



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

5
~~18899~~
114163

INTERNATIONAL DIVISION

B-198641

JANUARY 19, 1981

The Honorable Harold Brown
The Secretary of Defense



114163

Dear Mr. Secretary:

Subject: Questionable Use of Military Minor Construction and Host
Nation Funding in Transfer of 21st Replacement Battalion
by U.S. Army Europe (ID-81-23)

DLG 05841

As requested by the Chairman of the House Committee on Appropriations, we have reviewed allied cost sharing for U.S. military forces stationed overseas. A series of reports on this subject, based on our work in Europe and Japan, is now being prepared for the Chairman. We would like to call your attention to a related issue involving two minor military construction account (MMCA) projects costing \$736,500. They were constructed in connection with a \$9.6 million complex for the 21st Replacement Battalion at Rhein Main Air Base in West Germany, in which the remaining \$8.9 million was funded from special Federal Republic of Germany (FRG) accounts. DLG 03824

We believe the Army avoided the statutory MMCA dollar limitation by classifying the construction of two adjacent and similar buildings as two separate MMCA projects. Although the Army could argue that their action was authorized under applicable Army regulations, we believe that the classification of these buildings as two separate projects defied the spirit and intent of the statutory funding limitation contained in 10 U.S.C. 2674. Also, the Army constructed an addition to one of these buildings, using funds obtained from the FRG. This brought the total cost of this one building alone to over \$1 million.

Moreover, we believe the Army failed to obtain satisfactory compensation from the FRG for return of facilities in connection with the move.

Information contained in this report was obtained from our inspection of project and contract files, negotiation records, and correspondence. Discussions were held with Army officials at Headquarters, U.S. Army Europe (USAREUR) in Heidelberg, Germany; and Headquarters, V Corps and Frankfurt Military Community in Frankfurt, Germany. Also, we inspected the new complex for the 21st Replacement Battalion at Rhein Main Air Base, Germany.

(463730)

014460

E-198641

We have discussed the contents of this report with Army officials in Germany, and their views are reflected as appropriate. We did not obtain official Army or Department of Defense (DOD) comments on this report.

BACKGROUND

The construction of the complex came about because in 1976 the 21st Replacement Battalion, which receives and in-processes U.S. Army personnel assigned to West Germany, moved from Gutleut Kaserne in Frankfurt to Rhein Main Air Base. Temporary facilities were used in Frankfurt until construction was completed in August 1980.

In relocating the Battalion to Rhein Main Air Base, USAREUR obtained the Secretary of the Army's approval for the two MMCA projects. One was for a processing center costing \$387,200; the other, a headquarters/supply building costing \$349,300. Also, USAREUR used Deutsche mark (DM) 14.8 million (\$8.3 million at the September 1980 exchange rate of \$1 equals DM 1.78) ^{1/} in additional funding from the FRG out of Modernization of U.S. Facilities (MOUSF) funds, which remained from previous U.S./FRG offset agreements. The FRG also provided DM 1 million (\$562,000) as a concessionary payment for returning Gutleut Kaserne to the Germans. These German funds were used to construct part of the MMCA-funded processing center, two barracks, a dining facility, utility distribution systems, and landscaping.

Enclosure I lists the programmed amounts for various segments of the construction project. Enclosure II provides a diagram of the complex and enclosure III contains photographs of the 21st Replacement Battalion complex.

QUESTIONABLE USE OF MMCA FUNDING

We believe the Army's use of MMCA funding for the headquarters/supply building and processing center was questionable for several reasons.

Section 2674(b) of title 10 of the U.S. Code provided that the authority to accomplish minor construction projects under the section was limited to projects costing not more than \$400,000. Army regulation 415-35, which implements 10 U.S.C. 2674, specifically prohibits fragmenting projects in order to circumvent statutory funding ceilings. It appears to us, however, that this is what USAREUR did. The headquarters and processing center, which together cost \$736,500, were the same type of construction; designed and built at the same time; just a few yards apart, and satisfied one

^{1/}This exchange rate is used throughout the report in converting DM to U.S. dollars.

overall requirement. It appears to us they could easily and logically have been built as one facility and one project.

Section 2-2b.(2) of the Army regulation provides that

"* * * all construction work of the same type concurrently required to be done to two or more real property facilities at the same installation will be grouped together into a single construction project."

Three-digit facility category codes are used to determine whether facilities are "similar." According to USAREUR officials, the two buildings were assigned different three-digit category codes, which justified separating the construction into two projects. This categorization, however, appears to us to be questionable. The processing center building is identified as a military personnel administration building in the overall category of administrative facilities. However, the headquarters/supply building is classified as operational, using the same three-digit code used for combat battalion headquarters. Although the 21st Replacement Battalion is a battalion-level organization, its headquarters could just as easily have been classified as a military personnel administrative building, like the processing center. In fact, the description of the function of the headquarters/supply building contained in the project justification coincides exactly with the description of administrative buildings contained in the Army regulation establishing the category codes.

Besides classifying the processing center and the headquarters/supply building as two separate projects, the Army built an \$893,800 addition to the processing center using funds obtained from the FRG. The addition, which was built at the same time as the center itself, brought the total cost of the processing center to \$1,281,000. After the Army approved the MMCA-funded processing center, USAREUR sought and obtained funding from the FRG for an addition to the center. The facilities were designed and constructed in such a way that their walls touched, but with no passageway between the two sections. (See photos in enc. III.) Upon completion and acceptance of the facility, however, the walls were torn down and an archway constructed so that the MMCA- and FRG-funded projects became one usable facility. Although we could not determine the cost to construct and then tear down the adjoining walls, we believe unnecessary material and labor costs probably were incurred in trying to circumvent the statutory dollar limitation. Thus, by classifying the headquarters/supply building and the processing center as separate minor construction projects, and by obtaining funding from German sources for the addition to the processing center, USAREUR, in effect, obtained a facility costing more than \$1,600,000 using minor construction authority limited to projects costing less than \$400,000.

The use of German funding in conjunction with MMCA projects merits close review by the Department of Defense. Army regulation 415-35 prohibits

the mixing of MMCA funds with nonappropriated funds to accomplish a construction project. Section 4-1 of the current regulation, effective in February 1979, provides that:

"Appropriated funds will not be mixed with private funds or nonappropriated funds, or both for the same specific purpose since this practice may be considered an incrementation and subdivision to circumvent statutory limitations."

Neither this revised regulation nor its predecessors specifically designate foreign source funds as included in this prohibition. USAREUR officials told us that they did not consider foreign source funds, such as those used in construction of the processing center, to fall under this prohibition. However, it appears to us that excluding foreign source funds weakens the application of this control and leads to the type of practices that occurred in the transfer of the 21st Replacement Battalion.

ARMY FAILED TO OBTAIN ADEQUATE
COMPENSATION FOR RETURN OF GUTLEUT KASERNE

By moving out of Gutleut Kaserne before completing negotiations with the FRG for alternate facilities, the Army reduced its ability to obtain adequate financial compensation from FRG. Consequently, the Army received only a token payment from the Germans and used MOUSF funds which could have been applied toward upgrading barracks and dining facilities at other locations. Moreover, it appears that USAREUR used part of the MOUSF money for the processing center, a use for which the MOUSF program was not intended.

In March 1976, USAREUR opened negotiations with the FRG seeking land and alternate facilities in return for the release of Gutleut Kaserne, which was located on valuable land in downtown Frankfurt. Previously, the city of Frankfurt had expressed interest in obtaining the facilities, which were valued in 1969 at DM 80 million (about \$45 million in 1980 exchange rates). Before negotiations were finalized, however, USAREUR and V Corps Commanders decided to proceed with the relocation and moved the 21st Replacement Battalion out of Gutleut and into temporary facilities. The V Corps Commander considered Gutleut to be in deplorable condition and no longer suitable for its intended use. According to an USAREUR real estate official, because the Army vacated the facility, the United States was no longer entitled to compensation for returning it to German control. Under the Supplementary Agreement to the NATO Status of Forces Agreement, the United States must return to the FRG facilities which are no longer

needed. Eventually, however, the FRG did agree to a token concessionary payment to the Army of DM 1 million (\$562,000). 1/

USAREUR MOUSF funds, which were earmarked for rehabilitation of barracks and dining facilities, were used to finance most of the construction of new facilities for the Battalion. Because these funds were used to construct 21st Replacement Battalion facilities, it is likely that other facilities in Germany which needed upgrading were not funded. If USAREUR had obtained adequate compensation for returning Gutleut, then the new facilities could have been fully constructed without MOUSF funds.

Furthermore, it appears that the Army used MOUSF funds for a purpose not intended under that program. The MOUSF agreement, a part of the last two offset agreements with the FRG, specified that the funds were to be used only for making troop barracks and accommodations—areas in which U.S. soldiers live—more comfortable and modern. Any remaining funds were to be used for environmental or safety projects. In funding the construction of facilities for the 21st Replacement Battalion, most of the MOUSF money was used for barracks and dining halls in accordance with the agreement. However, about DM 591,000 (about \$330,000) of MOUSF funds were used for construction of the processing center, which was not eligible for those funds. As shown in enclosure I, the processing center was built with an MMCA project of \$349,300 and German funds totaling DM 1,591,000. Only DM 1 million of the German funds, however, came from the concessionary payment by the FRG for the return of Gutleut Kaserne. The remaining DM 591,000 came from MOUSF funds.

It appears that USAREUR realized in planning these projects that MOUSF money was not to be used for the headquarters building or the processing center. Only the barracks and dining facility were planned for MOUSF funding. If German funding could have been used for the entire facility, USAREUR would not have had to propose the minor construction projects. When the DM 1 million in exchange for Gutleut became available, however, USAREUR requested that the Germans put the money into the MOUSF account and allow it to be used for an enlarged processing center. The Germans approved that arrangement, but it is not clear that the Germans intended to approve the use of MOUSF money for the center, only the DM 1 million concessionary payment.

1/Along with this payment, however, was the stipulation that the Army would have to pay for 75 percent of any damages caused to the kaserne during the time of U.S. occupancy. We could not determine whether any costs for damages had been incurred at the time of our review.

CONCLUSIONS AND RECOMMENDATIONS

We have no indication that the abuses which occurred in connection with the transfer of the 21st Replacement Battalion—including fragmenting of MMCA projects to circumvent the congressional approval process, mixing of MMCA and nonappropriated funds for one construction project, poor use of MDUSF funds provided by the Germans, and failure to achieve adequate compensation for a returned facility—are more widespread than this single case. However, this situation suggests that future similar incidents are possible, especially if congressional calls for increased allied cost sharing result in more cooperative projects using host nation funds. DOD needs to clarify its regulations regarding the use of foreign source funds.

It appears to us that such funds should be considered and controlled as other U.S. nonappropriated funds. Controls are needed to assure that host nation-provided funds are used wisely and in compliance with agreements specifying their use, and that full value is obtained for return of property to host nations.

We recommend that the Secretary of Defense clarify DOD regulations on the mixing of MMCA and nonappropriated funds, specifying that foreign source funds should be treated as nonappropriated funds. The Secretary should also assure that the services' regulations on this matter are in compliance with DOD's.

We also recommend that the Secretary of the Army strengthen his control over MMCA funding to prevent fragmenting of projects. We strongly believe that the three-digit category code should not be the sole basis for justifying the splitting of MMCA projects.

We also recommend that the Secretary of Defense emphasize the importance of obtaining adequate compensation for facilities returned to host nations, and develop regulations for control of funds obtained in this way, or in other cost sharing initiatives, to assure that their use complies with host nation agreements.

Section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

B-198641

We are sending copies of this report to the Director, Office of Management and Budget, and to the chairmen of selected congressional committees and subcommittees. We wish to acknowledge the cooperation given to our representatives during our review.

Sincerely yours,



per
J. K. Fasick
Director

Enclosures - 3

COST OF 21ST REPLACEMENT BATTALION FACILITY
COMPLEX CONSTRUCTION AT RHEIN MAIN AIR FORCE
BASE, FEDERAL REPUBLIC OF GERMANY

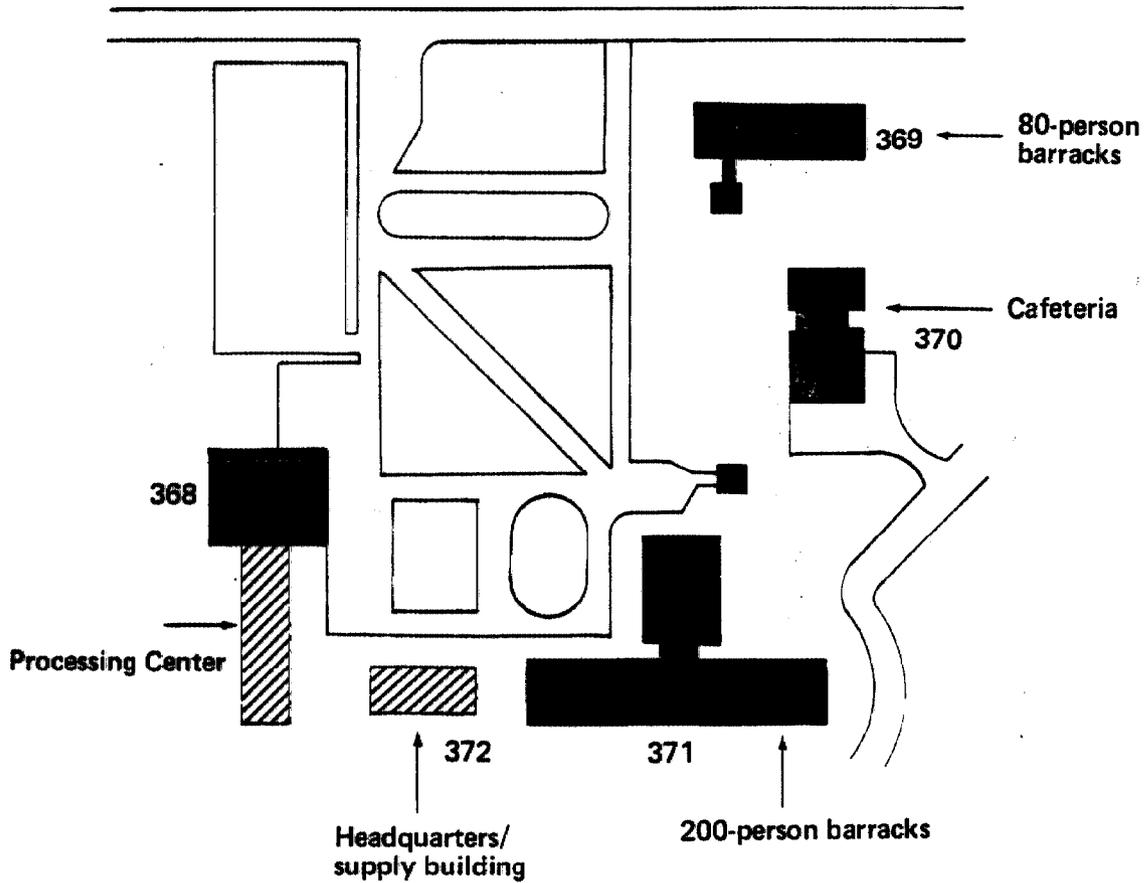
<u>Category</u>	<u>Programmed amount</u>	
	<u>Deutsche marks</u>	<u>U.S. dollars</u>
<u>U.S. funded</u>		
Headquarters and supply building		a/ \$ 349,300
Processing center		b/ <u>387,200</u>
Subtotal		<u>736,500</u>
<u>Federal Republic of Germany funded (note c)</u>		
Addition to processing center	1,591,000	893,800
Dining facility	1,973,000	1,108,400
Barracks--200 person	5,850,000	3,286,500
Barracks--80 person	2,388,000	1,341,600
Electrical distribution	508,000	285,400
Boiler plant	767,000	430,900
Landscaping	209,000	117,400
Civil works	<u>2,560,000</u>	<u>1,438,200</u>
Subtotal	<u>15,846,000</u>	<u>\$8,902,200</u>
Total cost		<u>\$9,638,700</u>

a/Actual funded cost \$303,986.

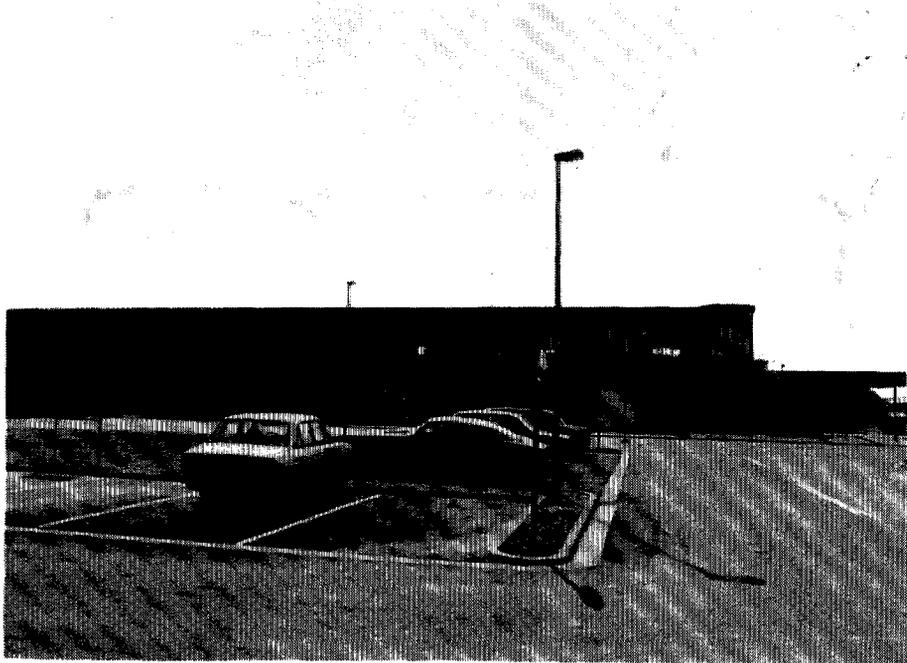
b/Actual funded cost \$323,530.

c/Programmed amounts as of August 1980 converted to dollars at exchange rate of \$1 = DM 1.78.

21ST REPLACEMENT BATTALION FACILITY
COMPLEX AERIAL DIAGRAM



- FRG funded project
- ▨ U.S. Minor Military Construction Account project



21st Replacement Battalion Processing Center constructed with U.S. MMCA and FRG funds.

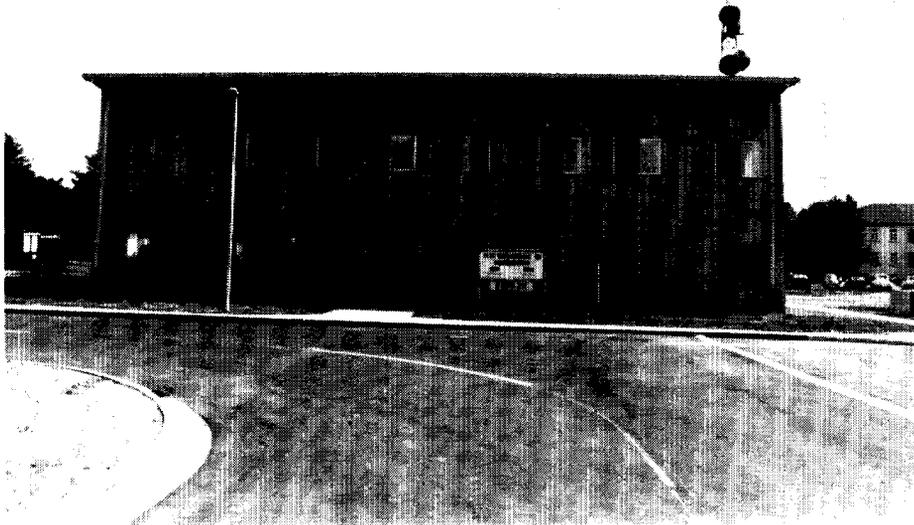


21st Replacement Battalion Processing Center during construction. Left portion U.S. MMCA funded and right portion FRG funded. At this stage of construction, no passage way existed between two sections.

21ST REPLACEMENT BATTALION COMPLEX

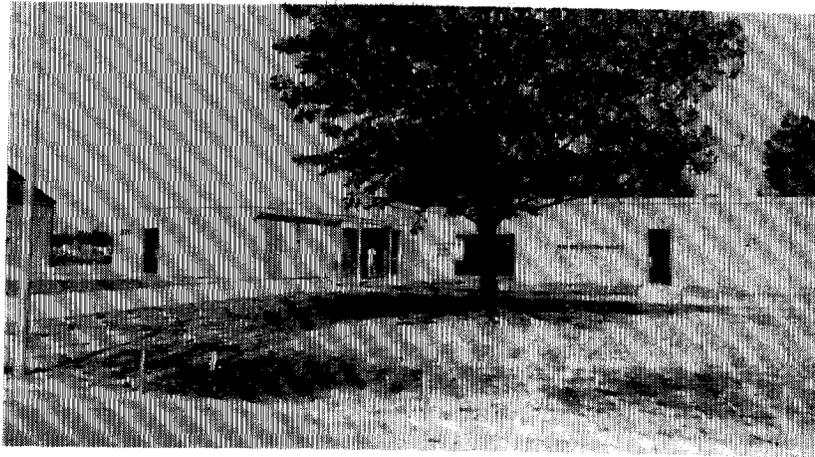


21st Replacement Battalion Processing Center after construction. Adjoining walls have a passage way between U.S. funded portion (left) and FRG funded section (right).

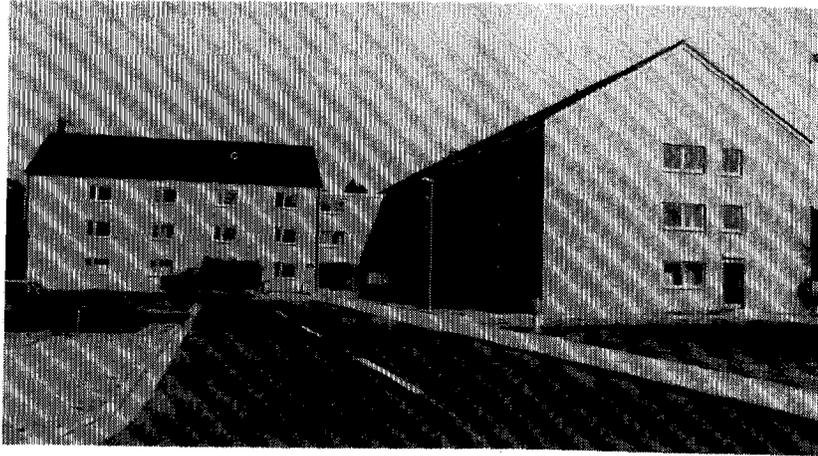


21st Replacement Battalion Headquarters and Supply building (U.S. MMCA funded).

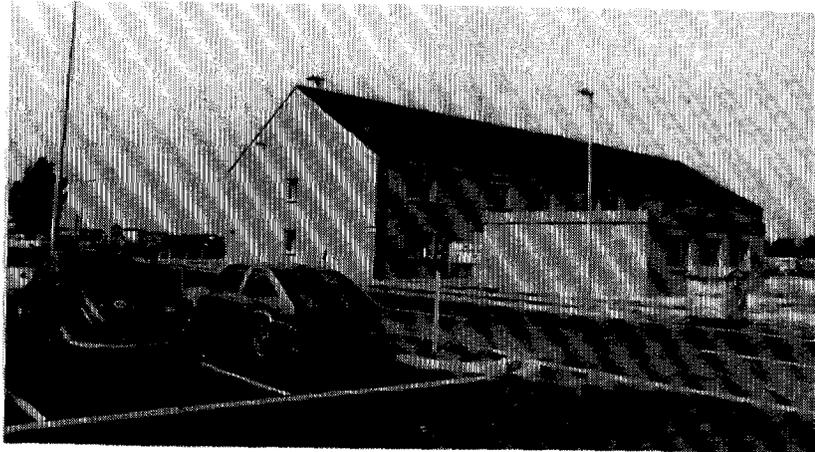
21ST REPLACEMENT BATTALION COMPLEX



21st Replacement Battalion Dining Facility (FRG funded).



21st Replacement Battalion 200-person barracks (FRG funded).



21st Replacement Battalion 80-person barracks after construction (FRG funded).