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Report

OFFICE OF THE INSPECTOR GENERAL

**ASSISTANCE PROVIDED TO U. S. ARMY CRIMINAL
INVESTIGATION COMMAND AT REGIONAL
CONTRACTING OFFICE FUERTH**

Report Number 92-138

September 25, 1992

Department of Defense

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



September 25, 1992

**MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION
DIRECTOR OF DEFENSE PROCUREMENT
COMMANDER IN CHIEF, U.S. EUROPEAN COMMAND
ASSISTANT SECRETARY OF THE NAVY (FINANCIAL
MANAGEMENT)
ASSISTANT SECRETARY OF THE AIR FORCE (FINANCIAL
MANAGEMENT AND COMPTROLLER)
INSPECTOR GENERAL, DEPARTMENT OF THE ARMY
COMMANDER, U.S. ARMY CRIMINAL INVESTIGATION
COMMAND**

**SUBJECT: Report on the Assistance Provided to U.S. Army Criminal
Investigation Command at Regional Contracting Office
Fuerth (Report No. 92-138)**

We are providing this final report for your information and use. The Contract Management Directorate performed the review to support the U.S. Army Criminal Investigation Command, Second Region, Nuernberg District, and German authorities from October 1990 through August 1992. A draft of this report was not issued. Since this report contains no findings or recommendations, no comments are required.

We appreciate the cooperation and courtesies extended to the audit staff. If you have any questions on this review, please contact (b)(6) Program Director, at (703) 692-(b)(6) (DSN 222-(b)(6)) or (b)(6) Project Manager, at (703) 692-(b)(6) (DSN 222-(b)(6)). The planned distribution of this report is listed in Appendix D.

Robert J. Lieberman

Robert J. Lieberman
Assistant Inspector General
for Auditing

Enclosures

cc:
Secretary of the Army
Secretary of the Navy
Secretary of the Air Force
Commander, U.S. Army, Europe
Commander, U.S. Naval Forces, Europe
Commander, U.S. Air Force, Europe

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Office of the Inspector General, DoD

REPORT NO. 92-138
(Project No. OCD-0067.03)

September 25, 1992

REPORT ON THE ASSISTANCE PROVIDED TO U.S. ARMY CRIMINAL
INVESTIGATION COMMAND AT REGIONAL CONTRACTING OFFICE FUERTH

EXECUTIVE SUMMARY

Introduction. In May 1990, U.S. Army Criminal Investigation Command, Second Region, Nuernberg District (CID) opened a report of investigation concerning the Regional Contracting Office (RCO) at Fuerth, Germany. We performed a review of repair and maintenance type contracts at RCO Fuerth to provide assistance in the investigations being performed by CID.

Objective. The objective was to review and analyze contract information for selected contractors at RCO Fuerth, Germany, to provide support to CID. We did not evaluate internal controls as part of our review at RCO Fuerth.

Review Results. We reviewed contract information for 969 repair and maintenance contracts for 65 contractors at RCO Fuerth and their suboffice, Wuerzburg, covering FYs 1986 through 1990. The total value of the contracts reviewed was Deutsche Marks (DM) 487.9 million (\$231.3 million). We developed seven main data bases to provide information on the 65 contractors to CID and German federal and state government authorities. As a result of the investigations and the information we provided, 20 contractors were titled for bribery, granting gratuities, and restraint of trade (bid-rigging) and 2 contractors were titled for granting gratuities. "Titled" refers to being identified as a subject of a criminal investigation. About DM6 million (\$3.7 million) in bribes were paid and DM0.6 million (\$0.3 million) in gratuities were granted. Additionally, nine RCO contracting agents and eight Director of Engineering and Housing employees were titled for receiving bribes or gratuities. As information is developed, further investigations are being initiated for other fraud aspects, such as falsification of bids, product substitution, and false claims. The investigation is also expanding to identify formalized bid-rigging schemes using information we provided to CID. This report contains no findings or recommendations and comments are not required.

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TABLE OF CONTENTS

	<u>Page</u>
TRANSMITTAL MEMORANDUM	
EXECUTIVE SUMMARY	i
PART I - RESULTS OF REVIEW	
Introduction	1
Background	1
Scope	2
Internal Controls	2
Prior Audits and Other Reviews	3
Discussion	3
Actions in Process	4
Conclusion	4
PART II - ADDITIONAL INFORMATION	
APPENDIX A - Description of Data Bases	9
APPENDIX B - List of Titled Firms	13
APPENDIX C - Activities Visited or Contacted	15
APPENDIX D - Report Distribution	17

This report was prepared by the Contract Management Directorate, Office of the Assistant Inspector General for Auditing, DoD. Copies of the report can be obtained from the Information Officer, Audit Planning and Technical Support Directorate, (703) 614-6303 (DSN 224-6303).

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PART I - RESULTS OF REVIEW

Introduction

The review was performed to provide assistance to investigations conducted by the U.S. Army Criminal Investigation Command, Second Region, Nuernberg District (CID). The objective was to review and analyze contract information for selected contractors at Regional Contracting Office (RCO) at Fuerth, Germany, to provide support to CID.

Background

RCO Fuerth is an Army contracting office located in Germany with one suboffice in Wuerzburg. RCO Fuerth is one of ten RCOs under the U.S. Army Contracting Command located in Seckenheim. The U.S. Army Contracting Command is under U.S. Army, Europe (USAREUR). RCO Fuerth provides contracting for various military communities in the northern Bavaria area. This includes providing contracting for the Directors of Engineering and Housing (DEH) at Ansbach, Aschaffenburg, Bamberg, Nuernberg, Schweinfurt, and Wuerzburg. In addition, RCO Fuerth provides contracting support to other DoD activities, such as DoD Dependents Schools and the Armed Forces Recreation Center, Garmisch.

In November 1990, at the beginning of our review, RCO Fuerth had 72 people employed in 5 branches (including the Chief's Office). We reviewed contracts awarded in the Repair and Maintenance Branch, which was comprised of a chief, a secretary, and 11 contracting agents. Of the 11 contracting agents employed in November 1990, 7 were titled by CID for receiving bribes and gratuities. "Titled" refers to being identified as a subject of a criminal investigation. DoD Directive 5505.7, "Titling and Indexing of Subjects of Criminal Investigations in the Department of Defense," May 14, 1992, defines subject as a person, corporation, other legal entity, or organization about which credible information exists that would cause a reasonable person to suspect the person, corporation, other legal entity, or organization may have committed a criminal offense or otherwise make a person, corporation, legal entity, or organization the object of a criminal investigation. The German bribery code considers giving bribes and gratuities to be separate offenses. A "bribe" is defined as anything of value provided in direct exchange for an action. A "gratuity" is anything of value provided for future favors or consideration but not directly tied to an action.

Scope

At the request of CID, we reviewed contract information for 969 repair and maintenance type contracts awarded during FYs 1986 through 1990 for 65 contractors at RCO Fuerth and its suboffice, Wuerzburg. For 797 contracts the total value was Deutsche Marks (DM) 483.8 million (\$229.3 million).* The remaining 172 contracts were small purchase contracts (under \$25,000) for a total value of DM4.1 million (\$2.0 million). We reviewed the following contract documentation: request for contracting action, Purchase Request and Commitment (PR&C), source list, original and revised Independent Government Estimates (IGE), abstract of offers, contractors' bids, basic contracts, modifications and delivery orders, and Contracting Officer's Representative (COR) and Alternate Contracting Officer's Representative (ACOR) designation letters. We were unable to perform all the analyses on seven contracts because most preaward documents were missing.

We used computerized data from the Individual Contracting Action Reports (Defense Department Form 350) and the Standard Army Automated Contracting System (SAACONS) to identify contracts for review. The computerized contract data was accurate for our purposes. We supplemented the computerized data with manual contract registers and a physical search of contract files at RCO Fuerth to perform a total review of all contracts for the 65 contractors for FYs 1988 through 1990. We identified 572 contracts from data accumulated from the Defense Department Form 350s and 82 contracts in SAACONS. We identified an additional 87 contracts from the manual contract registers and 172 small purchase contracts from the RCO files. We also reviewed 56 selected contracts for FYs 1986 through 1987 which were identified as "bribe" contracts by CID.

This review was made from October 1990 through August 1992. The activities visited or contacted during the review are listed in Appendix C.

Internal Controls

Internal controls were not evaluated as part of our review at RCO Fuerth, Germany. However, recipients of the report should be alert to indicators of the kind of fraud found at RCO Fuerth and to the need for good internal controls to minimize vulnerability to such fraud.

*All DM conversions to dollars used the official exchange rate for the time of the contract.

Prior Audits and Other Reviews

There were no prior audits of repair and maintenance contracts at RCO Fuerth during the last five years.

Discussion

The CID and various German federal and state government authorities used the contract data obtained from our review to support investigative interviews, to verify that contracts were awarded to support statements, to identify the dollar and DM value of the contracts by contractor, to identify key personnel (RCO and DEH) involved with the contracts, to compare the IGEs to the award prices, to identify bid offerers in support of bid-rigging schemes, to identify excessive modifications, to provide data for additional investigative interviews, and to determine other potentially related information. We developed seven main data bases with numerous subdata bases to provide detailed information to the CID, the Nuernberg German Criminal Police, and the Bavarian State Cartel Office. The Bavarian State Cartel Office investigates bid-rigging and restraint of trade and levies fines. See Appendix A for details on the data bases we developed for CID.

In May 1990, CID opened a report of investigation concerning RCO Fuerth, Case No. 0851-90-CID747-20375. This report of investigation was closed in February 1992. As a result of the investigation, 9 of the 11 RCO contracting agents (local nationals) in the Repair and Maintenance Branch were titled for receiving bribes and gratuities. Seven of the nine titled agents were terminated, one agent had previously retired, and one had previously left for another job. Also, a total of 22 German contractors were titled in this investigation report. Twenty of the contractors were titled for bribery, granting gratuities and restraint of trade (bid-rigging). Two firms were titled only for granting gratuities. See Appendix B for the list of titled firms.

The CID identified 214 contracts valued at about \$111.3 million which were obtained through bribery. About DM5.77 million (\$3.64 million) in bribes were paid by 20 different firms to receive the 214 contracts. An additional DM351,985 (\$173,392) in gratuities were given by the 22 titled firms. It was estimated that the bribes and gratuities were received by the RCO personnel between January 1983 and October 1990.

Four additional CID reports of investigation were opened between December 1990 and April 1991. These investigations involved eight DEH employees. Seven were local national employees and one was a U.S. citizen. The eight DEH employees were from four different DEHs. Six of the eight DEH employees were titled

for receiving bribes and gratuities, and the other two DEH employees were titled for receiving bribes. The DEH employees were known to have received at least DM202,000 (\$93,179) in bribes and DM251,500 (\$150,599) in gratuities. It is believed that these bribes and gratuities were received between January 1983 and December 1990. Four of the DEH employees were terminated, two DEH employees quit, and one DEH employee retired prior to the CID investigation being opened. Action on the eighth DEH employee is still pending. The four CID reports of investigation are closed.

Examples of bribes and gratuities provided to RCO and DEH employees included cash, vacations, automobiles, house renovations, appliances, expensive rugs, oil paintings, and china.

Actions in Process

Four of the former RCO employees were prosecuted in German court by a German Economic Crime Prosecutor. The firm owners for the 22 titled firms and the remaining titled RCO and DEH employees are pending prosecution. In addition, the German Finance Office for Bayreuth and Wuerzburg (tax authorities) are in the process of performing tax-type audits of the titled RCO and DEH employees and the 22 titled firms. The former RCO and DEH titled employees could have unreported income from the bribes and gratuities they received. The titled firms can have unreported income if they did not report all the contracts they had with the U.S. Government. There is a 50 percent German tax for unreported income.

The CID report concerning the 214 bribe contracts addressed only the bribery, gratuities, and bid-rigging issues. As information continues to be developed, further investigations are being initiated into other fraud aspects, such as falsification of bids, product substitution, and false claims. Examples include falsified bids on kitchen renovation contracts and a heating contract where the firm provided less than what the contract specified.

In addition, the investigations are expanding to identify formalized bid-rigging schemes involving the 22 titled firms and numerous other firms using information we provided to CID.

Conclusion

As of August 1992, about DM2.5 million (\$1.5 million) has been recovered either through search or voluntary release from the nine titled RCO employees. This money is currently being held by the German government as evidence. No money to date has been recovered from the titled DEH employees.

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The USAREUR suspended all 22 titled firms from contracting with the U.S. Government. The USAREUR has made administrative recoveries from 11 of the titled firms by withholding about 3 percent from the contractors' invoices submitted for payment on active contracts. As of March 2, 1992, about \$1.6 million has been withheld by the Army.

We regard this matter as a model of cooperation between U.S. and German authorities.

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PART II - ADDITIONAL INFORMATION

APPENDIX A - Description of Data Bases

APPENDIX B - List of Titled Firms

APPENDIX C - Activities Visited or Contacted

APPENDIX D - Report Distribution

APPENDIX A - DESCRIPTION OF DATA BASES

Contract data. Our data base was developed to provide basic contract information. The contract data base contained the following information: contractor name, contract number and date, modification or delivery order number, DEH, DEH point-of-contact, project number, solicitation number and date, contracting agent, contracting officer, contract amount in dollars and DMs, COR, and ACOR. The majority of the information was obtained from the basic contract and modifications or delivery orders. Information was also obtained from the IGEs; COR and ACOR designation letters; PR&C documents; and request for contracting action documents. Our data base contained 178 bribe contracts valued at about \$85.5 million. Nine different contracting agents were involved in the 178 bribe basic contracts. Seven different DEHs were involved with DEH Schweinfurt having more than one-third of the bribe contracts. The number of bribe contracts in our data base varied from the 214 bribe contracts identified by CID because of additional contracts identified after completion of our fieldwork.

A similar contract data base was developed to provide contract data on small purchase contracts (basic contracts under \$25,000). The data base contains the following information: contractor name, contract number and date, modification number (if applicable), DEH, DEH point-of-contact, project number, solicitation number and date, contracting agent, contracting officer, contract amount in dollars and DMs, COR, and ACOR. This data base contained seven small purchase bribe contracts valued at DM280,593 (\$137,134).

Comparison of modifications to award amounts and Independent Government Estimates. Our data base was designed to compare the total value of modifications to the award amount and the amounts of the original and revised IGEs. The fields included in this data base were: contractor name, contract number, award amount in DMs, total value of modifications in DMs, and the amount of the original and revised IGEs in DMs. The data base also provided a comparison of the total value of modifications to the contract award amounts, to the original IGE amounts, and to the revised IGEs.

Bid source. Our data base was developed to provide a means of determining if the source was on the original source list, was added by Government personnel, or was a write-in (the firm requested a solicitation package) and if the sources bid. We developed bid codes for each possible scenario for each contractor on the source list or abstract of offers. The data base contained contractor name, bid code, and comments (to explain inconsistent names or irregular events) on each source. The documents used for this analysis were the source list, abstract of offers, contract, and contractors' bids.

APPENDIX A - DESCRIPTION OF DATA BASES (cont'd)

The data base was used to determine how often the successful offerer was on the original source list, how often firms bid with the successful offerers, when all sources who bid were on the original source list, when none of the sources on the original source list bid, and various other analyses. The successful offerer was on the original source list for 329 of the 797 contracts. For 185 contracts, the successful offerer was added to the source list by Government personnel. The successful offerer was a write-in to the source list for 276 contracts. For seven contracts, the preaward documentation could not be found to determine the bid code for the successful offerer. There were 123 contracts (25 bribe contracts) where none of the contractors on the original source list bid. There were 70 contracts (27 bribe contracts) where all the contractors on the original source list bid. For the 178 bribe contracts, the successful offerer was on the original source list 101 times. The successful offerer was added to the source list by Government personnel on 30 of the 178 bribe contracts. For 45 bribe contracts, the successful offerer was a write-in to the source list. For two bribe contracts, no preaward file could be found to determine the successful offerers' bid code.

Bid comparisons. Our data base was developed to compare the contractors' bids and the IGE for each contract grouped by successful contractor. A percentage comparison was done between the award amount and the other offers. Also, a percentage comparison was completed for the bid amounts and the IGE and the revised IGE. The comparison was designed to show the percentage of other bids to the successful offerer. The comparisons were analyzed for patterns that may exist among the firms; for example, the frequency of titled firms bidding on the same contract or the same contractors consistently bidding together. The source documents used for the data base were the abstracts of offers, the contract, contractors bids, and original and last revised IGEs.

DEH data. Our data base identified the various personnel involved with the contracting process at the DEH level. The source documents used for this data base include: PR&C, requests for contracting action, IGEs (original and revised), COR and ACOR designation letters, organizational charts for the DEHs, and the contract.

Project classification. Our data base was designed to provide a description of the work, the work location, and the corresponding DEH. The data base classified each project into one of three groups: Heat, Kitchen, or Other. The CID requested the three groups because of an indication of a relationship between heat or kitchen projects and bribe contracts. The source documents used for this data base include: PR&C, request for contracting action, and the contract.

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APPENDIX A - DESCRIPTION OF DATA BASES (cont'd)

For the 797 contracts, the breakout between the 3 groups are as follows: 672 contracts (130 bribe contracts) were classified as Other; 97 contracts (39 bribe contracts) were classified as Heat; and 28 contracts (9 bribe contracts) were classified as Kitchen. The contracts classified as Other were valued at about DM331.8 million (\$157.1 million). The Heat contracts were valued at about DM131.9 (\$62.2 million). The Kitchen contracts were valued at about DM20.1 million (\$10.0 million).

Contractor addresses. The purpose of our data base was to provide CID with a list of names and addresses of all contractors on the source list and abstract of offers for the contracts reviewed. The data base was queried to show different contractors with the same or similar addresses. The data base was analyzed to determine which firms used only a post office box number for a street address. The data base may also provide an indication of why various contractors did not respond to a solicitation, such as the wrong city code or bad address for a contractor. The source documents used for this data base include: source lists, abstracts of offers, the contract, and the contractors' bids.

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APPENDIX B - LIST OF TITLED FIRMS

Alwico Hesterberg
Bodaechtcl, Ernst
Boehm, Andreas
Buettner, Herbert
FBS *
Haupt
Heil, Otto
Heyduck, Waldemar *
Hoffman, Horst
Holland, Walter
Howema
Janca
Janka, Bernhard
Koch
Kraus
Niersberger
Nitschke, Manfred
Onoldia
Pfister
Roeder, Alfred
Schneider, Hans
Schuepferling

* Indicates titled only for granting gratuities.

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APPENDIX C - ACTIVITIES VISITED OR CONTACTED

Department of the Army

U.S. Army Contracting Command, Europe, Heidelberg, Germany
Regional Contracting Office, Fuerth, Germany
Regional Contracting Office, Fuerth, Suboffice Wuerzburg,
Germany

Second Region, U.S. Army Criminal Investigation Command,
Mannheim-Seckenheim, Germany

Nuernberg District, Second Region, U.S. Army Criminal
Investigation Command, Fuerth, Germany

APPENDIX D - REPORT DISTRIBUTION

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition
Assistant Secretary of Defense (Production and Logistics)
Assistant Secretary of Defense (Public Affairs)
Director of Defense Procurement
Deputy Director Foreign Contracting, Director of Defense
Procurement

Department of the Army

Secretary of the Army
Assistant Secretary of the Army (Financial Management)
Commander in Chief, U.S. Army, Europe
Inspector General, Department of the Army (Operations Division)
Auditor General, U.S. Army Audit Agency
Commander, U.S. Army Criminal Investigation Command
Commander, Second Region, U.S. Army Criminal Investigation
Command, Mannheim-Seckenheim, Germany
Commander, Nuernberg District, Second Region, U.S. Army Criminal
Investigation Command, Fuerth, Germany
Commander, U.S. Army Contracting Command, Heidelberg, Germany
Chief, Regional Contracting Office, Fuerth

Department of the Navy

Secretary of the Navy
Assistant Secretary of the Navy (Financial Management)
Commander, U.S. Naval Forces, Europe
Commander, Naval Investigative Service Command
Auditor General, Naval Audit Service

Department of the Air Force

Secretary of the Air Force
Assistant Secretary of the Air Force (Financial Management and
Comptroller)
Commander, U.S. Air Force, Europe
Commander, Air Force Office of Special Investigations
Auditor General, Air Force Audit Agency

Defense Agencies

Director, Defense Contract Audit Agency
Director, Defense Logistics Agency
Director, Defense Logistics Studies Information Exchange
Director, National Security Agency/Chief Central Security Service
Inspector General, Defense Intelligence Agency

APPENDIX D - REPORT DISTRIBUTION (cont'd)

Other Defense Activities

Commander in Chief, U.S. European Command

Non-DoD Activities

Office of Management and Budget

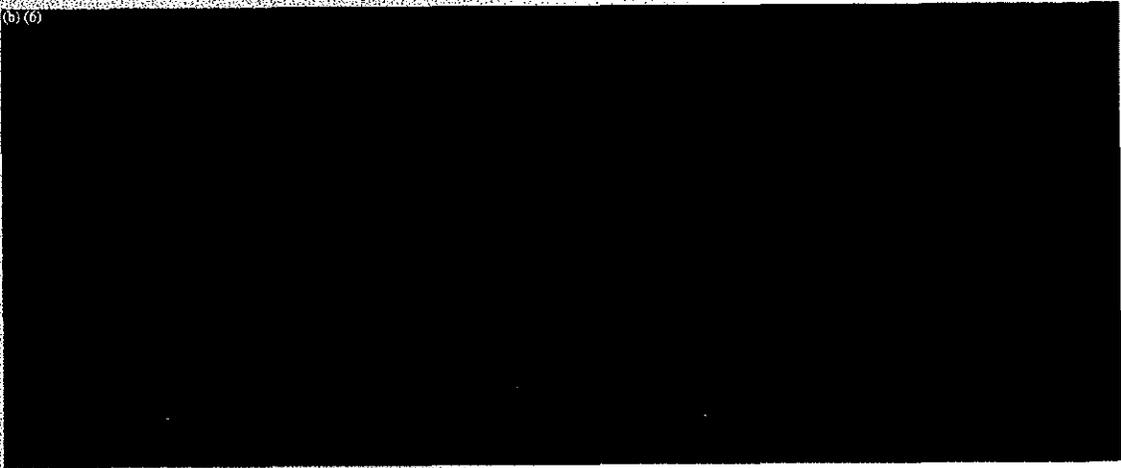
U.S. General Accounting Office, NSIAD Technical Information
Center

Chairman and Ranking Minority Member of the following
Congressional Committees:

Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Subcommittee on Investigations, 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

LIST OF AUDIT TEAM MEMBERS

(b) (6)



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