

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<https://oversight.house.gov>

April 26, 2022

The Honorable Antony Blinken
Secretary
Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Secretary Blinken:

I write to urge the Department of State to take action to recover millions of U.S. taxpayer dollars that have been wasted by Caddell Construction Co., LLC, (Caddell) during construction of a New Embassy Compound (NEC) in Ashgabat, Turkmenistan. Although the NEC was initially expected to be completed in July 2018 at a cost of \$196 million, the Department now expects construction of the NEC to cost more than \$430 million.¹

The Subcommittee has obtained correspondence indicating that in February 2021, the Department notified Caddell that the company is liable, or at least partially liable, for failing to obtain the necessary building permits prior to construction of the embassy chancery, which interrupted and ultimately delayed the project, and has resulted in an estimated \$95 million to \$125 million in additional costs.² Although the Department “discussed a path forward on assignment of liability and a model of shared responsibility,” with Caddell in March 2022 as part of an ongoing contract modification process, the Department has not confirmed whether Caddell has agreed to reimburse American taxpayers for any of these funds.³ In the meantime, the NEC remains incomplete, and U.S. government personnel in Ashgabat continue to operate out of inadequate facilities that pose significant potential safety and security risks.

As a major contractor responsible for constructing U.S. diplomatic facilities around the world in furtherance of our national security and foreign policy interests, Caddell must be held accountable for its own errors, or the American people will pay the price.

¹ Department of State Office of Inspector General, *Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan* (Feb. 18, 2020) (online at www.stateoig.gov/system/files/aud-mero-20-20.pdf); Email from Bureau of Legislative Affairs, Department of State, to Subcommittee on National Security Staff (Jan. 20, 2022).

² Letter from Contracting Officer, Department of State, to James E. Wall, General Manager-International, Caddell Construction Company (Feb. 25, 2021) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/State%20to%20Caddell%20re%20Intent%20to%20Issue%20COFD%20on%20Ashgabat_Redacted_FINAL.pdf).

³ Email from Bureau of Legislative Affairs, Department of State, to Subcommittee on National Security Staff (Apr. 21, 2022).

Caddell Failed to Obtain the Necessary Host Government Construction Permits

In September 2014, the Department awarded Caddell a \$196 million contract to design and construct the NEC in Ashgabat, Turkmenistan.⁴ According to the terms of the contract, “The completed installation shall conform to all applicable federal, state, and local codes, ordinances and regulations.” The contract further required that “[p]ermits, 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.”⁵

Clause 52.236-7 of the Federal Acquisition Regulation, which was incorporated in Caddell’s September 2014 contract, states:

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor’s fault or negligence.⁶

Despite its contractual obligations, Caddell did not obtain the necessary building permits from the Government of Turkmenistan prior to beginning construction on the NEC in November 2015. As a result, Caddell was seemingly unaware that its placement of the chancery, also called the “New Office Building (NOB),” violated a local regulation, informally known as the “red line,” which specifies that all buildings in Ashgabat must be set back a specific distance from the road for aesthetic purposes.⁷

In July 2016, the Government of Turkmenistan ordered Caddell to suspend construction on the NOB, but only after approximately \$26 million in U.S. taxpayer funds had already been expended.⁸ The Department later explained to the Office of Inspector General that it “evaluated a number of options to salvage existing construction and determined that demolition and reconstruction of the NOB behind the setback line is the only option that provides a functional building that will be approved by the GoT [Government of Turkmenistan].”⁹

⁴ Department of State Office of Inspector General, *Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan* (Feb. 18, 2020) (online at www.stateoig.gov/system/files/aud-mero-20-20.pdf); Business Council of Alabama, *Caddell Construction Co. Gets \$196 Million Contract for U.S. Embassy in Turkmenistan* (Jan. 12, 2015) (online at www.bcatoday.org/caddell-construction-co-gets-196-million-contract-for-u-s-embassy-in-turkmenistan/).

⁵ Department of State Office of Inspector General, *Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan* (Feb. 18, 2020) (online at www.stateoig.gov/system/files/aud-mero-20-20.pdf).

⁶ 48 C.F.R. § 52.236-7 (1999).

⁷ Department of State Office of Inspector General, *Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan* (Feb. 18, 2020) (online at www.stateoig.gov/system/files/aud-mero-20-20.pdf).

⁸ *Id.*

⁹ Email from Director of Congressional and Public Affairs, Department of State Office of Inspector General, to Subcommittee on National Security Staff (Mar. 22, 2021).

The State Department has determined that Caddell is liable, or at least partially liable, for having failed to obtain the necessary building permits to construct the NOB. According to correspondence reviewed by the Subcommittee, in August 2020, the State Department notified Caddell:

The State Department has identified potential grounds for finding Caddell liable, or partially liable, for the incorrect location of the NOB based on Contract terms that placed responsibility upon Caddell to obtain required construction permits, or to verify that the necessary permits had been obtained, prior to beginning construction.¹⁰

In October 2020, Caddell responded and disputed the Department's position, arguing that "the Government, not Caddell, was responsible for directing the location of the NOB through its clearly stated design intent and for obtaining the appropriate permits."¹¹

In February 2021, the State Department affirmed its conclusion that Caddell's failure to obtain the necessary building permits prior to construction was the "proximate cause" of the Government of Turkmenistan's July 2016 stop-work order.¹²

Construction Delays Have Negatively Affected Embassy Operations

More than seven years after Caddell was awarded the Ashgabat NEC contract, the project remains incomplete, and construction delays continue to negatively affect U.S. diplomatic operations and the safety and security of U.S. embassy staff in Turkmenistan.

In a fiscal year 2014 Congressional Notification, the Department warned that it had "significant security concerns" with the existing embassy layout "due to the scattered locations of current facilities and the country's proximity to regions of instability and violence."¹³ Ashgabat is also in a high-risk seismic zone, and many of the embassy's current structures and living facilities pose a safety risk to U.S. diplomatic staff.¹⁴

The existing chancery—one of the embassy's best seismically-rated facilities—is also prone to overcrowding, which has forced employees to work in confined and poorly ventilated

¹⁰ Letter from Contracting Officer, Department of State, to James E. Wall, General Manager-International, Caddell Construction Company (Aug. 25, 2020).

¹¹ Letter from James E. Wall, General Manager-International, Caddell Construction Company, to Contracting Officer, Department of State (Oct. 22, 2020).

¹² Letter from Contracting Officer, Department of State, to James E. Wall, General Manager-International, Caddell Construction Company (Feb. 25, 2021) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/State%20to%20Caddell%20re%20Intent%20to%20Issue%20COFD%20on%20Ashgabat_Redacted_FINAL.pdf).

¹³ Department of State Office of Inspector General, *Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan* (Feb. 18, 2020) (online at www.stateoig.gov/system/files/aud-mero-20-20.pdf).

¹⁴ Email from Bureau of Legislative Affairs, Department of State, to Subcommittee on National Security Staff (Apr. 2, 2021).

spaces throughout the coronavirus pandemic.¹⁵ In addition, the chancery does not have a safe haven and only has a limited number of secure areas for discussing classified information.¹⁶

Costs to Complete Embassy Ashgabat Project Have Ballooned

In addition to the approximately \$26 million sunk cost of the misplaced NOB, the Department now expects the total budget for the NEC project, including demolition and remediation of the NOB, to cost at least \$430 million—over \$200 million more than originally stipulated in the September 2014 contract. The NOB, which was expected to cost approximately \$50 million in 2014, is now anticipated to cost more than \$100 million, more than twice the original estimate.¹⁷

In February 2021, the Department informed Caddell that the company’s failure to obtain the necessary construction permits as required under the terms of its contract to construct the NEC had contributed to approximately \$95 million to \$125 million in additional costs to complete the project.¹⁸ As a result, the Department notified Caddell that it intended to issue a request for proposal to Caddell to reconstruct the NOB with the required setback, but that “it is our hope that the liability issues we have raised can be amicably resolved in the price negotiations for this additional work.”¹⁹

However, during a call with Subcommittee staff in January 2022, the Department reported that despite its previously stated intent to recover these funds during ongoing construction and cost negotiations with Caddell, a contract modification had been issued to Caddell to rebuild the NOB without reaching a resolution about Caddell’s financial liability.

State Department Must Hold Caddell Accountable and Recover U.S. Taxpayer Funds

It is unacceptable to expect the American people to spend vastly more on a mission-critical embassy project to compensate for errors Caddell may have made during the design and construction of the Ashgabat NEC.

To protect American taxpayers, the Department must take immediate action to recover from Caddell the \$95 million to \$125 million in additional costs that it now expects to incur in order to complete the NEC due to Caddell’s failure to obtain the required construction permits from the Government of Turkmenistan. While I am sympathetic to the Department’s legitimate

¹⁵ *Id.*

¹⁶ Department of State Office of Inspector General, *Review of Delays Encountered Constructing the New Embassy Compound in Ashgabat, Turkmenistan* (Feb. 18, 2020) (online at www.stateoig.gov/system/files/aud-memo-20-20.pdf).

¹⁷ *Id.*; Email from Bureau of Legislative Affairs, Department of State, to Subcommittee on National Security Staff (Jan. 20, 2022).

¹⁸ Letter from Contracting Officer, Department of State, to James E. Wall, General Manager-International, Caddell Construction Company (Feb. 25, 2021) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/State%20to%20Caddell%20re%20Intent%20to%20Issue%20COFD%20on%20Ashgabat_Redacted_FINAL.pdf).

¹⁹ *Id.*

The Honorable Antony Blinken

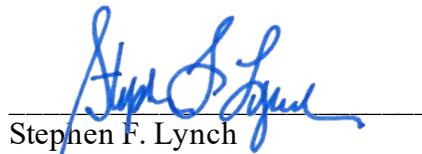
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interest in completing the Ashgabat NEC project as soon as possible, the Department's handling of the ongoing dispute has ceded significant negotiating leverage to Caddell and may complicate the Department's ability to recover these funds.

For all of these reasons, please confirm by April 29, 2022, whether the Department plans to hold Caddell financially liable for having failed to abide by the terms of its September 2014 NEC contract, and the amount of taxpayer funds the Department seeks to recover.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

Sincerely,



Stephen F. Lynch
Chairman

Subcommittee on National Security

cc: The Honorable Glenn Grothman, Ranking Member
Subcommittee on National Security