



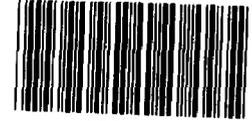
UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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RELEASED

INTERNATIONAL DIVISION

B-210448 **RESTRICTED** — Not to be released outside the
Accounting Office except on the basis of specific **JANUARY 21, 1983**
by the Office of Congressional Relations.

The Honorable Benjamin A. Gilman
House of Representatives



120639

Dear Mr. Gilman:

Subject: U.S. Army Corps of Engineers' Selection
of a Prime Construction Contractor in
Saudi Arabia (GAO/ID-83-27)

In response to your letter of July 6, 1982, we reviewed contractor selection procedures in the award of a U.S. Army Corps of Engineer's contract for construction of military family housing in Saudi Arabia under the Foreign Military Sales Program. Because of complaints you received from an American company about its experiences with Al-Huseine-ADA, a joint Saudi Arabian-Pakistani company which was awarded the contract, you requested information on (1) the procedures followed by the Corps in checking the contractor's "integrity" and (2) any difficulties other American businesses may have experienced with this contractor.

The results of our work are detailed in enclosure I. In summary, we found that the Corps generally followed its procedures in awarding the contract to Al-Huseine-ADA, and that the contractor met the preaward survey standards and other prequalification criteria. We found no indications that this contractor was subjected to any more or less scrutiny than any other contractor. We believe that Corps officials reasonably satisfied themselves in confirming the integrity of the contractor as prescribed in the Defense Acquisition Regulations.

We also contacted representatives of 10 U.S. firms to discuss their experiences with Al-Huseine-ADA. Overall, these discussions did not suggest impropriety or extraordinary difficulty which would deter U.S. businesses from conducting business with this contractor. Although three firms indicated there were some payment delay difficulties encountered with this contractor, their experiences were generally the same as doing business with any other foreign firm.

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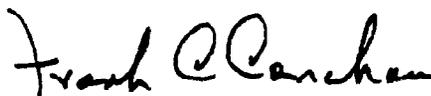
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We have not obtained written comments on this report but have discussed our findings with Corps and State Department officials. Also, as arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies to interested parties and make copies available to others upon request.

If we can be of further assistance in this matter, please let us know.

Sincerely yours,

A handwritten signature in cursive script that reads "Frank C. Conahan".

Frank C. Conahan
Director

Enclosure

U.S. ARMY CORPS OF ENGINEERS'
SELECTION OF
A PRIME CONSTRUCTION
CONTRACTOR IN SAUDI ARABIA

The contract (No. DACA 93-79-C-0001) was awarded to Al-Huseine-ADA on August 12, 1979, for \$205.6 million. The contract is for the construction of Housing Areas Nos. 1 and 3 at King Khalid Military City, Al Batin, Saudi Arabia. The Corps is satisfied with the contractor's performance on this contract and has subsequently awarded two additional contracts for construction work at Al Batin totaling over \$230 million.

BACKGROUND

The Engineering Assistance Agreement under which the Al Batin project is being undertaken, became effective on May 24, 1965. It has been extended five times and is due to expire in May 1985. The Agreement was entered into pursuant to section 507(a) of the Foreign Assistance Act of 1961, and is currently authorized by section 22 of the Arms Export Control Act. The Agreement, a country-to-country arrangement, under Department of State sponsorship, essentially calls for the Corps to provide management services to Saudi Arabia for contracting, designing, and constructing various projects. In return, the Saudi Government completely funds these projects, including the Corps' entire Middle East Division operation, both in its forward location at Riyadh, Saudi Arabia, and its rear location at Berryville, Virginia.

Construction at the King Khalid Military City is being performed for the Saudi Ministry of Defense and Aviation. The City will be totally self-contained to accommodate personnel for three army brigades, their dependents, and civilian support personnel. It will include schools, shopping areas, a hospital, and an engineering center. The entire project is estimated to cost about \$7.6 billion and is to be completed in the late 1980s.

Al-Huseine-ADA (Saudi Arabia) Ltd., which was awarded the contract, is a limited partnership between the Saudi firm Al-Huseine (51 percent ownership) and the Pakistani firm ADA (49 percent ownership). The partnership was formed in 1978, though both firms were individually established prior to that date.

The Al-Huseine firm is a sole proprietorship established in 1958. The firm primarily imports and sells food grains, sugar, wheat, flour, and other food commodities. Other business involvements include oil drilling; solar energy marketing; passenger vehicle, building material, and livestock importing; and acting as shipping and airline agents.

ADA, referring to Airport Development Authority, is basically the Government of Pakistan's prime contractor for engineering, design, construction and equipping Pakistan's civil airports. The ADA, established in 1965, was recently elevated to an Authority (formerly Agency) within the Pakistan Ministry of Defense. ADA is working with the Al-Huseine firm on a joint venture basis for establishing consultancy or contracting projects in Saudi Arabia and elsewhere in the Middle East.

SCOPE AND METHODOLOGY

We made our review primarily at the Corps' Middle East Division in Riyadh, Saudi Arabia, and Berryville, Virginia. We visited the Corps' Al Batin District Office--construction site for the contract--and interviewed the current contracting officer and representatives of the Al-Huseine-ADA firm. We also reviewed the preaward files for the contract and for 13 additional contracts at Al Batin to determine whether the contractor screening procedures were alike and awarded under appropriate regulations.

We supplemented these efforts by personally interviewing representatives of American firms who have business experience with Al-Huseine-ADA.

Our review was performed in accordance with generally accepted Government auditing standards.

CORPS FOLLOWED PROPER PROCEDURES TO ASSURE CONTRACTOR INTEGRITY

The Corps' Middle East Division generally followed the prescribed procedures for prequalification screening and preaward survey for the contract awarded to Al-Huseine-ADA. We found no indications that Al-Huseine-ADA was subjected to any more or less scrutiny than any other contractor. We believe that Corps officials reasonably satisfied themselves that the firm met all the necessary requirements.

Selecting construction contractors

The Defense Acquisition Regulations prescribe general policy on the responsibility or integrity of prospective contractors, including the minimum standards, and the requirements

and procedures for determining responsibility. The Regulations also describe the procedures used for prequalification of bidders. This process is necessary to assure timely and efficient performance of critical construction projects by limiting bidding to proven competent firms. The result of the prequalification procedure is a qualified bidders list.

In addition, a preaward survey may be performed to make a final evaluation as to a prospective contractor's qualification and capacity to perform under the terms of a proposed contract. The survey assures the contracting officer that the prospective contractor's status has not changed since the initial prequalification screening.

Prequalification

The Corps Middle East Division Regulations, which implement the Defense Acquisition Regulations, outline the criteria and procedures for prequalification of bidders for construction of facilities in Saudi Arabia.

Interest in planned construction projects is solicited through notices published in the Commerce Business Daily and in various other international and/or local (Saudi Arabia) publications as appropriate. These notices summarize the work to be performed and request interested firms to submit Engineer (ENG) Form 3627, Prequalification Statement for Prime Construction Contractors, along with related supporting documents.

A board for prequalification of bidders is established to identify specific criteria for developing a list of qualified firms for a designated project. The board, composed of Corps personnel, evaluates each firm based on a number of factors, including: construction capacity, management ability, performance quality and timeliness, labor, equipment and financial resources, and a sufficient record of business, contract, and financial "know-how" and integrity. The dominant factors are a firm's experience and its ability to perform the volume of work necessary to maintain the project schedule.

The prequalification board establishes criteria for each project by determining the minimum degree of expertise desired by category of work--for example, general buildings, exterior utilities, mechanical systems, etc. The board also often includes criteria used to measure a firm's volume of work which is expressed in an average annual dollar work placement amount.

These criteria are used to evaluate the information received on the ENG Forms 3627 received by applying subjective numerical ratings in the categories of performance, construction experience, foreign experience, and average annual work placement. Corps officials told us that they do not routinely verify

the information submitted by firms. However, when they are in doubt, they attempt to locate other information sources.

The board selects firms qualified to bid on a project by comparing the numerical ratings assigned to each firm against the established project criteria. A list of recommended qualified contractors is then prepared and furnished to the Saudi Arabian Ministry of Defense And Aviation (MODA) for review and approval.

The MODA approval role and authority in the prequalification process is significant. Any contractor recommended by the Corps may be rejected and other firms may be added to the prequalified listings by the MODA. Firms added to the list by the MODA are subsequently screened by the Corps through the normal prequalification process.

The MODA has also placed certain requirements and restrictions on the Corps' overall contractor selection. For example, the

- Corps' prequalified contractor list may not exceed 25 firms,
- prequalified contractor list is limited to a total of only three Korean firms, and
- maximum participation by Saudi-owned or affiliated firms is encouraged.

These actions by MODA have caused the Corps to adjust its prequalification screening process. For example, when the Corps establishes its criteria for a project, construction experience and placement standards for Saudi firms may be set lower than for other firms. Corps officials explained that these lower criteria are justified by the fact that local firms have lower mobilization costs, and can be fully competent with a lower rating because of the home country advantages such as logistics, visas, customs clearances, etc.

Corps officials believe that the minimum criteria established are sufficient to assure that a contractor can perform satisfactorily. Furthermore, we found only two instances where otherwise qualified non-Saudi firms have been deleted in order to make room for Saudi firms. Therefore, despite the addition of Saudi requirements to the selection process, it is not apparent that the Corps has compromised its standards in reasonably assuring that only responsible and capable firms are awarded contracts.

Preaward survey

Once a listing of prequalified contractors is approved, each candidate is issued a request for proposal which includes detailed plans and specifications for each project. These requests initiate a period of competitive negotiation to assure that the advantages of competition operate to help obtain fair and reasonable contract prices. Once contractor proposals have been received, opened, evaluated and negotiated, and a decision has been made to award the contract, a preaward survey is done. Frequently, many months pass between the time of prequalification and the time of award. The purpose of the preaward survey is to satisfy the Corps' contracting officer that nothing has changed since prequalification.

The Defense Acquisition Regulations state that the preaward survey may be performed by use of (1) data on hand, (2) data from another government agency or government source, (3) an onsite inspection of plant and facilities to be used for the proposed contract, or (4) any combination of the above. The Regulations are implemented by Corps regulations which specify preparation of a preaward survey form that is signed by the contracting officer or his representative as an endorsement of the proposed contractor's responsibility and capability. The applicable items are to be checked as "Satisfactory" or "Questionable," and supported with a brief statement or reference to a pertinent document which supports the evaluation. For example, a satisfactory rating in the "Business and Financial Reputation and Integrity" category could be supported by a statement to the effect that the contractor's business and financial reputation and integrity are matters of general knowledge or reference could be made to specific papers contained in the contract file.

The Engineering Regulations further require that, on all proposed awards of military construction contracts exceeding \$1 million in value, the preaward survey will be supplemented with the prospective contractor's certified statement listing

- each contract awarded to the firm within the preceding 3-month period which exceeds the \$1 million in value, with a brief description of the contract, and
- each contract awarded to the firm within the preceding 3-year period not already completed which exceeds \$5 million in value, with a brief description of the contract.

Contracting officers are to use this information in judging the existing workloads against the apparent technical, manage-

rial, and financial capability of each contractor prior to determination of the firm's capability. In practice, the Corps uses the information on the firm's ENG Form 3627; financial statements; information obtained from banks and prior customers of the contractor; and performance evaluations from the files of the Office of the Chief of Engineers, if the firm has previously performed work for the Corps.

Selection of Al-Huseine-ADA

The initial prequalification board met in May 1978, to recommend qualified bidders for Housing Area No. 1. At that time, Al-Huseine-ADA had not expressed interest nor were they considered by the board. Subsequently, the Corps advanced the planned construction date for Housing Area No. 3, and since the projects were almost identical, the Corps decided to make up one list of recommended prequalified bidders, who would be allowed to bid on either or both projects.

During this period of time, in order to increase the participation of Saudi firms and to increase competition, the Corps suggested adding additional firms for consideration. These firms were technically evaluated by the Corps and rated as either qualified to perform the work for both projects, qualified to do one or the other, or not qualified. The Corps considered Al-Huseine-ADA, which had expressed interest by this time, to be qualified for both Housing Areas Nos. 1 and 3.

On June 20, 1978, a second prequalification board met to consider all the firms which had been evaluated. At that time, the board composed a bidders' list of 25 firms including only those considered best qualified to accomplish the combined projects. The list, which included Al-Huseine-ADA, was forwarded to the MODA for approval.

The criteria for prequalification established by the board included

- for all firms, a minimum average annual work placement of \$100 million;
- for international firms, a "4" or higher from the Corps' evaluation of construction experiences in the "General Buildings" category, Saudi firms needed only a "3" or higher in this category; and
- for international firms, a "3" or higher evaluation for foreign work experience, for Saudi firms, there were no such criteria.

The specific ENG Form 3627 submitted by Al-Huseine-ADA and reviewed by the Corps to determine the firm's prequalification is no longer available. Corps officials explained that only recent copies are maintained in their files. However, we were able to obtain a copy of the "Register of Proposers Qualifications for Work in Mid-East," which is a historical record of evaluations made by the Corps on the successive ENG 3627s submitted by contractors. This register showed that in June 1978, Al-Huseine-ADA had a 3-year average annual work placement figure of \$366 million. It also showed a "4" under the "General Buildings" category for construction experience. Even though Al-Huseine-ADA was considered a Saudi firm for the evaluation, it in fact met the higher standard prequalification criteria for construction experience.

The list of qualified bidders was approved by MODA, the requests for proposals were issued, and proposals were received. The Corps then held negotiations with the firms in the competitive range, and "best and final" offers were received in January 1979. After this, MODA directed significant changes to the project prior to award. The Corps agreed that it was in the best interests of the U.S. and Saudi Arabia Governments to incorporate the changes prior to contract award due to the significant cost impact of such changes. This resulted in amendments to the proposal, a second round of offers (received in March 1979), and further negotiations. Again MODA directed changes impacting on the cost of the project, and the Corps made a third request for "best and final" offers, which were received in July 1979. Al-Huseine-ADA was the low bidder for the third and final round, and was therefore awarded the contract.

The Pre-Award Survey Form was signed on August 12, 1979. The determination made at the time of prequalification as to Al-Huseine-ADA financial, equipment, and personnel capabilities to perform was, according to Corps officials, the basis for the satisfactory rating for all items on the form. Included as an attachment to the form was a cable from a bank offering a guarantee on behalf of the contractor.

Similar procedures used for screening other contractors

We also reviewed the Corps records on 13 other contracts for construction work at the King Khalid Military City. We found no indications that Al-Huseine-ADA was subjected to any more or less scrutiny than any other contractor.

For all 13 of these contracts, a prequalification board meeting was held. In at least seven cases, the board established separate criteria for international firms and for Saudi-owned or affiliated firms. This usually took the form of

lower average annual placement criteria for the Saudi firms, or a lower evaluation rating for one of the construction experience categories.

For 11 of the 13 contracts, we found a copy of the form evidencing the preaward survey. One contract file contained a memorandum affirming the awardee's responsibility and another had no record of a preaward survey having been performed.

Only 4 of the 13 contracts were competitively negotiated, the remainder were awarded without negotiation to the lowest responsible bidder except for one. For the latter contract, the low bidder was deemed not responsible and the Corps sent a letter to MODA stating that award to the second low bidder was appropriate. MODA directed that the contract be awarded to the third lowest bidder, without explanation.

NO SPECIAL DIFFICULTIES BETWEEN AMERICAN
FIRMS AND AL-HUSEINE-ADA

Overall, our discussions with representatives of 10 U.S. firms other than the complaining company, did not suggest impropriety or extraordinary difficulty which would deter U.S. businesses from conducting business transactions with Al-Huseine-ADA. Although three firms indicated that there were some minor payment delays caused by problems with the letters of credit, their experiences were generally the same as doing business with any other foreign firm.

All of the firms we contacted were suppliers to Al-Huseine-ADA. They have provided a variety of construction items for the work at King Khalid Military City under the contract. The firms ranged from small to large, all trading or manufacturing type companies, and most with considerable experience in dealing with foreign companies and overseas work.

In each of the 10 business relationships, letters of credit were used as payment vehicles. These letters of credit caused payment delay difficulties for three firms. Actions by each firm to resolve their difficulty were different. One firm paid the bank a 1-percent fee to expedite payments, the second firm placed a performance bond, and the third revised the payment terms. The remaining seven firms characterized their business experience with Al-Huseine-ADA as favorable and largely typical of their experiences with foreign firms.



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