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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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April 1, 2014

The Honorable John F. Kerry
Secretary
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520

Dear Mr. Secretary:

The Committee on Oversight and Government Reform is conducting oversight of the U.S. State Department's use of taxpayer funds at American embassies abroad. In testimony before the Senate Appropriations Subcommittee on Foreign Operations on March 13, 2014, you stated, with regard to the budget of the State Department, "I believe the American people are getting an extraordinary return on investment."¹ Apparently, this extraordinary return includes a sculpture called, "Camel Contemplating Needle," which will be displayed at the American embassy in Islamabad, Pakistan and for which the Department awarded a \$400,000 contract.²

According to a recent media report, which first exposed the questionable use of Department resources, the sculpture was apparently purchased via a "sole source" contract without open competition because "[t]his artist's product is uniquely qualified" and his work "will meet the unique artistic criteria which has been established for this project."³ To justify this extravagant purchase for a piece of art that will likely be seen by very few people given its location at a high-walled diplomatic compound, the contracting official pasted the first paragraph of text from the artist's Wikipedia page entry.⁴

In addition to the exorbitant cost of the statue, the Department's justification for using a sole source contract appears to be deficient. The Federal Acquisition Regulation (FAR) states that non-competitive procurement procedures such as sole source may only be used when "the property or services needed by the executive agency are available from only one responsible source **and no other type of property or services will satisfy the needs of the executive**

¹ Aram Roston, "Exclusive: U.S. Taxpayers To Spend \$400,000 For A Camel Sculpture In Pakistan," *BuzzFeed*, March 31, 2014. Available at <<http://www.buzzfeed.com/aramroston/exclusive-us-taxpayers-to-spend-400000-for-a-camel-sculpture>>.

² *Id.*

³ *Id.*

⁴ *Id.*

agency” (emphasis added).⁵ In its written justification for sole sourcing the artwork, the Department declares that the artist awarded the contract is uniquely capable of fulfilling the agency’s needs, but fails to demonstrate why only that particular artist, among all other possibilities, can satisfy the agency’s needs.⁶ The Department’s written justification includes a section on market research that was conducted in advance of the sole source award; this section, however, contains only vague references to “surveying contemporary art journals, publications, and books; attending contemporary domestic and international art fairs; attending related museum exhibitions and gallery exhibitions; and consulting with related field experts such as dealers, specialized curators, and librarians.”⁷

This is not the first time that the State Department has engaged in questionable art purchases for embassies abroad. Last year, the Department awarded a one million dollar contract for a granite sculpture, “Wall of Light Cubed 2,” for the American Embassy in London, England.⁸ The American people have a right to know that their tax dollars are being spent responsibly, especially for art that the vast majority of U.S. citizens will never have the opportunity to view.

To assist the Committee’s understanding of the Department’s spending on artwork in embassies abroad, I request the following information as soon as possible, but no later than noon on April 15, 2014:

1. All documents and communications referring or relating to the Department’s “artistic criteria” for the American Embassy under construction in Islamabad, Pakistan from January 1, 2010, to present.
2. All documents and communications referring or relating to “Camel Contemplating Needle” from January 1, 2010, to present.
3. All documents and communications referring to any market research conducted by Department employees in relation to the procurement of artwork for the American Embassy under construction in Islamabad, Pakistan from January 1, 2010 to present.
4. All documents and communications referring or relating to the Department’s Art in Embassies program from January 1, 2010, to present.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at “any time” investigate “any matter” as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee’s request.

⁵ 41 U.S. Code § 3304.

⁶ Department of State, “Justification for Other than Full and Open Competition,” *available at* <https://s3.amazonaws.com/buzzfeed-media/Images/2014/03/Camel+Contemplating+Needle+Islamabad.pdf>

⁷ *Id.*

⁸ David Martosko, “US State Department spends \$1 MILLION on a single granite sculpture to decorate new embassy in London,” *The Daily Mail*, December 3, 2013. Available at <<http://www.dailymail.co.uk/news/article-2517666/US-State-Department-spends-1-MILLION-single-granite-sculpture-decorate-new-embassy-London.html>>.

The Honorable John F. Kerry
April 1, 2014
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When documents are produced to the Committee, production sets should be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. In preparing your answers to these inquiries, please answer each question individually and include the text of each question along with your response.

Please contact Tyler Grimm of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Chaffetz". The signature is stylized and written in a cursive-like font.

Jason Chaffetz
Chairman
Subcommittee on National Security

Enclosure

cc: The Honorable John F. Tierney, Ranking Minority Member
Subcommittee on National Security

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
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Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.