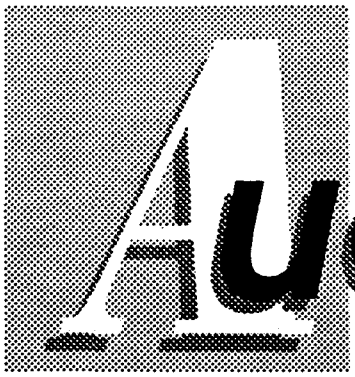


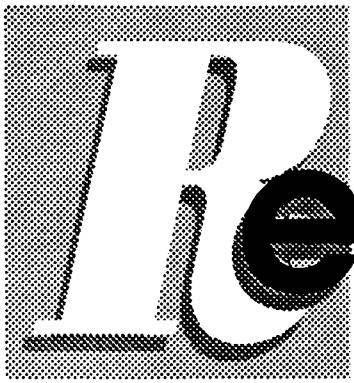

OFFICE OF THE INSPECTOR GENERAL

**EIGHTH U. S. ARMY MILK PLANT CONTRACT**

Report No. 94-098 May 13, 1994

**Department of Defense**

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**Acronyms**

| | |
|---|---|
| COR | Contracting Officer's Representative |
| EUSA | Eighth U.S. Army |
| FAR | Federal Acquisition Regulation |
| GOCO | Government-Owned Contractor-Operated |
| PAS | Preaward Survey |
| PMO | Pasteurized Milk Ordinance |
| ROK | Republic of Korea |
| SOFA | Status of Forces Agreement |
| USACCK | U.S. Army Contracting Command, Korea |
| USFK | U.S. Forces Korea |

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884

Report No. 94-098 May 13, 1994

MEMORANDUM FOR AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Audit Report on the Eighth U.S. Army Milk Plant Contract (Project No. 3RA-0074.01)

## Introduction

We are providing this report for your information and use. The audit was performed in response to concerns of the Chairman, Subcommittee on Readiness, House Committee on Armed Services. The concerns stemmed from constituents' allegations that U.S. firms were excluded from competing and that Korean firms were given preferential treatment for the pending contract renewal of the Eighth U.S. Army (EUSA) milk plant located at the K-16 Airbase, Songnam, Republic of Korea (ROK). The contract renewal was for maintenance and operation of the EUSA milk plant under solicitation DAJB03-93-R-0002. Also, the Chairman was concerned that the Korean firms' inexperience in producing filled milk[1] and their potential inability to meet U.S. quality and sanitation standards could jeopardize the health, safety, and welfare of U.S personnel and their dependents, who rely on the products produced under contract at the EUSA milk plant.

## Audit Results

Contracting officers for the U.S. Army Contracting Command, Korea (USACCK), formerly the U.S. Army Korea Contracting Agency, generally followed acquisition procedures for the contract renewal of the EUSA milk plant in the ROK; therefore, the concerns regarding irregularities were not substantiated. Contracting officers complied with the 1966 Status of Forces Agreement (SOFA) between the United States and the ROK, the procedures and requirements of the Federal Acquisition Regulation (FAR), the requirements of the Competition in Contracting Act, and the intent of the Buy American Act. Further, contracting officers ensured that the International Balance of Payments Program was properly applied to the procurement.

## Objectives

The primary objective of the audit was to determine whether the congressional concerns, based on constituents' allegations, were substantiated. Specifically,

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[1]Filled milk is reconstituted milk derived from mixing nonfat dairy milk powder with water, vitamins, and coconut oil.

the audit evaluated the contract award and contract administration procedures at USACCK as they related to the EUSA milk plant. The audit also evaluated related internal controls.

## Scope and Methodology

**Audit Methodology.** We reviewed the contracting documents, (dated from July 1992 through December 1993), applicable justification and approval documents, the SOFA, and contracting practices and procedures used to award contract DAJB03-94-D-0001 on December 10, 1993, cited in the concerns and allegations. Additionally, we reviewed the award and administration procedures for one other solicitation, DAJB03-93-R-0072, and three other contracts, DAJB03-92-C-3226, DAJB03-93-C-0039, and DAJB03-93-D-0035, that involved the EUSA milk plant operations from December 1991 to December 1993. Also, we interviewed cognizant Government officials. Further, we toured the milk plant to obtain first-hand knowledge of its operation. Enclosure 1 lists the organizations we visited or contacted during this audit.

**Audit Period and Standards.** This economy and efficiency audit was performed from October 1993 through March 1994 in accordance with auditing standards issued by the Comptroller General of the United States as implemented by the Inspector General, DoD. Accordingly, we included such tests of internal controls as we considered necessary. We did not rely on computer-processed data to develop conclusions on this audit.

## Internal Controls

We evaluated the internal controls involving contract solicitation, award, and administration procedures as they related to the congressional concerns and constituents' allegations. Specifically, we evaluated the internal inspections and internal management control reviews that the USACCK performed during FY 1990 through FY 1993.

Internal controls were deemed effective, and the audit disclosed no material internal control deficiencies as defined by DoD Directive 5010.38, "Internal Management Control Program," April 14, 1987.

## Prior Audits and Other Reviews

No other audit coverage of this specific topic has occurred in the last 5 years.

## Background

The Military Departments operate a number of Government-owned contractor-operated (GOCO) milk plants around the world. The EUSA milk plant at the K-16 Airbase, Songnam, ROK, is one of two Army-owned milk plants. The other Army-owned milk plant is the Kanagawa milk plant near North Dock in

Yokohoma, Japan. That milk plant is owned and operated by the U.S. Army, Japan. The EUSA milk plant was constructed as an FY 1981 Military Construction Appropriations project. The facility was built by a Korean contractor under a U.S. Army Corps of Engineers contract for $2.4 million. The plant was built to replace an aging plant at Camp Baker that had been housed in old buildings and had problems in meeting health and sanitation standards. The EUSA milk plant has been managed and operated by an Invited Contractor[2] since its completion in December 1984. The annual operating cost of the facility is approximately $2.5 million, excluding nonfat dairy milk powder, other ingredients, and materials necessary to produce and distribute the products under contract.

**Former EUSA Milk Plant Contract.** Dairy Maid Dairy, Inc., a U.S. Invited Contractor, was awarded contract DAJB03-92-C-3226 on December 3, 1991, to operate and maintain the EUSA milk plant for the production and distribution of filled milk, dairy products, and frozen desserts and for backhaul[3] delivery services through September 30, 1992. In July 1992, the requiring activity, the 34th Area Support Group, 19th Theater Army Area Command (formerly the 19th Support Command), decided not to exercise FAR clause 52.217-9, "Option to Extend the Term of the Contract," March 1989, which would have continued services from October 1, 1992, through September 30, 1993. However, FAR clause 52.217-8, "Option to Extend Services," August 1989, would be exercised to continue services through March 31, 1993, allowing the Government time to develop a new solicitation and to award a follow-on contract.

**Acquisition Plan for Operation and Maintenance of the EUSA Milk Plant.** On October 8, 1992, USACCK developed an Acquisition Plan for:

- the operation and maintenance of the EUSA milk plant;
- the production of water, filled milk, and other dairy products;
- delivery to specified destinations; and
- backhaul delivery services.

The Acquisition Plan specified a competitive procurement for indefinite quantities and deliveries and contained no minimum requirements. Local sources[4] were determined to be available and interested in the procurement. To allay concerns regarding responsibility and technically acceptable offers from local sources, the Acquisition Plan provided that the requirement would be synopsized in the *Commerce Business Daily* and that U.S. sources would be

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[2]An Invited Contractor is a person, company, or corporation present in the ROK for the purpose of executing contracts with the United States for the benefit of the U.S. armed forces or any other country's armed forces in the ROK under the United Nations Command receiving logistical support from the U.S. armed forces.

[3]Transporting of perishable items after distribution of dairy products.

[4]Local sources are businesses (ROK, U.S., or other country) that possess all licenses, registrations, and permits required to conduct business in the ROK.

sought as well. The synopsis and the solicitation would contain notification to U.S. sources that local Korean sources existed and that the award may be made to a local Korean firm.

**Request for Proposals.** Solicitation DAJB03-93-R-0002 was issued on November 23, 1992, for proposals to operate and maintain the EUSA milk plant in the ROK; for the production and distribution of filled milk, dairy products, and frozen desserts; and for backhaul delivery services. December 28, 1992, was the closing date of the solicitation that was to result in a requirements-type contract. The contract would be for a base period of 6 months, that is, April 1, 1993, through September 30, 1993, with an option period of 1 year, beginning October 1, 1993, and ending September 30, 1994. The solicitation was amended, which changed the contract base period from 6 months to 12 months, that is, October 1, 1993, through September 30, 1994. Due to delays in awarding the contract, the actual contract base period is December 15, 1993, through September 30, 1994, with an option period of 1 year, beginning October 1, 1994, and ending September 30, 1995.

## Congressional Concerns Related to Contract Award

The following congressional concerns are related to the contract solicitation and award procedures for the pending contract renewal for the EUSA milk plant under solicitation DAJB03-93-R-0002. The results of the audit follow each concern.

**Concern 1.** Does the SOFA with the ROK mandate that American contractors be excluded?

**Audit Results.** The General Counsel, USACCK; the Staff Judge Advocate General, EUSA; and the General Counsel, Department of the Army, interpreted the applicability of Article XV of the SOFA regarding the award of the milk plant contract. Those offices concluded that Invited Contractor Status cannot be invoked under Article XV unless local contractors are disqualified by virtue of one of the four circumstances listed in Article XV, paragraph 2, which is discussed below.

We reviewed those opinions and the SOFA and concluded that Article XV does not mandate the exclusion of any contractor from a contract award.

**Article XV, Paragraph 1.** Article XV, paragraph 1, provides for granting Invited Contractor Status to U.S. businesses, their employees, and their dependents for the purpose of executing contracts for the benefit of U.S. armed forces in Korea.

**Article XV, Paragraph 2.** Article XV, paragraph 2, permits the EUSA to invite U.S. firms to perform contracts for which open competitive bidding is not practical due to one of the following circumstances:

- o security considerations,
- o lack of technical qualifications of the contractors involved,
- o unavailability of materials or services required by U.S. standards, or
- o limitations of U.S. law.

**Article XV, Paragraph 3.** Article XV, paragraph 3, accords, among other benefits, exemption from the laws and regulations of the ROK with respect to licensing and registration of businesses and corporations to conduct business in the ROK.

**Department of State Opinion.** The Office of General Counsel, Department of Defense, asked the Principal Deputy Legal Adviser, Department of State, for an interpretation of Article XV of the SOFA. The request was made because Representatives Pickett and Burton, and Chairman Hutto, Subcommittee on Readiness, House Committee on Armed Services, took issue with the USACCK decision and the Army's interpretation of Article XV. The Office of General Counsel believed the Army's decision to be legally correct and requested the views of the Department of State as a "neutral third party" in resolving the questions about the interpretation of Article XV and the legal conclusions on which the Department of the Army based its decision. The Department of State concurred with the Defense Department's interpretation of Article XV of the SOFA, stating that the Department of State was unaware of any negotiating history or legal arguments that would in any way support an alternative interpretation.

**Concern 2.** If the SOFA with the ROK does not mandate exclusion, why are American contractors being excluded from competing for the contract award?

**Audit Results.** As referenced in Concern 1. above, Article XV of the SOFA does not mandate the exclusion of any contractor from competing for the contract award. Local sources were available and had expressed an interest in the EUSA milk plant procurement action. The USACCK believed that at least one local firm would be able to demonstrate its ability to perform the required contract services. The U.S. Forces Korea (USFK) could not offer Invited Contractor Status because none of the four restrictions in Article XV, paragraph 2, would apply if a local contractor submitted a responsible and technically acceptable offer.

As previously discussed, the Acquisition Plan provided for notifying U.S. sources that a local source existed and that the contract award may be made to a local firm.

**Notification of Contract Award to U.S. Sources.** The *Commerce Business Daily* synopsis, published October 15, 1992, and solicitation DAJB03-93-R-0002, issued November 23, 1992, stated that the SOFA prohibits USFK from granting Invited Contractor Status if the Government can obtain a technically acceptable offer from any local source. Also, should a technically acceptable offer be submitted by a local source, the U.S. Government then would consider for award only those offerors that have shown the authorization and capability to compete and perform as local sources.

**Offerors.** As a result of the synopsis and the information on local sources provided by the USACCK Contractor Source List Custodian, the solicitation was issued to 15 prospective offerors (12 U.S. and 3 ROK) with an interest in and the potential for performing the required services. Six contractor firms (three U.S. and three ROK) attended the site visits or preproposal conferences. Four proposals (two U.S. and two ROK) were received in response to the solicitation.

**Concern 3.** Why are only Korean firms eligible to compete for contract award?

**Audit Results.** As previously stated in response to Concerns 1. and 2., Article XV of the SOFA does not prohibit nor were American firms excluded from competing for the contract renewal award. The solicitation was issued to 12 American firms. Two of those firms and two ROK firms submitted proposals on the contract renewal. Each of the four offerors underwent a Preaward Survey (PAS), resulting in a determination on August 25, 1993, that all four firms were responsible and technically qualified for full award of the renewal contract. Therefore, the USACCK, in awarding the contract, was required by the SOFA to meet requirements by using a local source. The American firms were notified that to be eligible for award of the renewal contract they must demonstrate their ability to conduct business in the ROK (that is, to possess the licenses and registration to conduct business in Korea) without Invited Contractor Status.

**Contractor Eligibility for Contract Award.** Since the two local contractors were determined to be responsible and technically qualified, it was necessary to ascertain eligibility of contractors for award of the renewal contract in accordance with section M, paragraph M-3 of the solicitation. That paragraph states:

> Receipt of a fair and reasonable technically acceptable proposal from a responsible local offeror automatically will exclude offers from non-local sources from further consideration, pursuant to the U.S.-ROK SOFA, Article XV. The Government is not making a determination that U.S. contractors cannot be considered local contractors. In order to be considered a local contractor, a U.S. contractor must possess all licenses and permits required to allow it to perform in the ROK without Invited Contractor Status.

On August 31, 1993, the contracting officer discussed several issues with the offerors before establishing the competitive range of proposals under consideration for contract award. The contracting officer needed evidence of authority (licenses, registration, and permits) to conduct business in the ROK as a local contractor and needed to know whether the firm wished to be considered eligible for award of the renewal contract. If the contractor did not wish to be considered eligible, then the discussion served as advance notice that the contractor was no longer being considered for award. If the contractor answered yes, the contracting officer stated that Best and Final Offers must include evidence of authority to do business in the ROK without Invited Contractor Status. One U.S. contractor stated that it was a U.S. corporation and could not do business in the ROK without Invited Contractor Status. The

other American contractor stated that it could provide evidence of authority to do business in the ROK, but not at that time and that it still wanted to be considered eligible for award of the renewal contract.

**Notification of Registration as Local Contractor.** On September 1, 1993, documents for registering as a local contractor with USACCK were provided to the U.S. offeror. The documents contained a cover letter stating that in order to register, adequate documentation of authority to do business in the ROK as a local contractor must be presented at registration. Registration had to be completed no later than September 3, 1993. The letter went on to state:

> You may not be both a local contractor and have Invited Contractor Status at the same time. Your status as an Invited Contractor for contract DAJB03-93-D-0035 must be reevaluated for compliance with applicable fairs and regulations and may result in revocation of your Invited Contractor Status.

Subsequently, on September 3, 1993, the U.S. offeror informed the USACCK that it did not qualify as a local contractor and that it understood that USACCK would not request that a Best and Final Offer be submitted by the contractor.

**Concern 4.** What is the specific requirement, justification, and rationale for using competitive procedures and the inclusion of foreign companies? What is the legal position on the use of noncompetitive procedures under the SOFA?

**Audit Results.** As stated in the audit response to Concerns 1., 2., and 7., Article XV of the SOFA permits the USFK to invite U.S. firms to perform contracts in cases for which open competitive bidding is not practicable due to:

- o security considerations,
- o lack of technical qualifications of the contractors involved,
- o unavailability of materials or services required by U.S. standards, or
- o limitations of U.S. law.

The USACCK can use noncompetitive procedures in soliciting for a contract when one of the four circumstances occur.

Regarding Concerns 3. and 7., local sources were found to be responsible and technically qualified to fully perform the required services of the solicitation. Since none of the four restricted circumstances applied, eligibility for award of the renewal contract was limited to local sources. U.S. contractors were not ruled out of consideration by that determination. In order to be considered, however, U.S. contractors had to possess all licenses and permits required to perform in the ROK without Invited Contractor Status.

Therefore, the inclusion of local firms that established themselves to be responsible and technically qualified to perform the required services of the solicitation was in accordance with the SOFA. Accordingly, a requirement, justification, or rationale did not exist for offering U.S. contractors Invited Contractor Status or for noncompetitively awarding the renewal contract under the terms of the SOFA. U.S. contractors could have applied and established

themselves as local contractors, but failed to do so. If the U.S. firms were established as local sources, they would have been requested to submit Best and Final Offers with the two ROK contractors and would have been considered for award of the renewal contract.

A determination to limit eligibility of contract award to local sources was made at the time USACCK was preparing the solicitation. However, the legal determination was not made until after the PASs determined that local sources were responsible and technically qualified and had submitted technically acceptable offers. As detailed in the audit response to Concern 1., the General Counsel, USACCK; the Staff Judge Advocate General, EUSA; the General Counsel, Department of the Army; and the General Counsel, DoD, interpreted Article XV of the SOFA and determined that the decision to limit eligibility for award of the renewal contract to "local sources" was legal. The Principal Deputy Legal Adviser, Department of State, concurred with the DoD's interpretation. The Principal Deputy stated that the State Department was unaware of any negotiating history or legal arguments that would support any other interpretation. Additionally, the Principal Deputy stated that the plain language of the provision was so clear and unambiguous as to preclude a different determination.

**Concern 5.** Was USACCK showing favoritism or preferential treatment to Korean firms over U.S. firms in awarding the renewal contract under solicitation DAJB03-93-R-0002?

**Audit Results.** No evidence existed that USACCK showed favoritism or preferential treatment to local Korean firms. All documentation shows that the contracting officer provided no more information or help to the Korean firms than was provided to the U.S. firms. Additionally, the two U.S. offerors were not subjected to the level of intensity of PASs and evaluations of the technical proposals that the two ROK offerors experienced. The ROK offerors were not afforded favoritism or preferential treatment. On the contrary, the solicitation files show that the American firms were provided data that the Korean firms were not. The data were provided in response to the numerous questions and clarifications raised by the U.S. firms. In addition, both U.S. firms were very familiar with the terms and requirements for operating the EUSA milk plant. One U.S. firm was the incumbent contractor, and the other U.S. firm had operated and maintained EUSA's milk plants from 1979 to 1992.

**Concern 6.** Korean milk plants may not produce milk and dairy products in accordance with U.S. health, quality, and sanitation standards as prescribed by the Pasteurized Milk Ordinance (PMO). Does Korean milk meet U.S. quality standards?

**Audit Results.** Solicitation DAJB03-93-R-0002 was not for Korean milk or dairy products. The DoD has responsibility only to evaluate products that are intended to be or are being sold to USFK for consumption by the U.S. armed forces, civilian employees, and their dependents stationed in the ROK.

**Contract Performance.** The contract was for the operation and maintenance of the EUSA milk plant at the K-16 Airbase, Songnam, Korea, for the production and distribution of filled milk, dairy products, and frozen desserts and for backhaul delivery services. As discussed in the response to Concern 7., the work force to be employed at the EUSA milk plant was to be the same Korean nationals employed under the interim contract and the previous contracts. The work force is 69 Korean nationals and a U.S. citizen as the plant manager. Only the plant manager and the formulas for milk, dairy products, and frozen desserts will change when a new contractor is awarded the renewal contract. All the ingredients used for the production of milk and dairy products under the contract with the exception of cocoa, vanilla, and possibly sugar, are of U.S. origin; even the containers, the wrappers and the popsicle sticks are manufactured in the United States. The present employees have been producing the required products in accordance with U.S. health, quality, and sanitation standards as prescribed by the PMO. In addition, the EUSA milk plant has an on-site laboratory facility containing Government-furnished test equipment that is used for performing all regulatory tests of raw materials and in-process and finished products. The tests are conducted by the work force that is in place and that will transition to the successful offeror. The tests are monitored by the on-site Contracting Officer's Representative (COR) and the 106th Medical Detachment (Veterinary Services) personnel.

**Veterinarian Evaluation of Offerors' Capabilities.** The EUSA Command Veterinarian visited the two Korean firms to evaluate their knowledge and capabilities in the sanitary production of milk. The evaluations were conducted in accordance with the standards prescribed in:

o U.S. Public Health Service, Food and Drug Administration, Pasteurized Milk Ordinance, Publication No. 229;

o Department of Army Regulation 40-70, "Veterinary/Medical Wholesomeness Assurance Program for Fresh and Cultured Dairy Products and Frozen Desserts;"

o 3A Sanitary Standards for Dairy Plants; and

o Standard Methods procedures of the PMO for the Examination of Dairy Products.

The veterinarian visited all sections (production lines, receipt and distribution operations, testing laboratories, supply and storage areas, production and quality control offices, facility and vehicle maintenance shops, etc.) of each offeror's facilities. The tour of the offerors' facilities indicated that both the premises and the equipment of the contractors were very clean and that employees were clean and wore the appropriate head covers and gloves at all times. The Korean firms were familiar with all requirements and with the Standard Methods procedures of the PMO. Both contractors use the Clean in Place System of sanitation, which is also used at the EUSA milk plant. The two local contractors have laboratory facilities with state-of-the-art equipment. The EUSA Command Veterinarian determined that the Korean firms were capable of performing all regulatory tests required. Also, all ingredients to be used by the contractor at the EUSA milk plant come from approved U.S. sources, and all equipment and operators are in place. The Korean firms need only provide the management personnel to operate the plant.

**Concern 7.** Korean firms have never operated a filled milk plant. Are the Korean firms technically competent to operate and maintain the EUSA milk plant?

**Audit Results.** Both Korean firms were found by the PAS team and the contracting officer to be technically competent and capable to perform the required services of the solicitation. No additional specific technical expertise is required, because by the terms of the solicitation and USFK regulations, all offerors were required to use the existing Korean work force. The only change in the work force would be a new plant manager. The only other changes in personnel are key managerial positions in the offerors' headquarters staff. One local offeror planned on using a U.S. manager who would also be the plant manager if one of the U.S. firms was the successful offeror. That manager had more than 12 years experience as either the Production Manager or General Manager of the EUSA milk plant. The other local offeror entered into a subcontract agreement with a U.S. firm, which was one of the U.S. offerors on the solicitation. The proposed plant manager of that local offeror was familiar with the statement of work and understood the requirements of the solicitation. But the subcontract agreement was necessary because the local firm was not thoroughly familiar with or knowledgeable of U.S. military and Federal specifications as they relate to milk and dairy products production. Further, both local offerors had acquired or developed formulas for producing the products that would meet or exceed the specifications and requirements of the solicitation.

**Preaward Surveys.** A PAS was conducted on each of the four offerors. Several technical experts augmented the survey team to conduct the surveys of the local offerors. The team consisted of the:

- o contracting officer, USACCK;
- o COR, 34th Area Support Group; and
- o representatives from the organizations (Directorate of Logistics, 34th Area Support Group and 19th Theater Army Area Command) needing the services; and
- o 106th Medical Detachment (Veterinary Services);
- o Nutritional Care Branch, 121st Evacuation Hospital;
- o Environmental Office, USFK;
- o Safety Office, 34th Area Support Group; and
- o Quality Assurance and Cost and Price Branches, USACCK.

**Technical Acceptability Reviews of the Offerors.** Technical proposals were submitted by all four offerors. The survey team and the technical experts conducted acceptability reviews to ensure that the offerors were familiar with the requirements of the solicitation and had a knowledge and an understanding of the specifications and regulations that apply, to include the PMO for assuring wholesomeness of dairy products. The survey team and the technical experts reviewed the two local offerors' proposals in accordance with the contract specifications and requirements. Supplemental information was requested by way of a PAS questionnaire to ensure that the various concerns of the team and the technical experts were fully addressed and satisfied. The questionnaire was

prepared based on the Statement of Work and on specific requirements information from the technical experts and from standard preaward forms. The PAS team and the technical experts reviewed the responses to determine whether the offerors met technical requirements and to determine which information needed to be verified and clarified or whether additional information was required.

**On-site Surveys of Local Offerors.** PAS team members and technical experts conducted on-site surveys of local offerors to gain first-hand knowledge of the contractors' operations and to determine each contractor's demonstrated ability to physically execute the requirements of the solicitation. Six areas were surveyed:

- o background and experience,
- o technical knowledge,
- o production and dairy plant operations,
- o environmental,
- o quality control, and
- o financial status.

The following areas of the Production and Dairy Plant Operations were evaluated in detail:

- o types of products produced,
- o equipment and machinery,
- o laboratory testing,
- o packaging and marking,
- o supply sources for ingredients,
- o production control,
- o nutrition,
- o transportation and backhaul services,
- o security,
- o property control,
- o plant safety,
- o housekeeping, and
- o maintenance.

The Quality Control area was evaluated for a control plan, organizational structure and functions, and a control program that assures the quality of all dairy products produced by the company. Specific assessments included written procedures and instructions for inspections, test and process controls for supplies, material, and in-process products; packaging and marking of finished products; identification, correction, and prevention of substandard production; quality control records; and investigation and correction of customer complaints. In addition, the survey team and technical experts conducted question and answer sessions to clarify responses to the questionnaire, verify data presented, and obtain additional information not presented in either the local offerors' technical proposals or in the answers to the questionnaire.

**Concern 8.** Were the reviews of the locally licensed firms completed by the EUSA multidiscipline team thorough and properly conducted to determine whether prior deficiencies were remedied and whether the firms were technically qualified and capable to operate the EUSA milk plant?

**Audit Results.** The reviews of the local offerors' technical proposals and capabilities were thoroughly and properly completed. The reviews determined that prior deficiencies relating to the ability to obtain necessary ingredients, materials, equipment, and spare and replacement parts had been remedied. The offerors had proposed systems or procedures that would enable the firms to obtain the necessary items from approved U.S. sources. No issues or deficiencies pertaining to health and sanitation standards were found at the two local offerors. Full disclosure of the reviews are in the responses to Concerns 6. and 7.

**Concern 9.** Should the U.S. Department of Agriculture conduct initial inspections to determine technical competence of Korean contractors?

**Audit Results.** No regulation requires nor is there a demonstrated need for initial U.S. Department of Agriculture inspections of Korean dairy operators to determine technical competence. It is neither required nor necessary to have the U.S. Army Natick Research, Development, and Engineering Center Laboratory, Office of the Surgeon General, Department of the Army, approve or disapprove local dairies. The Major Army Command Veterinarian (in this case the EUSA Command Veterinarian) grants approval authority and provides determinations of technical competence in accordance with Army Regulation 40-70, "Veterinary/Medical Wholesomeness Assurance Program for Fresh and Cultured Dairy Products and Frozen Desserts," April 15, 1986, and Regulation 40-657, "Veterinary/Medical Food Inspection and Laboratory Services," July 19, 1988, which incorporate all regulatory tests, inspections, and standard methods procedures required by the PMO.

**Administration of the Dairy Products Wholesomeness Assurance Program.** The Assistant Secretary of Defense (Health Affairs) appointed the U.S. Army Veterinary Service as the DoD executive agent to meet the health concerns of the Military Departments. As the executive agent, the U.S. Army Veterinary Service administers the wholesomeness assurance program, which is essential in protecting military personnel from foodborne illnesses. The wholesomeness assurance program establishes policy, specialized requirements, and standards for assuring wholesomeness of fresh and cultured dairy products and frozen desserts. The U.S. Army Veterinary Service conducts inspections for the Active and Reserve Components of the Departments of the Army, Navy, and Air Force and the Marine Corps. The inspections apply to fresh and cultured dairy products and frozen desserts purchased locally or centrally procured with appropriated or nonappropriated funds and to civilian establishments serving as sources of those products. Inspections are also made at the request of the U.S. Coast Guard under an Inter-Service Support Agreement. In addition, inspections are performed for other Federal agency programs (such as for the Department of Veterans Affairs, Job Corps, and Bureau of Indian Affairs Schools) when covered by a written support agreement and when referenced in the contract.

Army Regulations 40-70 and 40-657 give the Major Army Command Veterinarian the authority and the responsibility to participate in PASs in order to evaluate a contractor's ability to meet the terms and conditions of a proposed contract. The Regulations also prescribe general policies and procedures to follow in the inspections of food and food establishments that supply all the Services. In addition, the Regulations define the responsibilities and functions of the U.S. Army Health Services Command Veterinary Laboratory Service, which performs laboratory testing of fresh, cultured, and frozen dessert dairy products.

**Concern 10.** Does the 106th Medical Detachment (Veterinary Services) possess and follow U.S. Department of Agriculture regulations and laws dealing with dairy products, including reconstituted milk? What are the technical qualifications of the veterinarians involved with the milk plant? Are the veterinarians trained to conduct inspections at the milk plant?

**Audit Results.** The 106th Medical Detachment (Veterinary Services) possesses and follows all U.S. Department of Agriculture regulations and laws dealing with dairy products, including reconstituted milk. The four guiding documents that are on hand and primarily used by the veterinarians in performing the required inspections and oversight responsibilities are:

- o the U.S. Public Health Service, Food and Drug Administration, Publication No. 229, "Grade 'A' Pasteurized Milk Ordinance," as amended;
- o the 3A Sanitary Standards for Dairy Plants;
- o the Standard Methods for the Examination of Dairy Products; and
- o Army Regulation 40-70.

In addition, the 106th Medical Detachment (Veterinary Services) uses Army Regulation 40-657, numerous military and Federal specifications, and military sanitary standards applicable to the solicitation for the contract renewal. Those documents provide guidance in performing the required inspections and oversight mission at milk plants and dairies, such as the EUSA milk plant, in the United States or overseas.

**Veterinarian Credentials.** The three veterinarians involved with the PASs as technical experts have obtained their Doctor of Veterinary Medicine degrees. Two of the three veterinarians possess a Master of Public Health degree. The EUSA Command Veterinarian is board certified as a Diplomate at the American College of Veterinary Preventive Medicine.

**Specific Dairy Plant Experience.** The three veterinarians involved with the PASs as technical experts gained experience with dairy sanitation and milk products inspections and deliveries to the Services during various assignments in the U.S. Army Veterinary Corps.

**EUSA Command Veterinarian.** The EUSA Command Veterinarian was the origin inspector and coordinator for all military dairy contracts throughout central Texas from 1971 to 1973. From 1978 through 1980, the EUSA Command Veterinarian was the Veterinary Officer in Charge responsible for the GOCO milk plant in Japan operated by the Army. That GOCO plant

produced filled milk and dairy products similar to those being produced at the EUSA milk plant. The EUSA Command Veterinarian conducted sanitary inspections in frozen dessert plants throughout Virginia from 1981 to 1983. In 1985, the EUSA Command Veterinarian was the Operations Officer, 106th Medical Detachment (Veterinary Services) in the ROK and supervised the EUSA milk plant veterinary operations to include inspections and oversight. In support of Operations Desert Shield and Desert Storm, during 1990 through 1991, the EUSA Command Veterinarian supervised inspections of local dairies throughout Saudi Arabia. In 1992, he became the EUSA Command Veterinarian and the Commander, 106th Medical Detachment (Veterinary Services). The 106th Medical Detachment (Veterinary Services) has inspection and oversight responsibilities for the EUSA milk plant.

**Deputy Commander 106th Medical Detachment (Veterinary Services).** The Deputy Commander was the Veterinary Officer in Charge, Veterinary Detachment, Clark Air Base, Republic of the Philippines, from 1989 to 1991. As the Officer in Charge, he was responsible for performing all regulatory tests and inspections mandated by the PMO at the Army and Air Force Exchange Service owned and operated PHAX Dairy at Clark Air Base. The PHAX Dairy was a filled milk plant just like the EUSA milk plant in the ROK. In addition, the Officer in Charge performed all regulatory tests at the Magnolia Dairy in Manila, Republic of the Philippines, which was providing fresh milk to U.S. Government organizations in the Republic of the Philippines.

**Officer in Charge, Team C, 106th Medical Detachment (Veterinary Services).** Before becoming the Veterinary Officer in Charge of the veterinary team responsible for the EUSA milk plant, the veterinarian acquired experience conducting sanitary inspections of frozen dessert plants in Kentucky and conducting quality assurance visits to dairies in the Fort Knox, Kentucky, area as well as supervising inspections of dairy products received at Fort Knox, Kentucky.

**Veterinarian Training for Conducting Milk Plant Inspections.** The three veterinarians received formal training as part of the Army Medical Department Officer Advanced Course taken at the Academy of Health Sciences, Fort Sam Houston, Texas. That training provided guidance on sanitary inspections of establishments in which food is produced, processed, prepared, manufactured, stored, or otherwise handled. The EUSA Command Veterinarian also received formal training in a U.S. Public Health Service course that included classroom training in dairy farm inspections, milk plant sanitation and inspection, and milk pasteurization controls and tests. In addition, the three veterinarians have various levels of specific experience in conducting inspections of dairy and frozen dessert plants to include GOCO plants producing filled milk and dairy products.

**Concern 11.** Did the veterinarian responsible for sanitary inspections and oversight of the EUSA milk plant provide one of the local offerors a 3-day notice before visiting the plant?

**Audit Results.** The veterinarian did not provide the local offeror a 3-day notice before visiting the plant. The veterinarian visited the dairy plant only once and that was as a technical expert on the PAS team. The veterinarian arrived in the ROK on Friday, July 30, 1993, from his previous permanent duty station, Fort Knox, Kentucky, and processed into the 106th Medical Detachment (Veterinary Services) on Monday, August 2, 1993. Since he was the Officer in Charge of the veterinary team responsible for the EUSA milk plant, he attended the PAS meeting held on Tuesday, August 3, 1993, at the USACCK. He first learned of the visit to the dairy plant at the PAS meeting. On Thursday, August 5, 1993, as part of the PAS team, he visited the dairy plant to participate in the PAS to determine whether the local offeror would be able to supply management personnel in the event the local offeror was awarded the renewal contract. Further, the veterinarian stated that he did not know anyone at the local offeror's business and that he treats PASs as unannounced visits similar to sanitation inspections. He went on to say that giving advance notice would defeat the purpose of the visit. The visits are unannounced in order to evaluate normal operations of the contractor, sanitary conditions of the facility, and inspection of products in accordance with the regulations and laws governing dairy plants and products.

However, the audit showed that the local offeror was notified of the PAS visit by a letter from the contracting officer. The letter was dated Tuesday, August 3, 1993, stating that the PAS would be conducted on Thursday, August 5, 1993, from 9 a.m. to noon. The letter included a list of the PAS team members and technical experts. In addition, the other local offeror received a similar letter stating that the visit would be on Friday, August 6, 1993, from 9 a.m. to noon. The notification is a standard operating procedure for conducting the PAS at the offeror's facilities. It should also be noted that the visit was not for the purpose of conducting sanitation inspections, but rather to evaluate the capability of the offeror to provide management personnel and to determine the offeror's familiarity with the procedures specified in the PMO and with the specifications and standards in the solicitation.

**Concern 12.** Does the U.S. Government have quality assurance oversight of the EUSA milk plant?

**Audit Results.** The U.S. Government does have quality assurance oversight at the EUSA milk plant. Quality assurance is accomplished by the contracting officer representative and the 106th Medical Detachment (Veterinary Services) personnel on-site at the EUSA milk plant who perform daily monitoring and oversight. Also, the 106th Medical Detachment (Veterinary Services) conducts quarterly sanitary inspections of the facilities and equipment. Also, the Quality Assurance Branch, USACCK, performs scheduled oversight reviews of the contractor's quality control program and products.

**Duties and Responsibilities of the Contracting Officer's Representative.** The COR's duties and responsibilities include monitoring the entire EUSA milk plant operation and working in cooperation with the 106th Medical Detachment (Veterinary Services) in conducting sanitary inspections of raw materials, the milk plant facility, equipment, and finished products. In addition, the COR is to inform the Contracting Officer on the status of the operation of the EUSA

milk plant and to notify the Contracting Officer of potential problem areas and situations in which the contractor is not complying with contract provisions. The COR's primary responsibility is in the technical portion of the contract. The COR monitors all facets of the EUSA milk plant operations to verify that the materials, processes, and practices used, production sampling and testing conducted, and the items produced comply fully with the provisions of the contract and all applicable standards, regulations, and specifications.

**Veterinary Services.** The on-site Veterinary Specialist for the 106th Medical Detachment (Veterinary Services) administers the wholesomeness assurance program at the EUSA milk plant on a daily basis. The program includes plant and vehicle sanitary inspections, quality assurance reviews, review of the results of the contractor regulatory tests required by the PMO, and Government examinations and testing of the products. In order to accomplish assigned duties, the Veterinary Specialist develops sampling plans for laboratory wholesomeness testing, selects samples for testing of products that the contractor would like to supply to the USFK, and initiates and maintains product wholesomeness quality history records and files for each product.

**Concern 13.** Were any verifications conducted of the Korean firms' abilities to acquire supplies, equipment, and spare parts? What type of evaluation was conducted? Do the Korean firms that submitted the proposals have business sites in the United States?

**Audit Results.** The two local offerors' abilities to acquire supplies, equipment, and spare parts were evaluated as a part of the PAS. No verifications were accomplished because U.S. origin ingredients, materials, supplies, equipment, and spare parts are readily available to both the U.S. and ROK firms. No verifications of the Korean firms' business sites in the U.S. were accomplished by anyone initially, since verification was not required in the contracting decision process. Supplemental inquiries were conducted at the urging of the congressional delegation (the congressional delegation was made up of Representative Pickett, a professional staff member, and legal counsel for the House Committee on Armed Services). Those inquiries did not verify the abilities of the businesses to procure the items necessary for the performance of the solicitation's required services. However, verification of the ability to acquire supplies, equipment, and spare parts was not fundamental to the technical acceptability decision made by the PAS team and the Contracting Officer.

**The Local Offerors' Acquisition of Supplies, Equipment, and Spare Parts.** Both local offerors had reliable systems for the acquisition of necessary items to include the packing and shipping described in their technical proposals and in response to the PAS questionnaire. One firm indicated that the acquisition of needed U.S. origin items would be accomplished through its Los Angeles office. The other firm stated that the actual purchase of supplies, equipment, and spare parts would be accomplished through the subcontract arrangement with a U.S. firm (one of the U.S. offerors). Both firms' procedures required a 60-day supply of ingredients, materials, and supplies to be on hand and a 30-day inventory to be in transit. Purchase orders would be issued based on:

- o actual usage for the prior 30 days,
- o expected usage for the next 30 days, and
- o consideration of lead times required on each item.

In addition, both local firms had purchasing policies to competitively procure all items that would enhance the quality of the finished products. Also, procedures were in place for evaluating raw materials and samples before changes of materials or suppliers.

**Verification of Korean Firms' U.S. Business Sites.** Initially, there was no need to verify the existence of the Korean firms' business sites in the United States. Procedures identified in the technical proposals and responses to the PAS questionnaire adequately detailed the firms' abilities to acquire the necessary U.S. origin items for performing the required services of the solicitation. However, due to concerns raised by the congressional delegation, verification of the existence of U.S. business sites was accomplished at one of the local offeror's sites in California and Michigan. No further verification was needed for the other offeror because of the subcontract agreement with one of the U.S. firms. That U.S. firm, a previous milk plant contractor, had also bid on the solicitation and had previously demonstrated the ability to provide the necessary purchasing and shipping services.

**Verification of Offerors' Sites.** The Contracting Officer requested that the local Defense Contract Management Area Operations offices in California and Michigan verify that warehouse space was available for use in supporting the local Korean offeror. The verifications indicated that the Korean firm's two U.S. businesses were capable of providing the necessary storage, staging, packing, and shipping support to the local Korean offeror. However, the verifications did not enable determinations on whether the businesses had the ability to procure the ingredients, materials, equipment, and spare parts necessary for the performance of the required services of the solicitation. No verification of procurement abilities occurred because the Contracting Officer did not request a verification of the U.S. businesses' abilities to provide purchasing support. One of the businesses, located in Michigan, was a potential supplier of many of the ingredients needed for the production of dairy products and frozen desserts. The other business, in the Los Angeles, California, area, ascertained by telephone on November 29, 1993, that it acquired a building in September 1993 that had about 8,000 square feet of space of which about 2,000 square feet was used for office space. The balance was used for storage. The contracting officer believed that determining the abilities of the businesses to procure or provide the ingredients, materials, equipment, and spare parts necessary for performance of the required services was not fundamental to the decision on technical acceptability.

**On-site Verification.** An on-site, in-depth survey was formally requested by the Contracting Officer on February 24, 1994, to address congressional concerns on not only the existence of the Los Angeles, California, facility, but also its ability to perform in relation to the contract. The survey was conducted by the local Defense Contract Management Area Operations office in California on March 2 and 3, 1994. The survey concluded that the U.S. business site in

question did exist, that the office had the systems in place to successfully meet contract requirements, and that the office was performing satisfactorily in support of the local contractor.

**Concern 14.** How are the spare and replacement parts ordered for Government-furnished equipment? Are they obtained through the DoD supply system?

**Audit Results.** Spare and replacement parts for the Government-furnished equipment at the EUSA milk plant are ordered from U.S. sources. Parts are ordered based on the individual equipment manufacturer's operation, maintenance, and parts manuals that are on file in the maintenance office of the EUSA milk plant. The contractor uses a card system, at the milk plant, that lists individual manufacturer's recommendations and normal usage factors that have been developed for each item. When an item reaches its minimal level, the contractor places an order with the U.S. supplier. Minimal levels include a safety level for ensuring that ample on-hand inventory is available until additional parts or supplies have been received at the EUSA milk plant. Spare and replacement parts are procured using the same procedures that are used to procure ingredients and other materials necessary for the production of filled milk, dairy products, and frozen desserts. Spare and replacement parts are readily available to both Korean and U.S. firms from the U.S. equipment manufacturers and from other U.S. suppliers. None of the spare or replacement parts are obtained or available through the DoD supply system.

**Concern 15.** What was the original justification for building the EUSA milk plant?

**Audit Results.** The contract files at the Army Corps of Engineers, Far East District, on the construction of the EUSA milk plant contained no information on the original justification for the construction of the EUSA milk plant. However, two individuals, who were involved with the construction of the facility, told us that it was built to replace an aging plant at Camp Baker. The milk plant at Camp Baker was housed in old buildings and was having problems in meeting health and sanitation standards.

**Concern 16.** Identify the number and location of GOCO milk plants that are the U.S. Army's responsibility. Also, identify the company and country of origin, U.S. or foreign, that are operating each of the milk plants.

**Audit Results.** The U.S. Army is responsible for the operation of two GOCO milk plants. One of those facilities is the EUSA milk plant at the K-16 Airbase, Songnam, ROK. It had been operated by Dairy Maid Dairy, Inc., a U.S. business headquartered in Frederick, Maryland, from February 1992 through December 1993. Contact International Corporation, a U.S. business headquartered in Indianapolis, Indiana, was the incumbent contractor for the operation of the EUSA milk plant at the K-16 Airbase and for the former milk plant at Camp Baker from 1979 through February 1992.

The other GOCO milk plant is the Kanagawa milk plant near the North Dock in Yokohoma, Japan. That milk plant is operated by Servrite, Inc., a U.S. business headquartered in New Canaan, Connecticut.

**Concern 17.** How much nonfat dairy milk powder is being held in war reserves, and which criteria are used for placing material in war reserve?

**Audit Results.** The EUSA milk plant is not an essential operation, and may cease operating during a contingency or a war. If production of filled milk, cultured, and frozen dairy products ceases, the USFK dairy product needs will be met by sources outside the Korean peninsula (Mainland Japan; Okinawa, Japan; or the Continental United States). Therefore, placing milk powder in war reserve storage is not necessary. Nonfat dairy milk powder provided to the various contractors operating and maintaining the EUSA milk plant is not considered war reserve stocks and was never a part of the war reserves. The 6th Support Center, 19th Theater Area Army Command has been purchasing nonfat dairy milk powder from the Defense Personnel and Subsistence Center, Defense Logistics Agency, since 1986. The milk powder was made available to the EUSA milk plant contractor on a reimbursable basis. Between December 1988 and February 1989, the contractor was given the option to purchase those products from the best available U.S. source or to continue obtaining it on a reimbursable basis from the 6th Support Center. In early 1992, the Subsistence Center's contract price for nonfat dairy milk powder more than doubled, because a surplus of dry milk products no longer existed. Shortly thereafter, the contractor determined that milk powder could be purchased from U.S. commercial sources at a lower cost. Because the contractor did not obtain the milk powder from the 6th Support Center, an excess supply of milk powder was in storage, on order, and in transit.

**Nonfat Dairy Milk Powder Stock on Hand.** As of July 31, 1992, the 6th Support Center had a balance of 157,700 pounds of nonfat dairy milk powder on hand and had approximately 320,000 pounds on requisition. In August 1992, the contractor acquired only 1,000 pounds on a reimbursable basis, but 200,000 pounds previously ordered arrived in theater. For the next 4 months, requisitioned quantities kept arriving although none were delivered to the EUSA milk plant. At the end of 1992, the 6th Support Center had a closing balance of 757,700 pounds of nonfat dairy milk powder on hand. For the first 4 months of 1993, no additional quantities were received and no shipments were made. In May and June, a 200-pound and 50-pound shipment were sent to the EUSA milk plant. Starting in July 1993, shipments of stocks resumed as the Government furnished the nonfat dairy milk powder to reduce the balance on hand. As of January 24, 1994, the 6th Support Center reported that 242,050 pounds of milk powder was in stock. That supply will be depleted as Government-furnished material for the current and follow-on contracts to avoid expiration of shelf life. Thereafter, nonfat dairy milk powder will be contractor-furnished material. At the time of the audit, the 6th Support Center had no plans to requisition or stock more nonfat dairy milk powder.

**Criteria for War Reserves.** DoD Directive 3005.5, "Criteria for Selection of Items for War Reserves," states that the Military Departments and Defense agencies shall select items for war reserves to provide wartime support. The Directive states that items selected for war reserves will be items that:

- o are essential for combat and combat support forces to perform their assigned missions;
- o are required for survival and protection of personnel; or
- o are designated as operational rations.

The Directive also states that subsistence items (meat, fruits, vegetables, flour, salt, sugar, etc.), except for those designated as operational rations, will not be selected as war reserves.

**Concern 18.** Was the EUSA milk plant refurbished (that is, new paint, new carpet, and repairs) before the congressional delegation visit in November 1993?

**Audit Results.** In early November 1993, the congressional delegation announced that it would be visiting Korea during the Thanksgiving recess to assess the milk plant operation and the pending renewal contract. The EUSA milk plant was not refurbished because of the announced visit. Rather, the facility received scheduled preventive maintenance and painting as part of the Army's Community of Excellence Program. The request to paint the milk plant was approved before the announcement of the congressional visit to Korea.

**Work Request for Painting at K-16 Airbase.** The Directorate of Engineering and Housing, 34th Area Support Group, 19th Theater Army Area Command, submitted a Facilities Engineering Work Request, document number DA400112J, July 6, 1992, to paint the exterior of 40 buildings, 343,720 total estimated square feet, at the K-16 Airbase, Songnam, ROK. Approval for the painting service, which was required to meet the Army Community of Excellence requirement, was granted on August 25, 1993. The EUSA milk plant, building number 500, was one of the buildings listed on the request.

**Contract for Services.** Delivery Order 0168, was placed against contract DAJB03-92-D-6020 on August 27, 1993. The delivery order was valued at 80,152,000 won or about $106,305 (exchange rate 753.97 won = $1). The order required 2 coats of exterior paint on 40 buildings at the K-16 Airbase and was to be completed by October 26, 1993. The EUSA milk plant was estimated to be approximately 21,000 square feet and totaled about $6,500 (233 won per square foot) of the total cost. The contractor painted only 36 of the 40 buildings, and the Government accepted receipt of the work on October 22, 1993.

**Painting of Other USACCK Buildings.** USACCK office space in two buildings was painted before the congressional delegation's visit. The Purchase Request and Commitment was prepared, submitted, and approved on August 24, 1993. The request was for two coats of interior paint for 2,992 square feet of space located on the second floor of building 2462, Yongsan Main Post, and for 43,817 square feet in building 1130, Camp Coiner, Yongsan, ROK. Delivery Order 0169 was placed against contract

DAJB03-92-D-6020 on September 3, 1993. The order called for the painting to be completed by November 2, 1993, at a cost of 10,906,497 won or about $14,465. The contractor started painting September 30, 1993, and completed the work by October 9, 1993.

**Carpet Replacement in Other USACCK Buildings.** The USACCK had replaced carpet in all of its office space. The replacement was necessary because the existing carpeting was not manufactured with fire-retardant materials and did not meet fire and safety standards. The carpet in the buildings was not replaced before the congressional delegation's visit. Contract DAJB03-93-F-0418 was issued on September 9, 1993, with Regal Carpets, Inc., Chatsworth, Georgia. The contract, costing about $26,000, was for 2,184 square yards of carpeting, 2,180 square yards of padding, and miscellaneous wrapping for export transshipment. Purchase order DAJB03-93-P-3281 for about $1,200 was issued on September 17, 1993, for shipping and handling of the carpet and padding by air freight. In addition, purchase order DAJB03-93-P-3006 was issued on September 9, 1993, for installation of the Government-furnished material carpet and padding at a cost of 4,747,500 won or about $8,300. The purchase order included removal and disposal of existing carpet and padding. The carpet and padding were received and inspected on November 3, 1993. Installation of the carpet and padding started on December 7, 1993.

**Summary.** The exterior painting of the EUSA milk plant and the interior painting of and the carpet replacement in the USACCK office space on Yongsan Main Post and Camp Coiner were contracted and scheduled well in advance of the notification of the congressional delegation's visit. It was coincidental that the painting was accomplished just before the arrival of the congressional delegation in November 1993. The carpet and padding replacement was not accomplished until after the visit.

## Conclusion

We concluded that the solicitation process for the renewal contract of the EUSA milk plant conformed to applicable DoD regulatory requirements and was in the best interest of the Government (the new contract resulted in the reduction of annual operating costs from $2.5 to $1.8 million). The local Korean firms were found to be responsible and technically qualified to produce reconstituted or filled milk and dairy products in accordance with the U.S. quality and sanitation standards prescribed by the PMO. Therefore, the health, safety, and welfare of the U.S. personnel and their dependents, who rely on the products produced under contract at the EUSA milk plant, were not jeopardized.

The audit showed no evidence or indications that the decision to award the contract to a local contractor was improperly made. Although, documentation was not available on the decisionmaking process and on the various decisions made, we found no reason to question the results. The USACCK could have improved the solicitation process to make it more timely. However, the initial terms, requirements, and specifications of the solicitation were challenged

several times by protests (some of which are still in litigation) to the USACCK and the Comptroller General of the United States, which also contributed to delays in the contract award process.

## Management Comments

A draft of this report was provided to the Department of the Army on March 25, 1994. The Department of the Army concurred with the audit conclusions in a response dated May 6, 1994, that is at Enclosure 2. The clarification suggestions made by the Army have been incorporated in this final report. There are no unresolved issues, and no additional comments are required.

The courtesies extended to the audit staff are appreciated. If you have any questions on this audit, please contact Mr. Harlan M. Geyer, Audit Program Director, at (703) 692-2830 (DSN 222-2830) or Mr. Richard A. Brown, Audit Project Manager, at (703) 692-2925 (DSN 222-2925). The distribution of this report is listed in Enclosure 3.

Robert J. Lieberman
Assistant Inspector General
for Auditing

Enclosures

# Organizations Visited or Contacted

## Department of the Army

Assistant Secretary of the Army (Research, Development, and Acquisition), Washington, DC
Chief of Legislative Liaison, Washington, DC
Assistant Surgeon General for Veterinary Services, Washington, DC
Eighth U.S. Army, Assistant Chief of Staff, Acquisition Management, Yongsan, Republic of Korea
U.S. Army Contracting Command Korea, Yongsan, Republic of Korea
Eighth U.S. Army, Assistant Chief of Staff, Logistics, Yongsan, Republic of Korea
19th Theater Army Area Command, Taegu, Republic of Korea
6th Support Center, Taegu, Republic of Korea
34th Area Support Group, Yongsan, Republic of Korea
Eighth U.S. Army Milk Plant, K-16 Airbase, Songnam, Republic of Korea
Eighth U.S. Army, Staff Judge Advocate General, Yongsan, Republic of Korea
Eighth U.S. Army, Resource Management, Yongsan, Republic of Korea
106th Medical Detachment (Veterinary Services), Yongsan, Republic of Korea

# Department of the Army Comments

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, DC 20310-0103

06 MAY 1994

REPLY TO
ATTENTION OF

SFRD-KI

MEMORANDUM FOR AUDITOR GENERAL, U S ARMY AUDIT AGENCY,
3101 PARK CENTER DRIVE, ALEXANDRIA
VIRGINIA 22302-1596

SUBJECT Draft Audit Report on the Eighth U S Army Milk Plant Contract
(Project No 3RA-0074 01)

This office agrees with and endorses the comments on the subject report submitted by the Eighth U S Army (attached) No additional comments are provided from this office

If you need additional information, please contact LTC R D Kerrins, Jr , (703) 756-7572

George E Dausman
Deputy Assistant Secretary of the Army
(Procurement)

Attachment

Final Report Reference

DEPARTMENT OF THE ARMY
HEADQUARTERS, EIGHTH UNITED STATES ARMY
UNIT #15236
APO AP 96205-0009

REPLY TO ATTENTION OF:

EAIR (36-5d)

MAY 02 1994

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (RESEARCH, DEVELOPMENT AND ACQUISITION), WASHINGTON, DC 20310-0103

SUBJECT: Response to DoDIG Draft Audit Report on the Eighth U.S. Army Milk Plant Contract (Project #3RA-0074.01)

1. This is the Eighth United States Army (EUSA) response to the Department of Defense Inspector General (DoDIG) draft report on the EUSA Milk Plant Contract (Project #3RA-0074.01).

2. We concur with the conclusions in the draft DoDIG Audit Report except as noted below:

a. Page 4, Request for Proposals. Add after last sentence:

"The solicitation was amended, which changed the contract base period from 6 months to twelve months, October 1, 1993, through September 30, 1994. Due to delays in contract award, the actual contract base period is December 15, 1993 through September 30, 1994 with an option period of 1 year, beginning October 1, 1994 and ending September 30, 1995.

b. Page 4, Audit Results, Concern 1; Page 8, Audit Results, Concern 4; and Enclosure 1, Organizations Visited or Contacted. Change "Judge Advocate General, EUSA" to:

"Staff Judge Advocate General, EUSA"

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c. Page 18, Audit Result, Concern 13. Add after last sentence:

"An on-site in-depth survey was conducted by the EUSA Contracting Center between March 2 & 3, 1994. It verified that the U.S. business site in question did exist and was performing satisfactorily in support of the local contractor.

EAIR (36-5d)
SUBJECT: Response to DoDIG Draft Audit Report on the Eighth U.S. Army Milk Plant Contract (Project #3RA-0074.01)

Rationale: The supplemental inquiries tasked by the Congressional delegation that an on-site verification was required was not made clear until the follow-up visit by Mr. Brown, DoDIG, on February 20, 1994. At that time, a formal survey request was made and conducted. Since the audit was conducted from October 1993 through March 1994, the results of the latter survey should be included.

d. Page 20, Audit Results, Concern 17. Change first sentence to: 19

"The EUSA milk plant is not an essential operation, and may cease production of fresh, cultured and frozen dairy products during contingencies or a war."

Rationale: The change would clarify the Command's intent regarding milk plant operations in contingencies. Some levels of confrontation may not require total plant shut down, and the revised wording provides for the greater degrees of latitude in the command's decision process. The change of wording does not impact on the fact that milk powder is not part of war reserve stocks.

WILLIAM D. MCGILL II
Colonel, GS
Chief of Staff

CF:
OAIG-AUD/ROS
SAAG-PRF-E

## Non-Defense Organizations (Continued)

Chairman and Ranking Minority Member of Each of the Following Congressional Committees and Subcommittees:

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Budget
Senate Committee on Foreign Relations
Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Subcommittee on Readiness, Committee on Armed Services
House Committee on Government Operations
House Subcommittee on Legislation and National Security, Committee on Government Operations
House Committee on Foreign Affairs

# Audit Team Members

| | |
|---|---|
| William F. Thomas | Director, Readiness and Operational Support Directorate |
| Harlan M. Geyer | Audit Program Director |
| Richard A. Brown | Audit Project Manager |
| Suk-Yo Webb | Auditor |
| Thomas E. Biller | Auditor |
| Nancy C. Cipolla | Editor |