERNING OIG'S AUDIT OF NEW EMBASSY LONDON CONSTRUCTION

In October 2008, the Department announced plans to build the NEC in London, England, with move-in planned for early-2017. At an estimated cost of more than \$1 billion, the NEC is expected to be among the most expensive embassies ever built by the Department. An architectural rendering is shown immediately below.



Figure 1: Architectural rendering of the new embassy compound in London. (OBO)

In July 2015, OIG published the findings of its performance audit of the London NEC construction project.¹ During this audit, OIG reviewed the Department's evaluation and approval of the project design, including the design of the outer façade of the Chancery building,² which comprises two layers. The outermost layer consists of a scrim stretched over a network of thin aluminum components. The scrim wraps the building to the east, west, and south, acting as a screen. Underneath the scrim, a glass curtain wall with an aluminum frame forms the inner layer of the building's envelope.

OIG's first objective was to determine whether the Department resolved security issues with the curtain wall design before allowing construction to begin. The Department's physical security standards require all new office buildings such as the Chancery at the London NEC to provide blast protection to keep people and property safe from an attack. Moreover, by law and Department policy, the Department must certify to Congress that the project design will meet security standards prior to initiating construction.

OIG found that the Department's Bureau of Diplomatic Security (DS) and Bureau of Overseas Building Operations (OBO) did not obtain blast-testing results for the Chancery's curtain wall design before the Department certified the project and authorized initiation of construction. As discussed in more detail below, initiating construction prior to security certification and blast

¹ *Audit of the Construction Contract Award and Security Evaluation of the New Embassy Compound London*, AUD-CGI-15-31 (7/2015), available at <https://oig.state.gov/system/files/aud-cgi-15-31.pdf>.

² The Chancery is the office building from which diplomatic business is conducted. The "embassy" or "NEC" refers to the entire diplomatic compound, which could include annexes, Marine Security Guard housing, or other official residences.

testing increased the financial risk to the Department and taxpayers, and was contrary to the Department's policy.

A second objective for OIG was to determine whether the Department adhered to *Federal Acquisition Regulation* (FAR) requirements in negotiating a price for the NEC. OIG found that the contracting officer responsible for the NEC construction contract awarded the construction portion of the contract without requiring the contractor to provide an explanation of approximately \$42 million in cost differences between the initial proposal and the final proposal. Because the contracting officer did not obtain sufficient information when negotiating the final price for the construction portion of the contract as required by the FAR, OBO was unable to assess fully the contents of the construction proposal that the contracting officer ultimately accepted and used as the basis for the firm-fixed-price award.

I will now discuss our findings in greater detail and the recommendations we made to the Department regarding the London NEC.

II. SECURITY EVALUATION: INITIATING CONSTRUCTION PRIOR TO BLAST TESTING PLACED THE DEPARTMENT AT FINANCIAL RISK AND DID NOT COMPLY WITH DEPARTMENT POLICY

As mentioned above, physical security standards published in the *Foreign Affairs Handbook* require all new office buildings to provide blast protection to keep people and property safe from attack.³ Within the Department, OBO directs building programs with a mission to provide safe, secure, and functional facilities. OBO works regularly with other Department bureaus, including DS and the Bureau of Administration. DS is responsible for ensuring that all new construction and major renovation design plans comply with security standards. In carrying out this responsibility, DS consults with the Center for Security Evaluation (CSE) Directorate within the Office of the Director of National Intelligence. CSE is responsible for conducting comprehensive reviews of the design documentation to validate that embassies will provide adequate and appropriate security.

Additionally, by statute, the Department must certify to Congress prior to "undertaking" construction that "appropriate and adequate steps have been taken to ensure the security of the construction project" and that "the facility resulting from [the] project incorporates ... adequate measures for protecting classified information and national security-related activities" and "adequate protection for the personnel working in the diplomatic facility."⁴ The Department implements this statutory certification requirement in two distinct ways—first, through its

³ 12 FAH-5 H-442, "Blast Protection."

⁴ Public Law 100-204, the Foreign Relations Authorization Act for Fiscal Years 1988 and 1989, Section 160, as amended by Public Law 101-246, the Foreign Relations Authorization Act, Fiscal Year 1990 and 1991, Section 135 (22 U.S.C. Section 4851 note).

Foreign Affairs Manual (FAM);⁵ and second, through unpublished procedures that are set forth in a 2003 draft agreement between DS and OBO.

Since at least 2003, the Department has followed the practice of issuing limited notices to proceed, as set forth in the 2003 draft agreement, thereby authorizing construction contractors to begin limited tasks (not including foundation work) prior to certification. This practice, however, does not comply with 12 FAM 361.1, which states that “no contract should be awarded or construction undertaken until the proponent of a project has been notified by the Department that the appropriate certification action has been completed.” Notwithstanding the prohibition in 12 FAM 361.1, DS approved OBO’s request for early site work and construction of the piling foundation of the London NEC in November 2012, more than a year before certification and blast testing. A photograph of the construction site as it appears in November 2013, a month before certification, is shown below:



Figure 2: New London embassy site, November 2013. (Department)

The London NEC’s outer façade design was new and was never previously evaluated or tested by DS. The glass curtain wall design used in the NEC needed to meet a variety of security criteria, including forced-entry/ballistic resistant (FE/BR) and blast-protection requirements. As early as November 2012, DS notified OBO of its concerns with the curtain-wall design. DS informed OBO that there were substantial omissions and deficiencies of essential information related to FE/BR testing, curtain-wall sound mitigation, and blast-design methodology. This meant that DS would not accept computer modeling of the curtain wall to certify whether it would meet blast requirements and thus would require field validation as a condition to certify the project. CSE also expressed concerns with the security of the curtain wall and notified DS that its concerns would “need to be resolved by either a follow-on design or a written agreement” from OBO.

⁵ 12 FAM 360 Construction Security Certification Program.

Subsequently, OBO's Director provided written assurances to both CSE and DS, representing that OBO would take all necessary steps to rectify all issues and comply with FE/BR and blast requirements should the blast testing highlight weaknesses in the design of the curtain wall. On December 12, 2013, the OBO Director sent an email to the CSE Assistant Director stating the following:

As we discussed...with DS certification of the Design, OBO will proceed with construction and testing. We have assured DS, and now assure you, that if any revisions to the design or manufacture of the curtain wall system are required as a result of the FE/BR and blast tests, they will be done to the satisfaction of DS before the final curtain wall system is installed.

Based on that written assurance and prior to any blast testing, the Under Secretary of State for Management certified to Congress on December 16, 2013, that the London NEC would be constructed in a secure manner and would provide adequate and appropriate security for sensitive activities and personnel. During this timeframe, OBO tasked the design firm for the NEC to develop solutions in the event the curtain wall failed the blast test. Specifically, OBO worked with the contractor to develop an "alternate curtain wall system" that was acceptable to DS for certification without blast testing.

DS oversaw two series of component-level blast tests in February and April 2014. According to DS, the tests were necessary to determine the viability of employing structural silicone for the curtain wall. However, because the test results were mixed and inconclusive, OBO and DS agreed that the full mockup blast test would be the only valid test of the design. The full mockup blast test occurred on May 28, 2014, and according to DS, the design passed. Nevertheless, DS and OBO reached an agreement incorporating what became known as an "augmentation option"—for an additional cost of \$2 million. Employing this option, although not necessary to meet standards, was intended to provide an added measure of security.

As noted in our audit, OIG recognizes that the Department's decision to initiate construction of the London NEC prior to completing the required blast testing was driven by a schedule to complete construction by 2017. However, by initiating construction without first completing blast testing, the Department committed itself to the construction of a building that could have required significant redesign, potentially placing millions of dollars at risk. A photograph of the construction site as it appears in February 2014, several months prior to the full mockup blast test, is shown below:



Figure 3: Preparation of the mat slab foundation, February 2014. (Department)

OIG made two recommendations intended to improve Department processes affecting future embassy construction projects:

- OBO should establish controls to ensure that construction is not initiated before innovative developmental designs have been approved by DS.
- DS should establish controls to ensure that required research and developmental testing is completed and results are fully analyzed before the Department certifies to Congress that a design meets security requirements.

Both recommendations remain open.

III. FINANCIAL EVALUATION: THE DEPARTMENT DID NOT OBTAIN SUFFICIENT COST AND PRICING DATA FROM THE NEC CONSTRUCTION CONTRACTOR PRIOR TO FINALIZING CONTRACT PRICE

The current U.S. Embassy Chancery building in London is located in Grosvenor Square and was built in 1960. OBO determined that it was not possible to bring this building into compliance with security standards; and, in October 2008, the Department announced plans to build a new London embassy with a 2017 move-in date. To meet this target, the Department chose the Early Contractor Involvement (ECI) delivery method for the project. ECI is intended to shorten the time between design and construction by involving the construction contractor early in the process. This was the Department's first experience with ECI and the Fixed-Price Incentive (Successive Targets) or FPIS contracting approach required for ECI.

Procurement authority within the Department is delegated to the Assistant Secretary of State for Administration and further delegated by the Procurement Executive to contracting officers within the Office of Acquisitions Management.

For the construction phase of the contract, the initial proposal submitted by the London NEC prime contractor, B.L. Harbert International, LLC (BLHI), differed from the final proposal by about \$80 million. OIG found that the contracting officer for the NEC did not obtain from BLHI justification for approximately \$42 million of that \$80 million difference prior to making the award, even though OBO requested additional justification. The FAR requires contractors awarded a FPIS contract to submit sufficient cost or pricing data to support the accuracy and reliability of their proposal and to provide an explanation of the differences between the initial proposal and the final proposal. Despite this mandate, the contracting officer accepted BLHI's final proposal without obtaining an explanation of the differences.

In light of this situation, OIG made two recommendations:

- The Department should develop and implement policies and procedures for administering the ECI project-delivery method using an FPIS contract, in accordance with the FAR.
- The Department should develop and implement training for officials administering the ECI project-delivery method using FPIS contracts.

The Department agreed with both recommendations, and OIG considers them closed.

The OIG's findings and recommendations may significantly influence future Department projects. Over the next decade, the Department will initiate construction of dozens of projects (including embassies and consulates) throughout the world, many in high-threat locations. We believe our recommendations, if implemented, will reduce risk to both the Department and the taxpayer.

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Thank you again for the opportunity to discuss this important work. I look forward to addressing your questions.



Steve A. Linick

Inspector General

Term of Appointment: 09/30/2013 to present

Steve A. Linick was appointed as the Inspector General for the U.S. Department of State and the Broadcasting Board of Governors in September 2013. Prior to this appointment, he served for three years as the first Inspector General of the Federal Housing Finance Agency (2010-2013). As Inspector General, Mr. Linick is the senior official responsible for audits, inspections, investigations, and other law enforcement efforts to combat fraud, waste, and abuse within or affecting the operations of the Department of State and the Broadcasting Board of Governors.

Mr. Linick's memberships have included: the President's Financial Fraud Enforcement Taskforce; the Council of the Inspectors General on Integrity and Efficiency's Investigations Committee; the Council of the Inspectors General on Financial Oversight; and the Residential Mortgage-Backed Securities Working Group.

Mr. Linick was an Assistant United States Attorney in California (1994-1999) and Virginia (1999-2006). He also served as both Executive Director of Department of Justice's National Procurement Fraud Task Force and Deputy Chief of its Fraud Section, Criminal Division (2006-2010). During his tenure at the Department of Justice, he supervised and participated in white-collar criminal fraud cases involving, among other things, corruption and contract fraud against the U.S. in Iraq and Afghanistan.

Mr. Linick has a BA (1985) and MA (1990) in Philosophy, and a JD (1990); all from Georgetown University.