

PRESENTATION TO THE COMMITTEE ON OVERSIGHT AND  
GOVERNMENT REFORM

UNITED STATES HOUSE OF REPRESENTATIVES

SUBJECT: KAISERSLAUTERN MILITARY COMMUNITY CENTER PROJECT

STATEMENT OF: MAJOR GENERAL MARC E. ROGERS, USAF  
VICE COMMANDER  
UNITED STATES AIR FORCES IN EUROPE

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BY THE COMMITTEE ON OVERSIGHT AND

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The Kaiserslautern Military Community Center (KMCC), under construction at Ramstein Air Base, Germany, is an important quality of life project for our service members and their families serving in Europe and those transiting the airlift hub at Ramstein Air Base. When complete, it will serve as a modern, multi-use community center providing shopping, lodging, dining, banking, and morale activities under one roof. Located across from the Ramstein passenger terminal, it will offer a variety of food selections, services, and retail products to transient guests, outlying military communities and the over 50,000 American personnel and family members in the Kaiserslautern Military Community. The KMCC is a top priority of the United States Air Forces in Europe (USAFE).

Article 49 of the Supplementary Agreement to the NATO Status of Forces Agreement (SOFA) provides the German government authority to carry out construction for all sending state forces in Germany, with limited exceptions. Article 49 is implemented by the Auftragsbaugrundsätze 1975 Administrative Agreement (known as ABG-75), a bilateral agreement between the U.S. Forces and the Federal Republic of Germany (FRG).

In accordance with ABG-75 indirect procedure, German authorities plan, enter construction contracts, and administer construction in accordance with Article 4.1, “in their own name and on their own responsibility” on behalf of U.S. Forces. As such, USAFE does not advertise, solicit, award, or administer KMCC construction contracts and has no authority over KMCC construction contractors. The FRG uses Oberfinanzdirektion Koblenz Geschäftsbereich Bundesbau (GBB), who directs a regional state entity, Landesbetrieb Liegenschafts-und Baubetreuung (LBB), to manage and execute such construction. For the KMCC the LBB office responsible is Kaiserslautern (LBB-KL).

When last examined by this Committee, the KMCC was 77% complete and 18 months behind schedule. At that time, USAFE reported that LBB-KL had failed in fundamental areas and that the project suffered from: 1) absence of a general contractor, 2) inadequate quality control, and 3) ineffective contract management. In the past year, these management failures have been validated by German and US authorities and additional LBB-KL failures have been identified, such as inadequate accounting and administrative processes, schedule deficiencies, failure to manage contractors and to comply with responsibilities under ABG-75. These failures prevented both GBB and USAFE decision makers from having an accurate picture of the KMCC situation.

Since the Committee's hearing last June, USAFE has improved its oversight and management of the KMCC. USAFE created a Resident Director's Office (RDO) led by a Colonel, and now has 29 personnel involved with this project, up from 17 at this time last year. Specific personnel responsibilities and procedures are now more stringently outlined. The RDO is located on-site and its constant presence has been critical to influencing LBB-KL to improve transparency and to comply with ABG-75. In addition, USAFE trained and appointed certifying officers and accountable officials to ensure that payments are properly authorized.

Despite all USAFE's efforts, the KMCC remains incomplete and delivery is further delayed. USAFE concluded that regardless of our oversight, the project could not progress without significant changes in LBB-KL's performance.

The State government conceded that their agent (LBB-KL) was overwhelmed and responsible for the failures at the KMCC. Repeated attempts to resolve LBB-KL management failures at the appropriate State government level had little result. In July 2007, USAFE obtained support from the US Embassy in Berlin to elevate our concerns to the federal level. With

Ambassador Timken's direct involvement, USAFE/CV appealed at the FRG Deputy Secretary level for 1) direct engagement by the German Federal authorities, 2) improved federal oversight, and 3) solutions to complete the project. The German government officials have responded with strong leadership, funding initiatives, management accountability initiatives, and commitment to complete the project.

The FRG backed up its commitment and responsibilities by making available up to €25 million in pre-financing to ensure liquidity of the project while LBB-KL corrects management deficiencies, invoice inaccuracies, resolves failures with the roof and restaurant exhaust ducts, pays hindrance claims, and to pay for backlogged change orders not approved by USAFE. This pre-financing flows between German government agencies and to German-hired contractors. None of this money flows through USAFE and USAFE has neither verbally nor in writing further obligated the U.S. Government with respect to these funds. While the FRG does expect to recover this pre-financing, it does not expect to do so directly from the U.S. Government.

At USAFE's urging, Germany has continued to augment and improve LBB-KL management and its capacity. While slow to reach full capability, we have seen improvements in management, quality control, and billing procedures.

To simplify the invoicing process and help ensure completion of the project, the FRG requested we implement a new payment method under ABG-75 that is more in line with routine construction. USAFE signed a Technical Agreement with GBB and LBB-KL on 12 June 2008 to implement this payment method. This Technical Agreement acknowledges that FRG pre-financing is to be used as indicated earlier and commits the FRG to completing the KMCC without US funding beyond the congressionally authorized amount. As further protection, it allows us to withhold 10% of the remaining funding to be paid at completion to ensure quality of

the final product. In addition, it mandates joint monthly site inspections to assess quality and construction progress. Successful inspections will lead to payment for validated progress. This Technical Agreement also established the requirement for a mutually agreed progress schedule.

The KMCC construction forecast is currently below the congressionally authorized construction amount. According to LBB-KL, the current projected construction cost is \$162.9 million. Table 1 below contains a summary of construction and other costs as portrayed by the GAO.

Cost Component	Cost Estimate (in millions of dollars)	
<b>Project Construction Costs (as of 31 Mar 08)</b>		<b>162.9</b>
Construction Costs Paid	121.7	
Construction Costs to Complete the Project	41.2	
<b>Other Costs</b>		<b>40.7</b>
Secondary Services	5.7	
MILCON Foreign Currency Fluctuation	8.6	
Design Costs	8.4	
Furniture & Equipment	16.3	
Air Force Staffing to Manage KMCC	1.7	
<b>Total U.S. Costs</b>		<b>203.6</b>
<b>Pre-financed Costs (not US costs)</b>		
Contractor Hindrance Claims	To be determined	
Additional Roof Repair	10.8	
Additional Kitchen Duct Repair	1.2	
Repairs to Cracking Concrete	To be determined	
Duroplex Vandalism Repair	0.4	
<b>Total Pre-financed Costs</b>		<b>&gt;12.4</b>
<b>Total Costs</b>		<b>&gt;216.0</b>

Table 1

The KMCC project has required significant extra effort to achieve progress to date.

USAFE has been able to influence cost and quality but unable to control the schedule. There are several lessons learned.

1. Transparency is essential to successful financial controls and cost accounting. Transparency under ABG-75 is only possible if LBB has proper accounting and financial management mechanisms in place allowing USAFE to accurately monitor costs.
2. USAFE can influence cost and quality on projects under ABG-75, but does not control schedule. LBB controls the schedule.
3. The only control USAFE has for construction projects in Germany is money. If we use that control, the projects will likely halt or delay progress.
4. Validation of LBB capabilities at the beginning of a project is essential. Do not proceed unless US side is comfortable with the LBB capability to execute the design and construction strategy.
5. For projects in Germany involving multiple funding sources, use Congressional authority to combine agency funds to simplify invoicing, payment, and accounting procedures.
6. Do not hesitate to elevate and obtain political support at the FRG level.
7. For construction projects in Germany, insist on a general contractor.

USAFE acknowledges the support of Ambassador Timken and the US Embassy staff in Berlin for their hard work and commitment. He was quick to understand the potential damage that could be done to our bilateral relationship by failures with the KMCC project. His personal intervention led to FRG action that is putting this project back on track.

The Committee's interest in and scrutiny of the KMCC project has been acknowledged by FRG officials and provided additional credibility to USAFE concerns as we appealed for FRG intervention.

USAFE is tremendously impressed by and appreciative of the dedication of German officials in support of the US Forces. Senior government officials of the FRG and the State of Rhineland-Palatinate demonstrated outstanding leadership, commitment, and partnership in providing solutions to the KMCC project. USAFE has no doubt these officials are committed to completion of KMCC as soon as possible.