



Securing U.S. Diplomatic Facilities and Personnel Abroad: Background and Policy Issues

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Summary

The United States maintains about 285 diplomatic facilities worldwide. Attacks on such facilities, and on U.S. diplomatic personnel, are not infrequent. The deaths of Ambassador Christopher Stevens and three other U.S. personnel in Benghazi, Libya on September 11, 2012, along with attacks on U.S. embassies in Egypt, Sudan, Tunisia, and Yemen, drew renewed attention to the challenges facing U.S. diplomats abroad, as well as to the difficulty in balancing concerns for their security against the outreach required of their mission. Congress plays a key role in shaping the response to these challenges, such as by providing resources for diplomatic security and examining security breaches overseas.

The inability to provide perfect security, especially against the evident threat of mob violence, has focused particular scrutiny on the deployment of diplomatic personnel in high-threat environments. The Department of State currently maintains a presence in locations faced with security conditions that previously would likely have led State to evacuate personnel and close the post.

Under reciprocal treaty obligations, host nations are obligated to provide security for the diplomatic facilities of sending states. However, instances in which host nations have been unable or not fully committed to fulfilling this responsibility have sometimes left U.S. facilities vulnerable, especially in extraordinary circumstances. U.S. facilities therefore employ a layered approach to security including not only the measures taken by a host country, but also additional, U.S.-coordinated measures, to include armed Diplomatic Security agents, hardened facilities, U.S.-trained and/or contracted local security guards, and sometimes U.S. Marine Security Guard detachments (whose principal role is securing classified information).

The rapid growth in the number of U.S. civilians deployed in high-risk environments of Iraq, Afghanistan, and Pakistan spurred significant investment in recent years in the Department of State's capacity to provide security in dangerous areas through its Bureau of Diplomatic Security (DS). However, it simultaneously placed unprecedented burdens on DS's capability to carry out this mission successfully there and in other challenging locations. With greater focus on these frontline states, funds for other U.S. facilities could be strained.

Most of the funding for the protection of about U.S. missions abroad is provided through Worldwide Security Protection (WSP) within the State Department's Diplomatic & Consular Programs (D&CP) account and through Worldwide Security Upgrades (WSU) within the Embassy Security, Construction and Maintenance (ESCM) account. The total security funding requested for FY2012 was about \$2.9 billion and the amount enacted was about \$2.6 billion.

In the wake of the Benghazi attack, then-Secretary of State Hillary Clinton convened an Accountability Review Board (ARB), which released a report on its findings on December 19, 2012; Secretary Clinton pledged to fully implement all 29 of the ARB's recommendations. As the ARB was deliberating, the Department took a number of initial steps to bolster security, including an internal reorganization. The Department of State also requested additional funding from Congress to improve its security measures.

Congressional activity in the 112th Congress on this issue included a number of hearings on the attack, as well as a report by the Senate Committee on Homeland Security and Governmental Affairs, including a number of findings and recommendations. The 113th Congress has provided

additional resources for diplomatic security needs, continued to investigate the circumstances around the attack and the U.S. response, and begun consideration of a number of related legislative proposals.

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Introduction

The United States maintains about 285 diplomatic facilities worldwide.¹ Attacks on such facilities, and on U.S. diplomatic personnel, are not infrequent. U.S. Ambassador Christopher Stevens and three other U.S. personnel were killed in Benghazi, Libya on September 11, 2012 after armed individuals attacked and burned buildings on the main mission compound and subsequently attacked a second annex site where U.S. personnel had been evacuated.

Five other U.S. Ambassadors have died by violent acts in the line of duty, although none since 1979.² Since 1977, 66 American diplomatic personnel have been killed by terrorists.³

These events, along with recent attacks on U.S. embassies in Egypt, Sudan, Tunisia, Yemen, and Turkey, have drawn renewed attention to the challenges facing U.S. diplomats abroad, as well as to the difficulty in balancing concerns for their security against the outreach required of their mission.

Under reciprocal treaty obligations, host nations are obligated to provide security for the diplomatic facilities of sending states. However, instances in which host nations have been unable or not fully committed to fulfilling this responsibility have sometimes left U.S. facilities vulnerable, especially in extraordinary circumstances. U.S. facilities therefore employ a layered approach to security including not only the measures taken by a host country, but also additional, U.S.-coordinated measures, to include armed Diplomatic Security agents, hardened facilities, U.S.-trained and/or contracted local security guards, and sometimes U.S. Marine Security Guard detachments (whose principal role is securing classified information).

The inability to provide perfect security, especially against the evident threat of mob violence, has led some observers to question the deployment of personnel in high-threat environments. The Department of State's Assistant Secretary for Diplomatic Security, testifying in November 2009, underlined that "the Department currently operates diplomatic missions in locations where, in the past, we might have closed the post and evacuated all personnel when faced with similar threats."⁴

¹ See "Frequently Asked Questions: Diplomatic Security," at the Department of State's website: <http://www.state.gov/m/ds/about/faq/index.htm>. While the number of 285 overseas posts appears in various State Department communications, and will therefore be used in this report, other numbers have been cited by official sources, such as in the Benghazi Accountability Review Board report, which states that "DS overall has done a fine job protecting thousands of employees in some 273 U.S. diplomatic missions around the world." Department of State, *Accountability Review Board for Benghazi Attack of September 2012*, December 19, 2012, p. 2, <http://www.state.gov/documents/organization/202446.pdf>.

² Two additional U.S. Ambassadors died in plane crashes, in Pakistan in 1988 and in Canada in 1950. See U.S. Department of State Office of the Historian, Frequently Asked Questions, <http://www.history.state.gov/about/faq/ambassadors-and-chiefs-of-mission>.

³ This total represents the 65 American diplomatic personnel cited by then-Secretary of State Hillary Clinton in testimony before the Senate Foreign Relations Committee on January 23, 2012, as well as Anne Smedinghoff, a Foreign Service Officer killed in Afghanistan on April 6, 2013. The number does not include Locally Employed Staff (non-US nationals) killed while working at U.S. facilities.

⁴ Statement by Ambassador Eric J. Boswell, Assistant Secretary of State for Diplomatic Security, U.S. Department of State, before the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, *The Diplomat's Shield*: (continued...)

The rapid growth in the number of U.S. civilians deployed in the high-risk environments of Iraq, Afghanistan, and Pakistan spurred significant investment in recent years in the Department of State's capacity to provide security in dangerous areas through its Bureau of Diplomatic Security (DS). The challenges of providing security in these war-related areas may have also strained DS's capability to provide security for deployed diplomats in other hardship posts around the world.

Observers have suggested that funding for embassy security follows a "boom and bust" cycle, in which major attacks are followed by a sudden influx of resources that may be difficult to expend in a well-planned manner. An influx of security-related resources in the 1980s was followed by a lull in the 1990s when diplomatic security funding was greatly reduced prior to the 1998 attacks in Kenya and Tanzania. The subsequent State Department Accountability Review Board suggested that the preceding years of reduced spending for embassy security was a contributing factor to the vulnerability of the targeted embassies.⁵

This report provides background information on the authorities, regulations, and procedures in place at the Department of State regarding diplomatic security. It also describes several areas of potential congressional interest, including the Accountability Review Board process, whose conclusions the Secretary of State is required to report to Congress, and discussion of embassy security funding trends. It also examines the September 11, 2012, attack in Benghazi, Libya, as well responses to date by Congress and by the Department of State. The report may be updated to reflect ongoing developments.

Host Nation Responsibility Under the Vienna Conventions

Under the 1963 Vienna Convention on Consular Relations⁶ and the 1961 Vienna Convention on Diplomatic Relations,⁷ nearly all countries around the world participate in reciprocal obligations regarding the diplomatic facilities of other countries in their territory. The United States is a state party to these conventions.⁸

Section 3 of Article 31 of the 1963 Vienna Convention on Consular Relations, "Inviolability of the consular premises," states that, other than in the case of fire or other disaster requiring prompt protective action, "the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity." Article 40 of the same Convention

(...continued)

Diplomatic Security in Today's World, 111th Cong., 2nd sess., December 9, 2009.

⁵ See Scott Stewart, *Diplomatic Security in Light of Benghazi*, Stratfor, September 27, 2012, <http://www.stratfor.com/weekly/diplomatic-security-light-benghazi>, and Fred Burton and Scott Stewart, *Counterterrorism Funding: Old Fears and Cyclical Lulls*, Stratfor, March 18, http://www.stratfor.com/weekly/20090318_counterterrorism_funding_old_fears_and_cyclical_lulls.

⁶ The 1963 Vienna Convention on Consular Relations can be accessed at http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf.

⁷ The 1961 Vienna Convention on Diplomatic Relations can be accessed at http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf.

⁸ The conventions are nearly universally adopted; for example, Egypt, Libya, and Tunisia are also states party.

further states that “the receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.”

An attack on an Ambassador is also covered under Article 29 of the 1961 Convention on Diplomatic Relations, which states “The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.”

The grounds of diplomatic missions are protected under the 1961 Vienna Convention on Diplomatic Relations. Article 22 (Section 1-3) of the Convention states:

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

U.S. Responsibilities and Posture

The protection of U.S. government employees and facilities under Chief of Mission (COM) authority overseas from terrorist, criminal, or technical attack is the responsibility of the Secretary of State, as designated under the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended.⁹

The act specifies that the Secretary of State must develop and implement (in consultation with the heads of other federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and standards, to provide for the security of U.S. government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States.

Within the Department, the Secretary has delegated these responsibilities to the Assistant Secretary for Diplomatic Security (DS).¹⁰ The Assistant Secretary, who heads the Bureau for Diplomatic Security, is responsible for, among other tasks:

1. Establishing and operating post security and protective functions abroad;
2. Emergency planning abroad;
3. Establishing and operating local guard services abroad;
4. Supervising the U.S. Marine Corps security guard program;
5. Liaising with U.S. private-sector security interests abroad;

⁹ 22 U.S.C. §4801 et seq., P.L. 99-399

¹⁰ See “Diplomatic Security Senior Leadership” at <http://www.state.gov/m/ds/rls/bio/index.htm>.

6. Developing and coordinating counterterrorism planning, emergency action planning abroad, threat analysis programs, and liaison with other Federal agencies to carry out these functions;
7. Developing and implementing technical and physical security programs, including security-related construction, radio, and personnel security communications, armored vehicles, computer and communications security, and research programs necessary to develop such measures.¹¹

The mission of developing and implementing security policies and programs that provide for the protection of all U.S. government personnel (including accompanying dependents) on official duty abroad is executed through the Bureau of Diplomatic Security (DS), also established by the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended.¹²

The Bureau of Diplomatic Security (DS) provides protection to personnel, information and facilities at over 273 embassies and consulates,¹³ and over 100 domestic Department of State locations.¹⁴ According to its website, “every diplomatic mission in the world operates under a security program designed and maintained by Diplomatic Security.”¹⁵

The Bureau is staffed by more than 34,000 employees worldwide—with roughly 90% of them contractors.¹⁶ Out of a total force of special agents of approximately 2,000, DS has nearly 800 special agents posted in regional security offices at over 250 posts worldwide. Its reach to diplomatic missions in 157 countries makes it the most widely represented American security and law enforcement organization around the world, according to its website.

The Bureau of Diplomatic Security’s workforce, excluding contractors, more than doubled between September 2000 and August 2012, as shown in **Figure 1**.¹⁷

¹¹ See 1 FAM 260 Bureau of Diplomatic Security (DS), <http://www.state.gov/documents/organization/84179.pdf>

¹² 22 U.S.C. §4801 et seq., P.L. 99-399.

¹³ Department of State, *Accountability Review Board for Benghazi Attack of September 2012*, December 19, 2012, <http://www.state.gov/documents/organization/202446.pdf>, p.2.

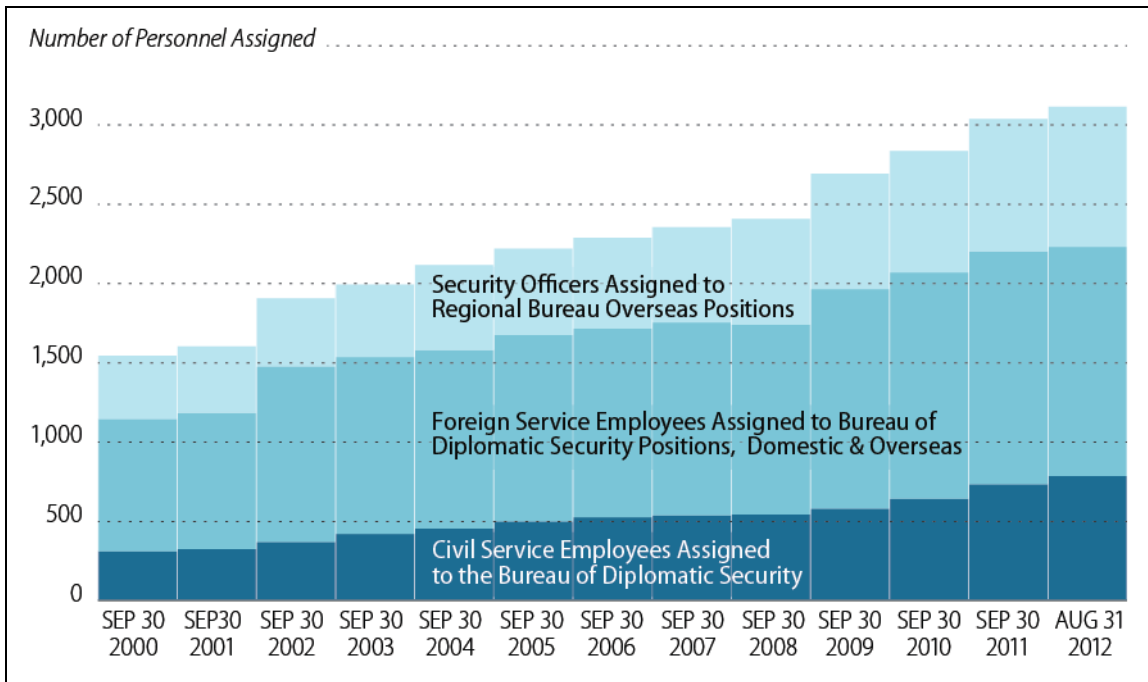
¹⁴ U.S. Government Accountability Office, *Diplomatic Security: Expanded Missions and Inadequate Facilities Pose Critical Challenges to Training Efforts*, GAO-11-780T, June 29, 2011, p. 1, <http://www.gao.gov/products/GAO-11-780T>.

¹⁵ See “Bureau of Diplomatic Security,” <http://www.state.gov/m/ds/index.htm>.

¹⁶ U.S. Government Accountability Office, *State Department: Diplomatic Security’s Recent Growth Warrants Strategic Review*, GAO-10-156, December 7, 2009, pp. 21, <http://www.gao.gov/new.items/d10156.pdf>.

¹⁷ Department of State information provided to CRS, November 26, 2012.

Figure I. Bureau of Diplomatic Security Direct-Hire Staffing, 2000-2012
(Does not include contractors)



Source: Department of State information provided to CRS, November 26, 2012.

Notes: Roughly 90% of the Bureau of Diplomatic Security (DS) workforce is composed of contractors, not displayed here. Direct hire employees within the workforce of the DS Bureau include Civil Service employees under the DS Bureau; Foreign Service personnel under the DS Bureau (assigned to domestic DS positions as well as DS positions overseas, including Security Officers assigned domestically, Security Engineers worldwide, Security Technical Specialists worldwide, and Diplomatic Couriers worldwide); and Security Officers serving overseas in positions belonging to the Department’s regional bureaus, including Special Agents that serve overseas as Regional or Assistant Regional Security Officers or Assistant Regional Security Officer - Investigators.

When serving abroad, DS special agents are referred to as regional security officers (RSOs). RSOs’ responsibilities include not only managing security programs and formulating emergency contingency plans, but also providing the first line of defense for U.S. personnel and dependents, as well as facilities and sensitive information. RSOs are the primary advisor to the Chief of Mission (usually the Ambassador) on all security matters.

In performing their functions, RSOs work closely with other groups including Marine Security Guards, surveillance detection teams, local guards, cleared American guards, local investigators, and host government officials. DS also provides Mobile Security Teams, dispatched from Washington, DC, to high-threat posts to conduct training for embassy personnel, their dependents, and local guards in protective tactics, as well as providing emergency security support, including protective security for COMs, surveillance detection operations, and assistance with post evacuations. DS also provides specially trained agents to lead contractor-provided personal protection teams and guard services in areas of ongoing conflict, where the host nation is unable or unwilling to provide the required level of security. In extreme situations, U.S. military assistance can be provided to the RSOs in the form of combat-equipped Fleet Anti-Terrorism Security Teams (FAST) provided by regional commanders.

Assessing the Threat

In an average year, DS receives over 1,000 threats and incidents against U.S. interests overseas.¹⁸ The security posture of each U.S. diplomatic facility varies based on the Department of State's assessment of local conditions.¹⁹ Regular reviews of threats to posts are conducted by the State Department. Senior officials stated that all posts were required to review their security posture in advance of the 9/11/12 anniversary, and in the wake of the attack on the U.S. interim facilities in Benghazi, Libya, all diplomatic posts were reportedly again ordered to review their security posture and to take all necessary steps to enhance it if necessary.²⁰

The process of resource allocation to specific posts is based on a set of security standards called the Security Environment Threat List (SETL). The list is mentioned in 22 U.S.C. §4865, "Security requirements for United States diplomatic facilities," which requires that such a list

shall contain a section that addresses potential acts of international terrorism against United States diplomatic facilities based on threat identification criteria that emphasize the threat of transnational terrorism and include the local security environment, host government support, and other relevant factors such as cultural realities. Such plan shall be reviewed and updated every six months.

Based on the SETL, DS, in consultation with other agencies, assigns threat levels to each post. According to the Government Accountability Office (GAO), six threat categories inform the SETL: international terrorism, indigenous terrorism, political violence, crime, human intelligence, and technical threat. A rating is then assigned for each category, on a four-level scale.

- Critical: grave impact on American diplomats
- High: serious impact on American diplomats
- Medium: moderate impact on American diplomats
- Low: minor impact on American diplomats

The protective measures for each post are dictated by the post's overall threat level.²¹ As of February 2012, over 50% of all posts were considered "critical" or "high" under the terrorism category of threat assessment.²²

Prior to the Benghazi attack, the Department of State had been reviewing the SETL threat ratings with an eye toward better determining "the ratio between threat and vulnerability at diplomatic

¹⁸ See "Analyzing the Threat," Department of State Bureau of Diplomatic Security website, <http://www.state.gov/m/ds/about/overview/c9006.htm>.

¹⁹ Transcript, Department of State Press Briefing, September 13, 2012, <http://www.state.gov/r/pa/prs/dpb/2012/09/197729.htm>.

²⁰ Transcript, State Department Briefing to Update on Recent Events in Libya, September 12, 2012, <http://iipdigital.usembassy.gov/st/english/texttrans/2012/09/20120912135895.html>.

²¹ U.S. Government Accountability Office, *State Department: Diplomatic Security's Recent Growth Warrants Strategic Review*, GAO-10-156, December 7, 2009, pp. 7-8, <http://www.gao.gov/new.items/d10156.pdf>.

²² United States Department of State and the Broadcasting Board of Governors Office of Inspector General, "Review of Best-Value Contracting for the Department of State Local Guard Program and the Utility of Expanding the Policy Beyond High-Threat Posts in Iraq, Afghanistan, and Pakistan." Report Number AUD/CG-12-27, February 2012, <http://oig.state.gov/documents/organization/185288.pdf>, p. 6 (footnote 7).

facilities overseas.”²³ DS increasingly provides security support at greater distances from capital cities and traditional embassy platforms, according to Department of State documents, “often in places and situations where the Security Environment Threat List and the security standards did not foresee today’s realities.” DS is therefore “developing guidelines whereby diplomatic facilities in contingency zones and other non-traditional platforms can be recognized as ‘critical plus,’” which would require innovative security solutions or waivers of existing standards.²⁴

Physical Security at U.S. Diplomatic Facilities

While security arrangements for specific locations or individuals are not made public by the Department of State, diplomatic facilities typically rely on a combination of an outer layer of host nation-provided and/or contract guard forces,²⁵ physical perimeter security, and State Department agents or contractors. These arrangements are overseen by the Department’s Bureau of Diplomatic Security (DS) and the deployed Regional Security Officer (RSO).

Reporting to the Director of Diplomatic Security, the U.S. Marine Security Guard currently posts detachments to 152 U.S. diplomatic facilities around the world; Marine Corps guards are thus present at many, but not all, such facilities.²⁶ As of March 2010, there were over 1,300 Marine Corps guards deployed worldwide.²⁷ The primary mission of these specially trained Marines is to prevent the compromise of classified U.S. government information and equipment. A secondary role is the protection of U.S. citizens at those facilities during crises. The detachments, when deployed, are under civilian authority at all times, under a chain of command which includes the RSO and ultimately the Chief of Mission.²⁸

Some observers have suggested that while any number of physical threats are taken into consideration by State Department planners, the threat of mob violence over a sustained time period is one that no facility, no matter how well fortified, can defeat in the absence of protection from the host nation’s security forces.²⁹

²³ State Department FY2013 Congressional Budget Justification, Vol. 1, Department of State Operations, p. 417.

²⁴ State Department FY2013 Congressional Budget Justification, Vol. 1, Department of State Operations, p. 66.

²⁵ As of August 1, 2011, 104 posts had active local guard contracts. United States Department of State and the Broadcasting Board of Governors Office of Inspector General, “Review of Best-Value Contracting for the Department of State Local Guard Program and the Utility of Expanding the Policy Beyond High-Threat Posts in Iraq, Afghanistan, and Pakistan.” Report Number AUD/CG-12-27, February 2012, <http://oig.state.gov/documents/organization/185288.pdf>, Appendix A, p. 15.

²⁶ U.S. Marine Corps information provided to CRS, September 14, 2012.

²⁷ See “United States Marine Security Guards: Safeguarding Missions Around the World,” U.S. Department of State Bureau of Diplomatic Security Public Affairs, March 2010, <http://www.state.gov/documents/organization/138440.pdf>.

²⁸ 10 U.S.C. 5983 authorizes the assignment of Navy personnel to Foreign Service posts under the direct operational control of the chiefs of diplomatic missions or principal officers, or their designees, and provides the basic authority for the Memorandum of Agreement (MOA) dated August 1, 1967, between the Department of State and Department of Defense, which authorizes the Department of State and the U.S. Marine Corps to develop, execute, and issue such policy instructions as may be required from time to time to implement their joint responsibilities in support of the Marine Security Guard (MSG) Program. The MOA dated January 9, 2001, between the Department of State and the U.S. Marine Corps delineates authorities, responsibilities, and other terms between the Marine Corps and the Department in support of the MSG Program.

²⁹ Scott Stewart, *U.S. Diplomatic Security in Iraq After the Withdrawal*, Stratfor, December 22, 2011, <http://www.stratfor.com/weekly/us-diplomatic-security-iraq-after-withdrawal>.

Embassy Security Construction

The coordinated bombings of the U.S. embassies in Kenya and Tanzania in 1998 attacks spurred a period of intense congressional scrutiny of embassy construction. At that time, the Department of State determined that 195 (80%) of its overseas facilities did not meet security standards and should be replaced.³⁰ In response, a funding program codified in the Secure Embassy Construction and Counterterrorism Act of 1999 (SECCA)³¹ provided for the following:

- the authorization of five years of funding at \$900 million each year for Worldwide Security in the State Department's Embassy Security Construction and Maintenance Account (ESCM), as well as additional funds for Worldwide Security in the Diplomatic and Consular Programs account covering security upgrades at posts such as improved doors and windows, computer and software security improvements, purchase of secure vehicles, and other items.
- an accompanying five-year requirement that the Secretary of State submit to Congress each year a prioritized list identifying each diplomatic facility or diplomatic or consular post and compound in need of replacement or for any major security enhancements.
- a requirement that embassy emergency action plans address the threat of large explosive attacks from vehicles, and a requirement that new sites be large enough to co-locate all non-military U.S. government personnel. In addition, any new facility was required to be no less than 100 feet from the embassy or consulate compound's perimeter.

This additional funding stream and heightened priority led the State Department to elevate what had been an Office of Foreign Buildings Operations to the Bureau of Overseas Building Operations (OBO), led by an Assistant Secretary-equivalent Director/Chief Operating Officer reporting directly to the Under Secretary for Management. OBO's responsibility is to direct the worldwide overseas building programs for all federal employees serving under the authority of the Chief of Mission in a country. With the Bureau of Diplomatic Security, OBO determines the security priority status of U.S. diplomatic facilities around the world and the steps needed to bring the facilities into compliance with State Department security standards.

To bring the many diplomatic facilities up to security standards quickly, in 2001 OBO instituted the Standard Embassy Design (SED) initiative to standardize new chanceries and consulates.³² SED divided new embassy projects into three categories: small, medium and large facilities, each with a pre-engineered design featuring high fences and 100-foot setbacks. The SED provided plans for the site, the main office building, annex buildings, perimeter protection, warehouse, shops, utility buildings, recreation centers, and Marine Security Guard quarters. With pre-engineered plans, OBO contended that costs were lower, construction was faster, and the quality was enhanced because of the inclusion of security and construction best practices in SED designs.

The SED designs were responsive to the concerns of the 1998 Accountability Review Board, which strongly emphasized security; its report asserts that "when choosing embassy sites, safety

³⁰ State Department FY2014 Congressional Budget Justification, Vol. 1, Department of State Operations, p. 393.

³¹ H.R. 3427, which was enacted as Title VI of Appendix G of P.L. 106-113.

³² The Department of State's Bureau of Overseas Building Operations website, <http://www.state.gov/obo/c13075.htm>.

and security concerns should guide our considerations more than whether a location may be convenient or of historic, symbolic importance.... We must face this fact and do more to provide security or we will continue to see our people killed, our embassies blown away, and the reputation of the United States overseas eroded.³³ However, critics of the SED designs suggested that the highly secure facilities present a closed, unwelcoming, fortress image of the United States. These critics also argued that the security requirements such as co-location and required distance of buildings from perimeters force embassies away from central locations, making it more difficult for diplomats to do their work.

Starting in 2010, OBO moved away from the Standard Embassy Design concept, and introduced a new building initiative called Design Excellence. While continuing to prioritize security, this new program moves away from uniformity and emphasizes site-specific architectural features and environmental considerations. Rather than placing U.S. facilities outside of cities in order to achieve appropriate setbacks, embassies and consulates would, by their location in urban areas, “contribute to the civic and urban fabric of host cities.” Designs would be “welcoming;” responsive to local culture; and would use “contextually appropriate and durable materials.”³⁴ The first project to be fully completed under this new approach is slated to be the new embassy compound in Mexico City, due for completion in 2019.³⁵ The impact of the recent attacks on the Department of State’s Design Excellence concept remains to be seen.

The State Department claims that OBO’s efforts have, since 2000, “moved over 25,840 people out of vulnerable locations and into more secure, safe and functional facilities – vastly improving the protection of both employees and sensitive U.S. government information,” according to budget documents.³⁶

Incident Response

In the aftermath of a major security incident, a number of measures are at the disposal of U.S. officials, ranging from the temporary evacuation of Americans (personnel, their dependents, and U.S. citizens as a whole) to closing a post.

Temporary U.S. Personnel and/or Citizen Evacuation

The State Department, depending on local conditions, may recommend that diplomatic staff or dependents, or all U.S. citizens, leave the foreign country.

Should local situations become unpredictable or unmanageable, a Chief of Mission may, upon the approval of the Under Secretary of State for Management, order an “Authorized Departure” for a given post. It allows families of post employees and/or non-essential staff to depart on a voluntary basis. This step provides some flexibility in determining which employees or groups of employees may depart.

³³ January 1999 ARB report, op cit., p. 2.

³⁴ See “Design Excellence: Overview,” Department of State Bureau of Overseas Building Operations, May 2011, <http://www.state.gov/documents/organization/164725.pdf>.

³⁵ Jane C. Loeffler, “Beyond the Fortress Embassy,” *Foreign Service Journal*, December 2012, p. 26.

³⁶ State Department FY2013 Congressional Budget Justification, Vol. 1, Department of State Operations, p. 470.

Authorized Departure is an intermediate step in the events leading up to an Ordered Departure, or drawdown, of diplomatic mission personnel and their dependents. Ordered Departure is initiated in extraordinary circumstances when the embassy or consulate is no longer confident of the security of its personnel and families. Implementation of this status mandates the departure of all non-emergency mission staff and employees. Such a step may be initiated by the Chief of Mission or the Secretary of State.³⁷

For U.S. citizen evacuations, the Department may, in certain exceptional cases, provide departure assistance.³⁸ The Department encourages the use of existing commercial transportation options whenever possible and provides U.S. citizens with information on these options. Where the local transportation infrastructure is compromised, the Department tries to arrange chartered or non-commercial transportation for U.S. citizens to evacuate. Involvement of the U.S. military in any evacuation is, the Department emphasizes, a last resort; most evacuations employ commercial means and local infrastructure.³⁹ The cost of any assistance is, by law, required to be provided “on a reimbursable basis to the maximum extent practicable.”⁴⁰ This means that evacuation costs are generally the responsibility of the U.S. citizen evacuated, who is asked to commit in writing to repayment of the U.S. government. Emergency financial assistance may be available for destitute evacuees.

Changing the Status of a Foreign Post

The 9/11/12 attacks on U.S. diplomatic facilities raised questions as to whether the Administration might decide to close specific posts. Department of State’s regulations explain that a decision to open, close, or change the status of an embassy is made by the President; for lower-level representations such as consulates, the State Department’s Under Secretary for Management may determine its status. Proposals to modify the status of a post are usually made by the Assistant Secretary of the regional bureau concerned.⁴¹

Accountability Review Boards

The Accountability Review Board (ARB) process was first recommended by the 1985 Advisory Panel of Overseas Security led by Admiral Inman, which recommended that “Foreign Service Regulations be promulgated to require the Secretary of State to convene a Board of Inquiry with powers of establishing accountability in all cases involving terrorism or security related attacks

³⁷ See <https://www.osac.gov/pages/ResourceLibraryDetails.aspx?cid=3262> and 3 FAM 3770 at <http://www.state.gov/documents/organization/85108.pdf>.

³⁸ See “Emergencies and Crises” at http://travel.state.gov/travel/tips/emergencies/emergencies_1212.html.

³⁹ Instances in which the U.S. military contributes to an evacuation of U.S. citizens are termed noncombatant evacuation operations (NEO) by the Department of Defense (DOD). In an NEO, DOD personnel assist the Department of State in evacuating US citizens, DOD civilian personnel, and designated host nation and third country nationals whose lives are in danger from locations in a foreign nation to an appropriate safe haven. During NEOs, the US ambassador, not the geographic combatant commander or subordinate joint force commander, is the senior USG authority for the evacuation. See United States Joint Chiefs of Staff, *Noncombatant Evacuation Operations*, Joint Publication 3-68, December 23, 2010, http://www.dtic.mil/doctrine/new_pubs/jp3_68.pdf.

⁴⁰ 22 U.S.C. §2671(b) (2) (A).

⁴¹ 2 FAM 400, “Opening, Closing or Changing the Status of a Foreign Post,” <http://www.state.gov/m/a/dir/regs/fam/02fam/0400/index.htm>.

that result in significant damage and/or casualties to United States personnel or property.”⁴² This recommendation was codified by the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended.⁴³

The act requires the Secretary of State to convene an Accountability Review Board after a security-related incident, defined by the act as “any case of serious injury, loss of life, or significant destruction of property at or related to a U.S. Government mission abroad, or a case of a serious breach of security involving intelligence activities or a foreign government directed at a U.S. mission abroad (other than a facility or installation subject to the control of a U.S. area military commander).”⁴⁴ Exceptions are made for incidents determined by the Secretary of State as not relating to security, and for facilities in Afghanistan and Iraq.

The objective of such Boards, according to State’s regulations, is “to foster more effective security of U.S. missions and personnel abroad by ensuring a thorough and independent review of security-related incidents. ... the Board seeks to determine accountability and promote and encourage improved security programs and practices.”⁴⁵ Subsequent attacks on U.S. diplomatic facilities and personnel, such as the August 1998 embassy bombings in Kenya and Tanzania, and the deaths of three Defense Department personnel serving in the U.S. Embassy in Pakistan in February 2010, prompted the Secretary of State to convene Accountability Review Boards.⁴⁶

⁴² Report of the Secretary of State’s Advisory Panel on Overseas Security (the Inman Report), http://www.state.gov/www/publications/1985inman_report/inman2.html#accountability

⁴³ 22 U.S.C. §4831.

⁴⁴ 22 U.S.C. §4831(a)(1).

⁴⁵ See U.S. Department of State Foreign Affairs Manual Volume 12 - Diplomatic Security, 12 FAM 030, Accountability Review Board (ARB), <http://www.state.gov/documents/organization/88323.pdf>

⁴⁶ *Reuters* has reported that the Benghazi ARB is the 19th accountability review board convened by the State Department since 1988 to investigate attacks on U.S. diplomatic facilities. See “Panel seeks accountability after Benghazi attacks,” Tabassum Zakaria and Susan Cornwell, *Reuters*, December 05, 2012, http://articles.chicagotribune.com/2012-12-05/news/sns-rt-us-libya-usa-reviewbre8b4075-20121204_1_accountability-review-board-security-requests-embassy-security

Past Reviews of Diplomatic Security: The 1985 Inman Report and 1998 ARB

In the wake of the 1983-84 bombings of U.S. facilities in Beirut, Lebanon, the Department of State formed an Advisory Panel on Overseas Security. The panel, chaired by retired Admiral Bobby Inman, is often referred to as the Inman Commission.⁴⁷ Its June 1985 security recommendations included the creation of the Bureau for Diplomatic Security; improvements in State's protective intelligence, threat analysis, and alerting procedures; improvements in training for Foreign Service personnel and dependents; improvements in contingency planning at posts; assigning Marine Security Guard detachments to all highly sensitive posts; revising the Diplomatic Security Service physical security standards; pursuing a substantial building program to correct security deficiencies, in particular regarding perimeter security; and initiating a capital budgeting procedure to avoid security improvement delays due to budgetary reasons. The panel also offered a number of classified recommendations. The Advisory panel identified 126 facilities with inadequate security. The Inman standards added a 'security premium' to the cost of embassy construction and refurbishment in the range of 10-15%, according to a State Department official.⁴⁸

The Accountability Review Board established in October 1998 to investigate the coordinated bombings of the U.S. embassies in Kenya and Tanzania was chaired by Admiral William Crowe, who had served as Chairman of the Joint Chiefs of Staff and Ambassador to the United Kingdom.⁴⁹ The ARB affirmed that security provisions at the attacked posts had been appropriate for the level of the assessed threat; the embassy in Nairobi was considered a moderate risk post, while the embassy in Dar es Salaam was considered a low risk post. The ARB concluded that the bombings had been successful in part because insufficient appropriations had been made to implement the earlier Inman Commission recommendations; Admiral Crowe estimated that 80% of U.S. diplomatic facilities around the world still did not meet the Inman Commission standards.⁵⁰ Among the board's recommendations were bringing U.S. overseas facilities up to the Inman standards and boosting funding for security at U.S. overseas facilities to approximately \$1.4 billion per year over an approximate 10-year period.

The act specifies that a Board is to be convened not later than 60 days after the occurrence of an incident, although the Secretary can extend this for an additional 60 days if she determines that the additional period is necessary for the convening of the Board. A written decision by the Secretary of State to convene the Board, specifying its membership and duration, as well as its purposes and jurisdiction, is published in the Federal Register, or other similar document, if deemed appropriate by the Secretary.

On forming a Board, the Secretary is also required to promptly inform the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives that the Board has been convened, the membership of the Board, and other appropriate information about the Board.

The written findings of an ARB are to include

- 1 the extent to which the incident or incidents with respect to which the Board was convened was security related;

⁴⁷ The unclassified elements of the report of the Advisory Panel on Overseas Security (the 'Inman panel') are available here: http://www.state.gov/www/publications/1985inman_report/inman1.html.

⁴⁸ As quoted in Shaun Waterman, "Benghazi attack followed deep cuts in State Department security budget," *The Washington Times*, September 27, 2012, <http://www.washingtontimes.com/news/2012/sep/27/benghazi-attack-followed-deep-cuts-in-state-depart/?page=all>.

⁴⁹ While there were two boards established, the boards submitted a combined report with similar conclusions about the bombings and recommendations; this report therefore treats the two boards as one. While ARB reports have generally not been released to the public, the unclassified elements of the Crowe ARB's combined report is available on the Department of State website: http://www.state.gov/www/regions/africa/accountability_report.html.

⁵⁰ Admiral William Crowe, as quoted in transcript, PBS NewsHour, January 8, 1999, http://www.pbs.org/newshour/bb/africa/jan-june99/bombings_1-8.html.

- 2 whether the security systems and security procedures at that mission were adequate;
- 3 whether the security systems and security procedures were properly implemented;
- 4 the impact of intelligence and information availability; and
- 5 such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad.⁵¹

The recommendations of previous Boards have not been made public, other than the unclassified version of the Crowe ARB empanelled to study the 1998 Embassy attacks. The ARBs do not report directly to Congress. However, executive branch officials are required to report to Congress the recommendations of the ARB as follows:

- any recommendations made by the Board to the Secretary of State to improve the security and efficiency of any program or operation which the Board has reviewed, must be reported by the Secretary to Congress no later than 90 days after the receipt of such recommendations, including any action taken with respect to that recommendation.
- should the Board find any breach of duty by U.S. personnel, the Board notifies the head of the appropriate Federal agency or instrumentality, who shall, not later than 30 days after the receipt of that finding, transmit to the Congress a report specifying the nature of the case and a summary of the evidence transmitted by the Board; and the decision by the Federal agency or instrumentality to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.⁵²

The Attack in Benghazi, Libya, on September 11, 2012

Embassy Security and the Benghazi Attack⁵³

Ambassador Christopher Stevens and three other U.S. personnel (Sean Smith, Tyrone Woods, and Glen Doherty) were killed in an attack on the U.S. Special Mission Compound (SMC) and Annex in Benghazi, Libya on September 11, 2012. The attack resulted in the destruction and abandonment of the U.S. facilities. The State Department has stated that U.S.-provided security was robust, consistent with other small missions in similar environments, and that Libyan guards fought the attackers alongside U.S. personnel.⁵⁴ Ongoing congressional inquiries have focused on

⁵¹ 22 U.S.C. §4834.

⁵² 22 U.S.C. §4834.

⁵³ For additional information on Libya and analysis of the September 11, 2012 attack, see CRS Report RL33142, *Libya: Transition and U.S. Policy*, by Christopher M. Blanchard. For more information on other attacks on U.S. facilities and interests in Muslim countries, see CRS Report R42743, *Recent Protests in Muslim Countries: Background and Issues for Congress*, coordinated by Christopher M. Blanchard.

⁵⁴ The State Department has provided a detailed account of the attack and its aftermath in a background briefing on (continued...)

a number of questions, including whether sufficient resources were provided to protect the facilities and personnel in the context of an increasingly threatening security situation which led to the closure of the British consulate in Benghazi, among other international facilities.

According to DS Bureau documents, a DS team was deployed to Benghazi in 2011 to establish a diplomatic presence there after the Embassy in Tripoli had closed due to deteriorating security. The team first established a temporary location; after subsequently identifying a more secure location, DS moved Department personnel to a large villa compound which, according to DS, “significantly enhanced the security of all U.S. personnel in Benghazi.”⁵⁵

The Accountability Review Board report (see below), congressional testimony and investigations, and media reporting have described the critical threat environment in Libya and suggested that the temporary U.S. facilities in Benghazi had been reinforced in the months preceding the attack. According to the ARB report, “DS funded and installed in 2012 a number of physical security upgrades. These included heightening the outer perimeter wall, safety grills on safe area egress windows, concrete jersey barriers, manual drop-arm vehicle barriers, a steel gate for the Villa C safe area, some locally manufactured steel doors, sandbag fortifications, security cameras, some additional security lighting, guard booths, and an Internal Defense Notification System.” Still, the ARB concluded that “Benghazi was also severely under-resourced with regard to certain needed security equipment.”

On the night of the attack, the Benghazi facilities were reportedly protected by an unarmed, contracted local guard force; a local militia; and armed DS agents. A U.S. Marine detachment had not been posted there, a situation that is not unusual for smaller posts at which classified information is not produced.

The compound’s security posture on the night of the attack included:

- four locally hired unarmed guards, provided under contract with a British private security firm named Blue Mountain. The contract, which took effect in March, reportedly was worth \$387,413 over one year. Among the tasks of the guards were the operation of a metal detector and inspection of visitors’ bags. While armed security contractors protect many State Department facilities in high-threat locations, Libyan political sensitivities ruled out the use of armed private security guard forces.
- three armed members of the February 17 Martyrs Brigade, a local militia that participated in the anti-Qaddafi uprising. Given the lack of centralized Libyan governmental capacity to discharge its responsibilities as host nation to protect the U.S. facilities under the Vienna Convention (as described below), this function was provided by the Brigade, which trained with U.S. officials for this role. Its members, who were reportedly expected to provide their own weapons and ammunition, were paid \$28 per day, what one press account describes as a

(...continued)

October 9, 2012, available at <http://www.state.gov/r/pa/prs/ps/2012/10/198791.htm>.

⁵⁵ U.S. Department of State Bureau of Diplomatic Security, *Tested in Times of Transition: 2011 Year in Review*, Annual Report, May 2012, p. 9, <http://www.state.gov/documents/organization/189611.pdf>.

“relatively standard wage.”⁵⁶ DS officials have testified that on the night of the attack, three February 17 Brigade personnel were present at the U.S. facilities.

- U.S. security personnel at the facilities on the night of the attack included five armed Diplomatic Security agents (three who were assigned to Benghazi, and two travelling with the Ambassador), according to testimony by a senior Diplomatic Security official. The compound could also call on a “well-trained U.S. quick reaction security team” stationed at an annex two kilometers away.⁵⁷
- Further complicating the U.S. security picture in Benghazi, numerous news reports have suggested that the annex was a classified CIA installation and that the quick reaction team mentioned above was part of a CIA presence. Personnel in Benghazi reportedly included a security force of approximately 10 individuals, who had on previous occasions shielded Ambassador Stevens when he left the U.S. facility. Members of this force were reportedly among those responding directly to the September 11 attack.⁵⁸ The reaction team’s responsibility, if any, for security at the main mission compound has not been publicly established.

Accountability Review Board in the Wake of the Benghazi Attack

On December 18, 2012, the Accountability Review Board convened by Secretary of State Clinton to investigate the Benghazi attack released an unclassified version of its report.⁵⁹ Convened in the first week of October 2012, pursuant to Title III of the Omnibus Diplomatic and Antiterrorism Act of 1986, 22 U.S.C. §4831 et seq, the Board was chaired by former Under Secretary of State Thomas Pickering and included five members, four of which were designated by the Secretary of State and one by the intelligence community.⁶⁰

In her October 2, 2012 letter to the Chairman of the Committee on Oversight and Government Reform, the Secretary of State stated that the Board is “charged with determining whether our security systems and procedures in Benghazi were adequate, whether those systems and procedures were properly implemented, and any lessons that may be relevant to our work around the world.”⁶¹

⁵⁶ Michael Birnbaum, “Sensitive documents left behind at U.S. diplomatic post in Libya,” *The Washington Post*, October 3, 2012.

⁵⁷ Testimony provided by Deputy Assistant Secretary of State Charlene Lamb, U.S. Congress, House Committee on Oversight and Government Reform, *The Security Failures of Benghazi*, 112th Cong., 2nd sess., October 10, 2012.

⁵⁸ Adam Entous, Siobhan Gorman, and Margaret Coker, “CIA Takes Heat for Role in Libya,” *The Wall Street Journal*, November 2, 2012.

⁵⁹ Department of State, *Accountability Review Board for Benghazi Attack of September 2012*, December 19, 2012, <http://www.state.gov/documents/organization/202446.pdf>.

⁶⁰ The members of the board were: Admiral Michael Mullen (Ret), a former Chairman of the Joint Chiefs of Staff; Richard Shinnick, a retired Senior Foreign Service Officer who served as interim Director for the Department of State’s Bureau of Overseas Buildings Operations in 2008; Catherine Bertini, a Professor of Public Administration and International Affairs at the Maxwell School of Citizenship and Public Affairs and former Executive Director of the United Nations World Food Program; and Hugh Turner, a former deputy director of the CIA’s Directorate of Operations.

⁶¹ Josh Rogin, “Clinton promises answers on Benghazi attack,” *Foreignpolicy.com*, October 2, 2012, http://thecable.foreignpolicy.com/posts/2012/10/02/clinton_promises_answers_on_benghazi_attack

The Board concluded that while responsibility for the September 11, 2012 attack rests solely and completely with the terrorists who perpetrated it, systemic failures in Washington, DC led to key decisions that left the Special Mission in Benghazi with significant security shortfalls. Key leadership failures in the Bureau of Diplomatic Security (DS) as well as in the Bureau of Near Eastern Affairs (NEA) led to confusion over decision-making in relation to security and policy in Benghazi; these were likely factors in the insufficient priority given to the Benghazi mission's security-related requests, according to the Board.

Decisions by the Department's senior leadership regarding the nature and extension of Special Mission Benghazi's unclear status also left it outside normal procedures for funding and executing security measures, including office facility standards and accountability measures under the Secure Embassy Construction and Counterterrorism Act of 1999 and the Overseas Security Policy Board (OSPB). As the Board's report states, the Special Mission compound and Annex "was never a consulate and never formally notified to the Libyan government." This fact is referred to as a "key driver behind the weak security platform in Benghazi."

The Board did not find breach of duty by any single U.S. Government employee; it also found that security systems and procedures in place were implemented properly. U.S. intelligence provided no immediate specific warning of the attack, according to the ARB. The Board concluded there was no protest prior to the attack, which it refers to as "unanticipated" in "scale and intensity."

Regarding the Special Mission's security posture, it found an inadequate number of Bureau of Diplomatic Security staff in Benghazi on the day of the attack. The Board characterized the Libyan government response as "profoundly lacking on the night of the attacks, reflecting both weak capacity and near absence of central government influence and control in Benghazi." The report also raises concern regarding the "loyalties" of the February 17th Martyrs Brigade militia that provided security at the Special Mission compound under an agreement with the State Department.

The Board also concludes that Congress "must do its part ... and provide necessary resources to the State Department to address security risks and meet mission imperatives."⁶²

The ARB report lists a number of recommendations within six categories: Overarching Security Considerations; Staffing High Risk, High Threat Posts; Training and Awareness; Security and Fire Safety Equipment; Intelligence and Threat Analysis; and Personnel Accountability. Many of the recommendations will require additional resources for added personnel, training, and equipment.

Among the Accountability Review Board's key recommendations are the following:

- review of the proper balance between acceptable risk and strengthened security for personnel in "high risk, high threat" posts, beyond reliance on host government support;
- re-examination of the organization/management of the DS Bureau to emphasize control for security policy for all U.S. overseas facilities; the new Diplomatic Security Deputy Assistant Secretary for High Threat Posts may be useful in this regard, as would having the Office of Intelligence and Threat Analysis report

⁶² Ibid, p. 3.

directly to the DS Assistant Secretary and provide threat analysis to all DS components, regional assistant secretaries and Chiefs of Mission.

- establishment of minimum security standards for temporary facilities in high-risk environments, and collocation of U.S. government agencies when in the same metropolitan area, unless a waiver has been approved;
- restoring the Capital Security Cost Sharing Program to its full capacity of \$2.2 billion, adjusted for inflation in FY2015; this program combines funds from all agencies represented overseas. Overseas Contingency Operation (OCO) funds also could be used to respond to security threats and vulnerabilities overseas.
- expansion of the Marine Security Guard (MSG) Program and coordination between DOD and DOS to identify additional resources for stronger capabilities at high risk posts;
- endorsement of DOS' request for increased DS personnel for high-risk posts, Mobile Security Deployment teams, and increased DS staffing in Washington for support.
- enhanced tour longevity, efforts to address language capacity, and better training on crisis response;
- provision of equipment such as fire safety and surveillance cameras, and exploration of options for non-lethal deterrents;
- better identification and action on indications of deteriorating threat situations;
- revision of DOS regulations or amending relevant statutes to include disciplinary action when poor performance or unsatisfactory leadership by senior officials is related to a security incident.

On March 28, 2013, the State Department's Office of the Inspector General (OIG) notified the Department that it was starting a "special review of the Accountability Review Board process" in order to review its effectiveness and accountability. The review is not equivalent to what OIG terms an "investigation," which is a response to a situation potentially involving criminal activity, nor will the review make value judgments regarding the validity of the Benghazi ARB's recommendations. The OIG document will report on the status of the implementation of recommendations made by past ARBs, including the Benghazi ARB, as well as broadly applicable "lessons learned."⁶³

Department of State Actions in Response to the Benghazi Attack

The Department has stated that immediately after the attack, it ordered all posts to review their security posture and to take all necessary steps to enhance it if necessary.⁶⁴ Secretary Clinton also stated on November 8 that "... we are taking immediate steps to bolster security and readiness. We've dispatched teams, joint teams from the Department of State and Defense, to review high-threat posts to determine whether there are other improvements we need in light of the evolving

⁶³ CRS e-mail exchange with the Department of State Office of the Inspector General, May 3, 2013.

⁶⁴ Transcript, State Department Briefing to Update on Recent Events in Libya, September 12, 2012.

security challenges we now face.”⁶⁵ Senior State Department officials subsequently confirmed these steps, stating that five interagency security assessment teams had been deployed to 19 posts in 13 countries to undertake urgent reviews of high-threat posts.⁶⁶

In congressional testimony on the occasion of the release of the Accountability Review Board’s report, a number of additional measures taken by the Department were outlined.⁶⁷ The Department formed a task force, led by then-Deputy Secretary of State for Management and Resources Thomas Nides, to implement the Board’s 29 recommendations. Nides testified that the recommendations were translated to 60 specific action items which were assigned to bureaus for implementation. According to Nides, State placed greater responsibility on Regional Assistant Secretaries for the security of deployed personnel and facilities abroad. State also initiated a reorganization of its Diplomatic Security Bureau in the wake of the Benghazi attack, establishing a new High Threat Unit under a Deputy Assistant Secretary within the Bureau, which will oversee security arrangements for 28 high threat/high risk posts.⁶⁸ The official named to take on this function, Bill Miller, is a diplomatic security special agent who has previously served in Iraq coordinating security for the Embassy.⁶⁹ A senior State Department official reportedly stated that “no congressional approval was required for the bureaucratic shift and no new funds were involved.”⁷⁰

In December 2012, the Secretary of State presented an Increased Security Proposal to Congress, which requested authority to transfer \$1.3 billion in OCO funds previously appropriated for Iraq operations toward diplomatic security needs. Of that, \$553 million would be for additional Marine security guards worldwide, \$130 million for 151 new diplomatic security personnel and \$736 million for improved security at overseas facilities. While the transfer authority was not provided by the 112th Congress, Section 1707 of the Consolidated and Further Continuing Appropriations Act of 2013 (H.R. 933, P.L. 113-6) provided additional funding for diplomatic security (\$918 million for Worldwide Security Protection, to remain available until expended; and \$1.3 billion for Embassy Security, Construction, and Maintenance), while rescinding \$1.1 billion in unobligated balances from FY2012 OCO funds.

The Administration’s FY2014 budget request seeks to sustain the initiatives launched under the FY2013 Increased Security Proposal, including expansion of the Bureau of Diplomatic Security and further growth in the number of Marine Security Guard detachments deployed to diplomatic facilities. The request seeks \$2.2 billion for construction of new secure diplomatic facilities, a combination of enduring funding, OCO funding, and other agency contributions. The request for Embassy Security, Construction and Maintenance of \$2.65 billion (including OCO) represents a 60% increase from the FY2012 actual level. Within this account, Worldwide Security Upgrades funding (for bricks and mortar security needs, including construction of secure new embassy

⁶⁵ Hillary Rodham Clinton, U.S. Secretary of State, Remarks at the Common Ground Awards in Honor of the Late Ambassador Chris Stevens, The Carnegie Institution for Science, Washington, DC, November 8, 2012.

⁶⁶ See U.S. Congress, House Committee on Foreign Affairs, *Benghazi Attack, Part II: The Report of the Accountability Review Board*, 112th Cong., 2nd sess., December 20, 2012; and U.S. Congress, Senate Committee on Foreign Relations, *Benghazi: The Attack and the Lessons Learned*, 112th Cong., December 20, 2012.

⁶⁷ Ibid.

⁶⁸ Department of State Fiscal Year 2014 Executive Budget Summary, Function 150 & Other International Programs, April 10, 2013, p. 14.

⁶⁹ Miller’s official biography is available at <http://www.state.gov/m/ds/rls/bio/202319.htm>.

⁷⁰ Margaret Brennan, “State Department security overhaul,” CBSNews.com, December 8, 2012.

compounds) would grow by 108% to \$1.61 billion, while Ongoing Operations would increase by 18%. Worldwide Security Protection funds (for security programs including a worldwide guard force), under Diplomatic and Consular Programs, would rise by 37%, to \$2.18 billion.

Oversight and Funding

The Benghazi attack prompted renewed congressional focus on diplomatic security issues, in particular on ensuring that relevant lessons are learned and applied to the protection of U.S. diplomatic facilities abroad. Areas of scrutiny include the management of risk in deploying diplomatic personnel to high-threat areas; threat assessment processes and procedures; the acquisition and sharing of intelligence; physical protection measures at U.S. facilities; interagency coordination in crisis response; and decision-making processes by the Department of State and other U.S. government agencies with presence abroad.

Congressional Oversight in the 112th Congress in Response to the Benghazi Attack

Congressional activity in the 112th Congress on the issue of the protection of U.S. personnel and facilities abroad included a number of hearings and investigations into the Benghazi attack by a number of different committees.⁷¹

Senate Committee Investigation

The findings of one such investigation, by the Senate Committee on Homeland Security and Governmental Affairs, were presented on December 30, 2012, by the committee's chairman and ranking Member.⁷² The report suggests that the Department of State did not take sufficiently into account clear evidence of a worsening security situation in Benghazi and requests for additional support from U.S. personnel posted there. This situation was compounded by the evident inability of the Libyan government to perform its duty to protect U.S. diplomatic facilities and personnel. In this context, the Department should have increased protective measures or withdrawn the U.S. presence there, even without specific intelligence about an imminent attack, the report concludes. In addition, the report states that designation of the Benghazi facilities as temporary by the Department of State meant that normal security standards did not apply, and that otherwise routine funding resources were not readily available. The Department of Defense attempted to quickly mobilize its resources, according to the Senate investigation, but did not have assets or personnel close enough to reach Benghazi in a timely fashion. It also said the intelligence community may have failed to focus sufficiently on non-al Qaeda groups, possibly contributing to the lack of specific intelligence of an imminent attack on the U.S. mission in Benghazi.

The Senate report's recommendations include additional interagency joint assessments of the security requirements of high-risk U.S. diplomatic facilities; a funding process delivering

⁷¹ Proposals have been made in both the House and Senate to consolidate the existing congressional investigations into Select Committees.

⁷² U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Flashing Red: A Special Report on the Terrorist Attacks at Benghazi*, By Joseph I. Lieberman, chairman, and Susan M. Collins, ranking Member, 112th Cong., 2nd sess., December 30, 2012.

sufficient, steady, and timely funding to secure diplomatic facilities and personnel worldwide; additional DOD assets and personnel devoted to the African continent; and clear and consistent communication by Administration officials about terrorist attacks.

National Defense Authorization Act

A provision in the National Defense Authorization Act for Fiscal Year 2013, P.L. 112-239, directs the Secretary of Defense to grow the Marine Security Guard Program in order to increase the number of detachments at U.S. embassies, consulates, and other diplomatic facilities by up to 1,000 Marines during fiscal years 2014 through 2017, and reassess program's focus on the protection of classified information.⁷³ The measure also requires the President to separate the Program's budget request from that of the Marine Corps as a whole, and it requires reexamination of the Marine units' rules of engagement.

Disaster Relief Legislation

As passed on December 28, 2012 in the Senate's Hurricane Sandy disaster relief bill (H.R. 1, Disaster Relief Appropriations Act, 2013), Section 1107 of Title XI, General Provisions, would have authorized the Department of State to transfer up to \$1 billion of unobligated Overseas Contingency Operations (OCO) funds, previously appropriated in FY2012 for operations in Iraq, for increased security at U.S. embassies and other overseas posts identified in the Department's security review after the Benghazi attack. According to Senator Mikulski who proposed the amendment for Senator Leahy, these unobligated funds were no longer needed because of reduced operations in Iraq.⁷⁴ The Congressional Budget Office (CBO) determined that the amendment has no outlay scoring impact, but it did require the Department of State to follow notification requirements prior to using the funds. The final version of the disaster relief legislation did not include this measure.

Congressional Oversight in the 113th Congress in Response to the Benghazi Attack

A number of legislative actions related to the Benghazi attacks and their implications for the protection of U.S. personnel and facilities abroad have been advanced in the 113th Congress to date. These include the following:

- H.Res. 36, establishing a select committee to investigate and report on the attack on the United States consulate in Benghazi, Libya;
- H.R. 731, the Protecting Americans Abroad Act, authorizing the State Department to use to the "Best-Value Contracting" award method for local guard forces in high-risk areas when deemed necessary;
- H.R. 925, the Securing Accountability in Foreign Embassies (SAFE Embassies) Act, which amends the Diplomatic Security Act to require a determination by the

⁷³ H.R. 4310, "National Defense Authorization Act for Fiscal Year 2013," Title IV, Subtitle A, Section 404, "Additional Marine Corps Personnel for the Marine Corps Security Guard Program."

⁷⁴ Senator Barbara Mikulski, Congressional Record, December 27, 2012, p. S8442.

Accountability Review Board that an individual's misconduct or unsatisfactory performance of duty significantly contributed to serious injury, loss of life, significant property destruction, or serious security breach in order for the Board to recommend that an investigatory or disciplinary action be initiated by the appropriate federal agency or instrumentality;

- H.R. 1186, which directs the Speaker of the House of Representatives and the President pro tempore of the Senate to arrange for the posthumous award, on behalf of Congress, of a gold medal in commemoration of the contributions of Glen Doherty and Tyrone Woods, two former Navy SEAL members who sacrificed their lives on September 11, 2012, while serving as part of a U.S. diplomatic security detachment in Libya;
- H.R. 1768, the Accountability Review Board Reform Act of 2013, which amends the Diplomatic Security Act to require certain notifications to Congress of Accountability Review Boards of the Department of State, avoid conflicts of interest of the members of such boards, require actions with respect to reports from such boards, and for other purposes;
- H.R. 1781, the Mustafa Akarsu Local Guard Force Support Act, which seeks to assist the family members of Foreign Service Nationals (FSN) killed in the line of duty by making them eligible to obtain special visas to immigrate to the United States; and
- S. 227, the Embassy Security Funds Transfer Act of 2013, which authorizes funds appropriated under the Department of State, Foreign Operations, and Related Programs Appropriations Act of 2012 under the headings "Diplomatic and Consular Programs" and "Embassy Security, Construction, and Maintenance" to be transferred between such headings.

On April 23, 2013, the Chairmen of five House Committees active in oversight of the Benghazi attack and surrounding events presented to the House Republican Conference an "Interim Progress Report" on their inquiries.⁷⁵ Among the report's preliminary findings are that the senior leadership of the Department of State approved security reductions at the Benghazi diplomatic facilities prior to the 9/11/12 attack, and that the public presentation of the attack by the Administration was deliberately inaccurate in order to protect State Department interests. The report states that the chairmen see a need for continued examination and oversight by their respective committees of the Benghazi attack and the administration's response to it. The House Committee on Oversight and Government Reform scheduled a hearing on "Benghazi: Exposing Failure and Recognizing Courage," for May 8, 2013.

Diplomatic Security Funding: Background and Data

The appropriation of funds for embassy security is one area in which Congress is particularly active. Title I, Section 2 (k) of the State Department Basic Authorities Act of 1956 states that the Secretary of State "may use funds appropriated or otherwise made available to the Secretary to

⁷⁵ The report, by the Chairs of the Committees on Armed Services; Foreign Affairs; the Judiciary; Oversight & Government Reform; and the Permanent Select Committee on Intelligence, is available online at <http://oversight.house.gov/wp-content/uploads/2013/04/Libya-Progress-Report-Final-1.pdf>.

provide maximum physical security in Government-owned and leased properties and vehicles abroad.”

The original authorization to use appropriated funds designated for embassy security in the Department of State’s Embassy Security Construction and Maintenance (ESCM) account is derived from the Secure Embassy Construction and Counterterrorism Act of 1999.⁷⁶ The Foreign Relations Authorization Act of 2003 increased the authorization levels of the original legislation.⁷⁷ Because Congress has not passed subsequent foreign relations authorization legislation, the authorization of appropriations for embassy security purposes is derived from appropriating funds for “Worldwide Security Upgrade” in the Department of State, Foreign Operations appropriations legislation and in provisions in the same Act stating that “Funds appropriated by this Act ... may be obligated and expended notwithstanding” provisions in the Department of State Basic Authorities Act of 1956 requiring an authorization of funding before appropriations can be obligated or expended.⁷⁸

Funding Data and Recent-Year Funding Observations

Within the Department of State budget, virtually all of the embassy and diplomatic security funding is within five subaccounts: Worldwide Security Protection (WSP), Worldwide Security Upgrades within the Embassy Security, Construction, and Maintenance (ESCM) account, Diplomatic Security (DS), Counterterrorism within the Diplomatic and Consular Programs (D&CP), and Diplomatic Security within Border Security Program (BSP).

- WSP, the largest component of security-related funding within the Department of State, provides for a safe and secure environment overseas for personnel promoting the interests of the United States. It provides for the security of life, property, and information. WSP supports numerous security programs including a worldwide guard force protecting overseas diplomatic missions and residences, as well as domestic facilities.
- The Worldwide Security Upgrades (WSU) within ESCM provides funding for bricks and mortar-type of security needs. It funds the Department of State’s portion of the Capital Security Cost Sharing that combines with funds from other agencies represented overseas for planning, design and construction of secure new embassy compounds. It also funds ongoing security activities and security-related maintenance.
- The Bureau of Diplomatic Security funded under D&CP is the law enforcement and security arm of the Department of State. DS protects people, property, and information. It conducts international investigations, provides threat analysis, and focuses on cyber security, counterterrorism, personnel security, and security technology.

⁷⁶ Section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999 (Title VI of Appendix G of P.L. 106-113; 22 U.S.C. 4865 note).

⁷⁷ Section 111(3)(B) of the Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107-228).

⁷⁸ Section 15 of the State Department Basic Authorities Act prohibits appropriated funds from being obligated or expended unless the appropriation has been authorized by law (P.L. 84-885; 22 U.S.C. 2680). In the case of the FY 2010 appropriations in the Department of State, Foreign Operations and Related Programs Appropriations Act, 2010 (Division F of the Consolidated Appropriations Act, 2010; (P.L. 111-117)), the authorization waiver is Section 7023.

- The Bureau of Counterterrorism (CT) funded within D&CP leads the U.S. government in counterterrorism diplomacy and provides an on-call capability to respond to terrorist incidents worldwide.
- The Diplomatic Security subaccount within the Border Security Program (BSP) guards domestic consular affairs facilities. It also coordinates and investigates security issues related to U.S. visas and passports.

Table 1 below provides base funding (also referred to as regular appropriations or core) that is available to all overseas facilities, and total security funding requested and enacted for the five security-related accounts from FY2008 to the FY2014 request. Total security includes the base funding plus supplemental and/or Overseas Contingency Operations funding for embassy security that is available primarily for Iraq and other frontline states. Supplemental funds were requested and enacted for FY2008, FY2009, and FY2010. OCO funds were requested and enacted for FY2012, FY2013 and requested for FY2014. Supplemental and OCO security funding has been largely for war-related security measures in Iraq. The base total is for diplomatic security activities in the rest of the U.S. facilities around the world, but may also include some ongoing security funding for Iraq, Afghanistan, and Pakistan.

Following are some observations derived from the data shown in that table:

- The FY2014 request represents the largest request for base security funding at \$3.6 billion.
- At \$2.83 billion, FY2010 was the peak year for State Department total base security *requests* before the FY2014 request. The highest level of base embassy security funding *enacted* by Congress (\$2.70 billion) also was in FY2010. The Obama Administration had said it would not continue the previous Administration's practice of seeking supplemental funding.
- At \$4.92 billion, FY2013 is the peak year for *requested* total security funds including \$1.775 billion in OCO funds for Iraq security, although all FY2014 requested security funds are not yet available. The peak year for total funding *enacted* by Congress to date was in FY2013 when Congress provided about \$4.5 billion (before sequestration), about half of which is OCO funds. FY2013 funding data will likely change because of rescissions and transfer authority made available in the FY2013 continuing resolution.
- For total base security funding, Congress enacted less than was requested every year since FY2008. However, for total security that includes Iraq security and supplemental funding, Congress enacted more than requested in FY2009.
- Congress increased base security funds by 32% from FY2008 to FY2012, but when including OCO security funds, the increase represents a 92% increase.

Funding Issues for Congress

Within the context of the FY2013 Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6, Sec. 1708), Congress provided the Department of State with the authority to transfer more than \$1 billion from Iraq Operations OCO funds to accounts addressing global security needs, as requested (see above for more information on the Department of State proposal). The FY2014 foreign affairs budget request includes increases for WSP and WSU (see **Table 1**).

The Accountability Review Board report, released on December 19, 2012 said, “The solution requires a more serious and sustained commitment from Congress to support State Department needs, which, in total, constitute a small percentage both of the full national budget and that spent for national security. One overall conclusion in this report is that Congress must do its part to meet this challenge and provide necessary resources to the State Department to address security risks and meet mission imperatives.” The ARB also recommended that the Department of State work with Congress to restore the Capital Security Cost Sharing Program to its full capacity, adjusted for inflation, of \$2.2 billion in 2015, for up to a ten-year period. Additionally, the ARB recommends that State work with Congress to make OCO funds available for security at high risk/high threat posts, and seek greater flexibility for OBO to use its funds for security threats at temporary facilities in high threat environments.

Thomas Nides, then-Deputy Secretary of State for Management and Resources, said in a hearing on the ARB report, “We are aligning resources in our 2013 budget request to address physical vulnerabilities and reinforce structures wherever needed, and to reduce the risks from fire. And let me add, we may need [congressional] help in ensuring we have the authority to streamline the usual processes and produce faster results.... So the \$1.3 [billion] addressed what Secretary Clinton believed and the president believed was an immediate need today. But I want to be clear to all of you, we intend to come back to the Congress as it relates to 2014 to lay that out for you as well.”⁷⁹

As Congress examines funding levels for the purpose of properly securing American personnel, embassies, and information around the world, it continues to do so in a climate of shrinking budgets; proposed funding increases might be met with calls for offsetting cuts elsewhere.

Of continued concern is the possible effect that the Budget Control Act of 2011 (BCA, P.L. 112-25) sequestration could have on diplomatic security funding in FY2013 and beyond. Across-the-board spending reductions are being implemented at an estimated 5% reduction with an additional 0.032% rescission, according to Sec. 3004, Division G, P.L. 113-6. Meeting BCA spending caps set through FY2021 by reducing embassy security funds could undermine future security funding needs.

Adding to the difficulty of meeting future security needs around the world is the unpredictability in the timing of funding bills being passed by Congress. Fiscal years may not be in sync with new increasing needs or with contracts. When Congress passes funding bills well into the new fiscal year, or passes continuing resolutions in place of spending bills for the remainder of the fiscal year, the agency is left to guess what annual funding it can expect and has fewer months to spend the funds once received.

Another, perhaps longer-term related aspect of the funding debate is whether the United States can afford to maintain facilities and adequate security everywhere, especially in nascent democracies that are often unstable and unpredictable. If embassy security is the responsibility of the local government, but that government doesn't have the capability required to keep American personnel safe, the U.S. government must weigh the security risks of keeping a U.S. presence in such environments.

⁷⁹ Testimony by Thomas Nides, Deputy Secretary of State for Management and Resources, the House Foreign Affairs Committee hearing *Benghazi Attack, Part II: The Report of the Accountability Review Board*, December 20, 2012.

Table I. State Department Funds for Embassy and Diplomatic Security, FY2008-FY2014 Request

(Revised May 6, 2013; In millions of current U.S. \$)

	FY2008		FY2009		FY2010		FY2011		FY2012		FY2013		FY2014	
	Req	Enacted	Req	Enacted	Req	Enacted	Req	Enacted	Req	Enacted	Req	Enacted**	Req.	Enacted
WSP base	\$964.8	\$968.5	\$1,162.8	\$1,117.0	\$1,648.0	\$1,586.2	\$1,560.7	\$1,497.0	\$1,453.7	\$1,355.0	\$1,428.5	\$1,355.0	\$1,791.2	
supplemental/OCO	\$162.4	\$210.4	\$163.8	\$224.8	—	—	—	—	\$246.9	\$236.2	\$721.5	\$ 918.4	\$391.0	
suppl/OCO Iraq Security	—	—	—	—	\$735.3	\$725.0	—	—	\$1,482.1	\$1,413.8	\$1,775.1	\$270.9	\$567.7	
ESCM WSU base	\$806.9	\$670.5	\$948.4	\$905.2	\$938.2	\$847.3	\$824.2	\$793.4	\$938.2	\$775.0	\$688.8	\$688.5	\$1,614.0	
supplemental/OCO	—	\$76.7	\$893.27	\$962.8	—	—	—	—	—	—	—	\$1,261.4		
Diplomatic Security (DS) ^a	\$188.5	\$169.6	\$187.1	\$255.9	\$190.6	\$214.9	\$193.0	\$224.9	\$215.6	\$220.5	\$226.3	\$229.2	\$179.5	
D&CP Counterterrorism	—	—	—	—	—	—	—	\$3.2	—	16.6	\$19.0	n.a.	—	
Border Security DS ^b	\$16.1	\$32.0	\$48.7	\$53.8	\$50.5	\$47.4	\$184.1	\$58.1	\$59.1	\$59.1	\$59.1	n.a.	—	
Total base	\$1,976.3	\$1,840.6	\$2,347.0	\$2,331.9	\$2,827.3	\$2,695.8	\$2,761.3	\$2,576.6	\$2,666.6	\$2,426.2	\$2,421.7	\$2,272.7	\$3,840.7	
Total Security^c	\$2,138.7	\$2,127.7	\$3,404.	\$3,519.5	\$3,562.6	\$3,420.8	\$2,761.3	\$2,576.6	\$4,395.5	\$4,076.2	\$4,918.3	\$4,452.5	\$3,975.7	
Admin of Foreign Affairs ^c	\$9,637.6	\$8,952.2	\$10,676.4	\$10,567.8	\$13,893.5	\$12,366.04	\$12,374.4	\$11,249.6	\$14,748.4	\$13,371.9	\$13,950.5	\$13,412.8	\$12,024.4	
Total Security as % of Admin of Foreign Affairs	22%	24%	32%	33%	26%	28%	22%	23%	30%	30%	35%	33%	33%	
State Dept 150 function ^c	\$10,708.8	\$12,501.4	\$11,345.6	\$15,825.7	\$16,256.3	\$17,367.5	\$17,104.3	\$15,625.3	\$19,349.8	\$17,695.3	\$18,508.3	\$16,966.2	\$15,824.3	
Total Security as % of State Dept 150	20%	17%	30%	22%	22%	20%	16%	16%	23%	23%	27%	26%	25%	

Source: Congressional Budget Justification, Volume I, Department of State, Fiscal years FY2008-FY2014, communication with Department of State on November 8, 2012 and March 13, 2013, legislation, and CRS calculations.

Notes: WSP=Worldwide Security Protection; ESCM=Embassy Security, Construction, and Maintenance; WSU=Worldwide Security Upgrades; OCO=Overseas Contingency Operations; Diplomatic Security=DS; D&CP=Diplomatic and Consular Programs.

The data in this table are estimates as of May 6, 2013. Estimates of funding levels may differ depending on, for example, definitions used, whether to include fees, and whether to include security costs in Iraq that come under Iraq Operations.

* For FY2011, Foreign Affairs funding was within full year continuing resolutions.

** FY2013 enacted are preliminary numbers based on the full-year FY2013 Continuing Resolution (P.L. 113-6) and do not reflect sequestration.

- a. Does not include OCO funding within D&CP for DS listed under Iraq Operations in FY2008 – FY2013.
- b. These numbers do not include domestic border security funds. Much of the funds for Border Security come from fee collections and as of FY2012, all Border Security funds are from fee collections.
- c. Includes supplemental and OCO funds.

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