



United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

B-270367

December 12, 1995

The Honorable Bud Cramer
House of Representatives

Dear Mr. Cramer:

At your request, we examined allegations that the Defense Security Assistance Agency (DSAA) was mishandling two cases of foreign military sales (FMS) of multiple launch rocket systems (MLRS). The allegations cited violations of elements of the Arms Export Control Act and Department of Defense (DOD) regulations in the initial sale of nine MLRSs to Saudi Arabia and their subsequent sale to Greece, and the allowance of administrative offset costs¹ in the Greek sale. This letter summarizes our findings, which we presented to your staff on November 6, 1995.

BACKGROUND

In 1990, DSAA began preparing an FMS case for the sale of the nine MLRSs to Saudi Arabia. Over the next 3 years, as the case was negotiated, implemented, and amended, Saudi Arabia underwent a defense financial restructuring and asked the United States to reverse the transaction. The United States agreed, provided that another buyer could be found and that Saudi Arabia would pay administrative, handling, and other costs associated with the transaction. When Greece agreed to buy the nine MLRSs, DSAA prepared and implemented an FMS case for the sale.

¹Administrative offset costs are those costs associated with implementing compensation practices required of contractors by purchasing governments as a condition for the purchase of defense articles or services.

RESULTS IN BRIEF

We examined the documentation involving the sale of these MLRSs and concluded that DSAA did not violate any law or regulations. DSAA officials documented the decision they made reversing the sale of nine MLRSs to Saudi Arabia and the subsequent sale to Greece. In addition, contrary to the allegation, administrative offset costs were disallowed in the Greek FMS case in accordance with DOD policy.

SALE OF THE MULTIPLE LAUNCH ROCKET SYSTEMS

After 3 years of negotiating and amending its Letter of Offer and Acceptance, and then delaying physical delivery of the nine MLRSs, Saudi Arabia asked the United States to reverse the transaction because of cash flow problems. At the time of this request, Saudi Arabia had title to the MLRSs but not physical possession. DSAA officials considered it prudent to assist Saudi Arabia provided the transaction could be accomplished at no cost to the United States. Thus, they facilitated the sale of the MLRSs to Greece. DSAA worked with both Saudi Arabia and Greece in preparing and negotiating the Letters of Offer and Acceptance. The sale of the nine launchers to Greece was designated an out-of-stock sale, that is, a sale between the United States and purchasing country rather than between a contractor and purchasing country.

This case was further complicated by the fact that the U.S. Army filled an unprogrammed requirement for MLRSs in South Korea with the actual MLRSs destined for Saudi Arabia. DSAA questioned this action because title to the MLRSs had passed to Saudi Arabia. DSAA officials stated that they are reviewing whether the U.S. Army followed proper procedures; however, from the information available to us at this time, this matter is unrelated to the central issue in the allegations made to your office.

ADMINISTRATIVE OFFSET COSTS

DOD policy prohibits the payment of administrative offset costs in out-of-stock sales between the United States and another country. However, at the time the Greek Letter of Offer and Acceptance was prepared, DSAA officials were prepared to allow the payment of these costs because the case was originally designated as new procurement rather than out-of-stock. After an amendment changed the designation to an out-of-stock sale, the Army Missile Legal Office

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disallowed the payment of offset costs during its review of the case file and offset costs have not been paid to date.

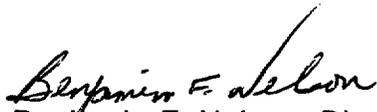
SCOPE AND METHODOLOGY

To obtain information for this report, we reviewed laws, regulations, and financial and contractual documentation relating to the sale of the MLRSs to Saudi Arabia and Greece. We also interviewed officials at DSAA, Army Missile Command, and the U.S. Army Security Assistance Command.

* * * *

If you or your staff have further questions concerning this letter, please call me, Ron Kushner, or Barbara Schmitt on 202-512-4128.

Sincerely yours,



Benjamin F. Nelson, Director
International Relations and Trade Issues

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