

CHAPTER 15

Closeout

All effort as outlined in the plan of work is complete. . . . Successful construction completion of the two air bases some nine months ahead of the 25 April 1983 mandate stands as a notable cooperative achievement.

Col. John E. Moore, November 1982¹

Preparations for closeout dated back to the earliest phasedown planning in Tel Aviv. In the winter and spring of 1982 these plans grew more specific. Based on experience and the reports that had been done by Maloney's auditors, the resource manager identified the issues that might result in suspensions, disallowances, or claims. When the construction crews attained initial operating capability, just over sixty potential contractual disputes were already identified and under review. As of 31 May, a total of \$7.9 million had been withheld from the three contractors, and the issues were fairly well understood.²

There was more to closeout than identifying the likely controversies. The operation had to have a home. The chief's office in Washington overrode Wall and told him to finish the project at Fort Belvoir. McNeely in particular argued for the southern site, claiming that it was less costly than New York, and Wall thought McNeely was largely responsible for the choice of Belvoir. As far as McNeely was concerned, the resistance to bringing the office to the Washington area originated with the support group in New York.³

Colonel Moore, who expected to take charge of the closeout, saw the opposition of the New York employees as the significant drawback to the decision. He anticipated difficulties in convincing them to make the move, and he needed the continued participation of the accountants and clerks who had tracked the financial transactions for the duration of the job. Moore credited Frank Billiams of the New York office with convincing the staff to move to Fort Belvoir. Billiams, Moore said, "had sort of gathered those folks as a family-type thing and worked with them over a three-year period. He brought with him virtually intact his money account-

ability folks down to the GS-6 and GS-7 level, and having them come removed what I saw as one of the last disadvantages of coming to the Fort Belvoir area.”⁴

Deciding whether Belvoir was a logical and effective location did not end the matter. Twenty-year-old policy encouraged decentralization of government operations away from the National Capital Region. So the move from Tel Aviv to northern Virginia required the permission of the assistant secretary of defense for manpower, reserve affairs, and logistics.⁵

Such approval came easily but did not clear the way for the closeout team to get down to business. First, the Israeli desire for a role in the process required resolution. Bar-Tov expressed this interest during an April meeting in Washington. He claimed that closeout would be “a battle and war” with the contractors and that his ministry would help resolve issues involving Israeli subcontractors and suppliers, reducing the final cost of the program as a result. Wilson was amenable to such participation provided “it was clearly understood that decision authority rested with the contracting officer and his decision was final.” His position reflected Wall’s view that “the Israelis would not be allowed to participate in decisions nor the negotiations, but that they would be allowed to provide input for our effort.” In any event, Wall believed, “The Israelis were already involved in providing input and therefore, there would be no change to our present procedures.”⁶

Such assurances did not satisfy Bar-Tov, who pushed for a more formal arrangement. At a June meeting in his office at the IBM Building, he offered Hartung and Moore help in preparing for all negotiations involving the three prime contractors as well as Israeli subcontractors and vendors. He also wanted an observer from his office present at negotiations. Bar-Tov envisioned an arrangement in which his representative would not speak but would pass notes to the chief negotiator. He conceded that there might be cases in which he would have nothing to contribute, and Hartung, apparently tired of diplomacy, “indicated that this might be true in perhaps nine cases out of ten.”⁷

Wall still tried to accommodate the Israeli interest in a limited involvement. He and Bar-Tov signed an agreement specifying the conditions under which the Israelis could participate in negotiations between the Corps and the contractors. The memorandum limited Ministry of Defense participants to observation, prohibited them from joining discussions (“normal pleasantries excepted”), and made it clear that the contracting officer could “terminate negotiation conferences or ask any participant, including observers, to leave, and continue to conduct the negotiation conference alone.”⁸

Wall did his best to get contractor acceptance of this provision. He emphasized that any Israeli participant would be “a *silent* observer and in no case . . . an active participant.” He asked the prime contractors to cooperate, claiming that the Israeli presence would be in the best interests of the United States, the companies, and Israel. The contractors objected. “We are,” Wall wrote Hartung, “running into a buzz saw of resistance to *any* involvement outside Corps with ABC and NAC.”⁹

McNeely already had alerted Wall to the adamant opposition of Air Base Constructors’ attorney Manning Seltzer, a former chief counsel in the Office of the Chief of Engineers. So the contractors’ official reply came as no surprise. By telex and by letter, Fred Butler sent the same message: the presence of any outsiders at negotiations was totally unacceptable. Third parties would inhibit the free exchange of views and obstruct progress. Butler took Wall’s assertion of a substantial Israeli interest in the proceedings and reduced it to its absurd conclusion: “If ‘vital interest’ is a criterion, we may as well include the stockholders of our various companies, not to mention U.S. taxpayers. We are irrevocably convinced that contract costs will increase and issues will be prolonged if any outside parties are allowed to participate.”¹⁰ The contract specified that the contractor and the Corps would conduct negotiations, and Butler insisted on adherence. Unlike the government at the start of the program, the contractors at the end would not be swayed by Bar-Tov’s forceful personality.

In the face of this opposition, Bar-Tov withdrew his request to participate at the negotiating table. Discussions with the contractors, which had stopped pending resolution of this matter, resumed. Bar-Tov retired from the air force in November, and the issue of Israeli participation did not come up again.¹¹

Meanwhile, the removal of the Near East Project Office from Tel Aviv to Fort Belvoir was carried out over the summer of 1982. In late June five finance and accounting employees arrived at the new headquarters as the nucleus of the resource management office. In the office of counsel, two of the three lawyers who were still in Israel in July left on 1 August, one for a new assignment and the other for Fort Belvoir. One left in the middle of the month and went to Belvoir in early September. By the middle of September, the transition was completed, and the new office was in place in a one-story preengineered building, similar to the structures that had been used as offices at the Negev sites.¹² Alongside stood an unheated warehouse in which were deposited the 1,000 or so boxes of Near East Project Office records, ranging from commander’s logs to daily concrete batch plant reports.

The organizational structure that Colonel Moore established at Fort Belvoir differed somewhat from the one he had envisioned while still in Tel Aviv. He originally planned an organization with five branches—counsel, procurement and supply, contract administration, property, and resource management—and the liaison office in Tel Aviv manned by David Levy. The Fort Belvoir office combined the property and procurement branches and left the two procurement positions vacant. Moore's staff did not expect to face any issues involving supply matters.¹³

Two basic types of disputes needed to be resolved. One involved the validity of contractor expenditures and pitted the government against the contractors. Issues of this type were well anticipated and documented and were settled fairly quickly. For example, by 1 February 1983, the Corps and Air Base Constructors resolved all outstanding issues except a \$900,000 dispute regarding the office overhead charged by the firm's design subcontractor. Three weeks later that matter too was settled, with the designer accepting a \$500,000 settlement. Virtually all such disputes were laid to rest by the spring of 1983.¹⁴

The other type of disagreement involved third-party suits: actions brought against the prime contractors by former employees, vendors, or subcontractors. These were more difficult to predict. They continued to trickle in, sometimes surprising Moore and his small staff, even as late as 1985. They also amounted to a much higher dollar value. The suits that were active at the beginning of 1983 totaled more than \$110 million. They involved a host of issues from sexual harassment and wrongful termination of employment to claims for customs duties and taxes.¹⁵

The largest of these legal actions came as no surprise. Moore and his closeout team expected during the fall of 1982 that the Palace Hotel lease would cause them significant problems in the coming months. Management Support Associates, which was the prime contractor responsible for the hotel, offered owner David Taic a lump-sum settlement instead of restoration. After Taic rejected the offer, the contractor refurbished the building. According to Moore, the consortium's efforts "proved very successful, were completed on time, and initial reports by objective consultants indicate[d] the hotel is in as good, or better, condition than when accepted by MSA three years ago." Nevertheless, Moore still expected extensive litigation.¹⁶

Formal return of the Palace to Taic took place in August. Taic had ninety days to take whatever legal action he chose, and he waited until almost the last minute to bring a suit of \$3.89 million against Management Support Associates for damage to his build-

ing. It soon became clear that settling this case was going to take several years. As Moore noted, "In litigation you talk in years, and the major litigation of the hotel, we knew right away was going to be a four- or five-year [effort], because even after three years if you got to some kind of decision you would be in an appeal process." Moore hoped to have the matter settled by mid-1986, but in 1988 the case was still undecided.¹⁷

Ironically, while Taic's case against the relatively small Management Support Associates organization loomed larger, all of the outstanding issues relating to the two huge construction contracts were settled quickly. By January 1983 most disputes between the government and the contractors were resolved. Based on various audits, the government had withheld nearly \$6 million from the two joint ventures. Settlement resulted in payment of about \$3.8 million of the disputed amount and concession of the remainder by the companies. Within the next two months the government and both consortia reached out-of-court agreements concerning disputed overhead costs for the design elements and on the few other remaining issues. By spring these contractors shut down their suburban Virginia offices entirely.¹⁸

In the spring of 1983 the structure and size of the closeout organization changed significantly. Colonel Moore became commander of the Facilities Engineering Support Agency of the Corps on 29 April, while remaining in charge of the closeout on a part-time basis. The size of the group had been reduced to eleven over the past months, and by June the team was down to four. In addition to Colonel Moore, only Frank Billiams, attorney Paul Cheverie, and secretary Sallie Thornburg remained. Most of the office furniture had been sold or turned over to the Israeli mission, and the number of unresolved claims declined. Little remained to be resolved except the Palace Hotel suit.¹⁹

From that time forward, the trend in staffing and outstanding issues continued to be downward. Only Thornburg still worked full-time on the project. The others participated when needed from new jobs that they held elsewhere. Moore retired in 1986, and Damico, now head of the construction division in the Baltimore District of the Corps and associated with the program longer than anyone, became contracting officer responsible for resolution of the outstanding issues.²⁰

New disputes still emerged from time to time. In the fall of 1983 Fiat-Allis filed a claim for reimbursement for spare parts that the company asserted were damaged before being returned to their warehouses. Such surprises occurred until the very end. Even as late as 1985 the Portuguese government sued the program for taxes

allegedly owed by a subsidiary of Air Base Constructors. As Moore later recalled, "what is the surprising thing, you end up with spikes [of activity] and there is surprise litigation that comes out of the woodwork."²¹

So the closeout dragged on into the late 1980s, in sharp contrast to the program itself, which was carried out with remarkable speed. For that matter, the major issues between the government and the contractors were also resolved quickly and without resort to the courts. The government had good records and able negotiators, and the contractors shared the Corps' interest in completing negotiations quickly.²²

The program did cost more than originally allotted, but very little more. The original budget estimate of \$1.038 billion was exceeded by about \$20 million, although the ongoing litigation made it impossible to determine a precise figure in 1988. Any number of factors could have caused the small overrun. Perhaps it was the need in 1979 and 1980, as Joseph R. "Ray" Shaw said, to "buy like hell to get the project moving." Maybe what Wall described as early "lapses in financial discipline" among American managers interested in their own comfort or the drastic increase in indirect costs that accompanied the surge in manpower during the late months of 1980 pushed the project over budget.²³ But whatever the reasons, the amount was small, and Alan Shepherd was probably right when he concluded that, given the variables, the uncertainties, and the haste, "Any board of directors would kiss your feet."²⁴

Notes

1. Ltr, Moore to HQ, USAF, Office of Director of Engineering and Services, 19 Nov 82, sub: Final Monthly Summary Progress Report, IABPC, 91/2.
2. Shaw interview, Apr 82; Ltr, Wall to Bratton, 4 Jun 82, sub: Monthly Report, Israeli Airbase Program, IABPC, 91/2.
3. Wall interview, May 82; McNeely interview, Mar 84.
4. Moore interview, Dec 85.
5. Memo, Brig Gen Jerome B. Hilmes, Deputy Director for Facilities Engineering and Housing, Directorate of Military Programs, through CS and ASA (IL&FM), for ASD (MRA&L), 5 Apr 82, sub: Proposed Relocation of Near East Project Office to Fort Belvoir—Decision Memorandum, IABPC, 62/4; DOD Directive 5305.2, *Decentralization of Department of Defense Activities from the National Capital Region* (Washington, D.C.: OSD, 24 Sep 63).
6. MFR, McNeely, 22 Apr 82, Meeting with DSAA on Israeli Air Base Program, IABPC, 41/13; MFR, Wall, 25 Apr 82, sub: Telephone Conversation with General Wilson, IABPC, 41/13.
7. MFR, Maj Harold E. Fievet, Jr., 8 Jun 82, sub: MOD Concept of Closeout, File 201-07, IABPC, 41/13.
8. MOU, Wall and Bar-Tov, 23 Jun 82, IABPC, 83/1.
9. Memo, Wall for Contracting Officers and General Managers, MSA, ABC, NAC, 4 Jul 82, sub: MOD Representative Role as Observers in Project Contract Closeout Operations, IABPC, 83/1; Ltr, Wall to Hartung, 4 Jul 82, IABPC, 83/1.
10. Memo, McNeely for Moore, 25 Jun 82, sub: Questions on MOD Budget and Other Matters, IABPC, 83/1; Telex, Butler to Wall, n.d., IABPC, 83/1; Ltr, Butler to Moore, 7 Jul 82, sub: Closeout Negotiations, IABPC, 83/1.
11. Ltr, Moore to Bratton, 3 Aug 82, sub: Monthly Report, Near East Project Office, IABPC, 91/2; Ltr, Moore to Albro, 12 Nov 82, sub: Status Report, Near East Project Office, IABPC, 91/2.
12. Ltr, Moore to Robert Flahive, Deputy Chief, OAS, OCE, 1 Jun 82, sub: Space Planning for the Kingman (Humphreys) Complex, IABPC, 62/4; NEPO Organization Charts, 3 Aug and 20 Sep 82, IABPC, 88/5; Memo, Paul Cheverie, Chief Counsel, for Col Moore, 27 Jun 82, sub: OC Schedule for Move to Ft. Belvoir, IABPC, 41/13.
13. Total strength stood at eighteen in September. The executive office consisted of the commander, deputy, staff support assistant, and secretary. The contract administration branch had a civil engineer (contract management), a civil engineer (cost schedule), two civil engineers (contract administration), and a secretary. Resource management included six people: a financial manager, an auditor, an accountant, an accounting technician, a voucher examiner, and a secretary. Office of counsel consisted of two lawyers, and property and procurement was a one-man operation. NEPO Organization Charts, 3 Aug and 20 Sep 82; Moore interview, Dec 85.
14. Ltr, Moore and H. R. Nelson, Deputy General Manager, Air Base Constructors, 25 Feb 83, sub: ABC Overhead on Design Subcontract Settlement Agreement, in NEPO Program Manager Update, 11 Mar 83, IABPC, 91/4.
15. NEPO Briefing for Brig Gen Moshe Bar-Tov (Ret.), 27 Jan 83, IABPC, 91/3.
16. Ltr, Moore to Albro, 12 Nov 82, sub: Status Report, Near East Project Office, IABPC, 91/2; Ltr, Moore to Bratton, 20 Sep 82, sub: Monthly Report, Near East Project Office, IABPC, 91/2.

17. Ltr, Moore to Albro, 12 Nov 82, sub: Status Report, Near East Project Office; NEPO, OCE Program Update, 3 Mar 83, IABPC, 91/2; Moore interview, Dec 85; NEPO Briefing for Bar-Tov, 27 Jan 83.

18. NEPO Briefing for Bar-Tov, 27 Jan 83; NEPO, OCE Program Update, 3 Mar 83.

19. Ltr, Moore to Albro, 29 Mar 83, sub: Near East Project Office Transition Update, IABPC, 91/4; Ltr, Moore to Bar-Tov, 7 Jun 83, sub: Program Update, IABPC, 91/4.

20. Ltr, Moore to Damico, 13 May 86, sub: Designation of Successor Contracting Officer, IABPC, 91/5.

21. Ltr, Moore to Bar-Tov, 18 Oct 83, sub: Program Update, IABPC, 91/5; Ltr, Moore to Reuven Kokolevich, 1 Oct 85, sub: Israeli Air Base Program Update, IABPC, 91/5; Moore interview, Dec 85.

22. McNeely interview, Mar 84.

23. Shaw interview, Apr 82; B. Steinberg interview; Wall, "Managing Construction of Israeli Air Bases in Negev—A Personal Perspective," *Journal of Management in Engineering* 1 (October 1985): 236.

24. Shepherd interview, May 82.