

Boeing's Tanker Protest Case Bolstered by New Revelations

Boeing's contention that the acquisition process for the KC-X tanker contained irregularities appears to be further supported by revelations in several redacted documents from Boeing's protest with the Government Accounting Office (GAO) over the U.S. Air Force's awarding of the contract to EADS/Northrop Grumman.

Facts related to the most critical requirements in the selection of the tanker are supported in the following pages by actual excerpts from the redacted Boeing response, or comments, on the Agency Report filed by the Air Force in response to Boeing as part of the protest process. The following is a summary of those areas where further revelations should give rise to greater concern among warfighters and taxpayers. A glossary of acronyms can be found at the end of the document.

- **Cost/Price** – The Air Force acknowledged that Boeing's KC-767 has the lowest Most Probable Life Cycle Cost (MLPCC); a revelation that contradicts initial statements that the Northrop/EADS aircraft "offered great advantage to the Government in cost price."
- **Aerial Refueling** – Excessively exceeding the fuel offload objective requirements should not be a basis for awarding a compelling discriminator in refueling based upon the plain language of Request for Proposal (RFP).
- **Airlift** – As with aerial refueling, excessively exceeding the objective requirements should not be the basis to award a compelling discriminator in the final evaluation; objective requirements are set to ensure the taxpayers don't pay for "gold-plated" capabilities the warfighter does not need.
- **Risk** – The evaluation failed to appreciate and assess the significant risks associated with moving final assembly from Europe to Alabama and changing modification approaches during Low-Rate Initial Production (LRIP).
- **Overall Evaluation** – With the revelation that Boeing's KC-767AT was in fact the lower-cost offering, the Source Selection Authority (SSA) should have conducted a tradeoff analysis of Northrop's discriminators to ensure they were worth the additional costs. No such evaluation has been conducted.

PUBLIC REDACTED VERSION OF BOEING'S COMMENTS TO THE AGENCY REPORT

SUMMARY & NOTABLE EXCERPTS

(Due to the technical and legal nature of this material a glossary of acronyms is included at the conclusion of this document.)

MISSION CAPABILITY AND RISK

Cost/Price

The Air Force has already conceded that Boeing's KC-767 has the lowest Most Probable Life Cycle Cost (MLPCC); a revelation that contradicts initial statements that the Northrop/EADS aircraft "offered great advantage to the Government in cost price."

1. With respect to the Cost/Price evaluation, as an initial matter, ***the Air Force now concedes that Boeing's most probable life cycle cost (MPLCC) is lower than NG/EADS'***.... This renders even more troubling the SSA's initial public assertions that NG/EADS "offered great advantage to the Government in cost price." The Air Force's concession, however, addresses only a miniscule fraction of the errors in the Cost/Price evaluation confirmed in the Agency Report. (p. 103)
 - The conceded change results from both an erroneous spreadsheet cell reference, as well as a flawed and incomplete MILCON Site Survey conducted by the Air Force.
2. The Air Force concedes that, ***contrary to the dictates of the Solicitation***, they did not attempt to estimate ***all*** of the most probable life cycle costs implicated by the specific aircraft proposed. Instead they ***(1) ignored some military construction (MILCON) costs because they would come from a different funding source, (2) unreasonably assumed major MILCON costs for both aircraft will be identical; and (3) failed to consider other MILCON costs simply because they were never quantified.*** (p. 103, 115-116)
3. In its MILCON analysis, the Air Force claims that the factor applied to aircraft to determine the amount of hangar space required "corresponds to aircraft reliability," not size.... It thus assigned precisely the same .15 factor to both aircraft, even though it had evaluated the KC-767 as offering a "significant benefit" over the KC-30 in terms of reliability. ***The Air Force's admission that it assigned identical factors to both aircraft despite clear findings of differences in evaluated reliability is an admission of improper normalization.*** (p. 111, p. 115)

4. Despite the fact that the Air Force ultimately found that the baseline aircraft to be procured from Boeing Commercial Airplanes (the 767-200LRXF) **is in fact a commercial item**, the Agency Report reveals that the evaluators never accepted the legal import of such a finding (i.e., the commercial pricing paradigm established by the FAR) in its cost/price evaluation. **This resulted in improper and arbitrary upward cost and risk adjustments to Boeing's SDD, P&D, and repair costs.** (p. 118)
5. The **Air Force failed to resolve significant inconsistencies presented in NG/EADS' cost and technical proposals, particularly with respect to NG/EADS' plan to transition its manufacturing approach to an "in-line" modification approach** identical to Boeing's at LRIP.
 - Failed to address technical and schedule risk
 - Failed to capture costs associated with this substantive change in NG/EADS' MPLCC
 - Did not treat Boeing and NG/EADS evenhandedly in this regard. (p. 132-133)

Aerial Refueling

The Air Force's designation of Aerial Refueling as a "compelling" discriminator was improper because it is based on an interpretation of the RFP that conflicts with the plain language of the solicitation. (p. 15)

Issue: NG/EADS was given consideration for exceeding the fuel offload at radius objective requirement, when the RFP precludes consideration above the defined objectives. **The Air Force concedes in its Memorandum of Law that there is a point at which marginal additional fuel offload capability "does not warrant additional expenditure – relative to other design and performance attributes such as aircraft and weight and flexibility."** The fuel offload at radius objective, if properly applied, should have prevented NG/EADS from receiving unbounded evaluation credit for excess capacity. (p. 18)

Airlift

The Air Force's designation of Airlift as a "compelling" discriminator was improper because it is based on an interpretation of the RFP the conflicts with the plain language of the solicitation. (p. 21)

Issue: The AF awarded additional consideration to NG/EADS for "exceeding" the Aeromedical Evacuation capability objective in violation of the solicitation.

Issue: Airlift analysis ignored weaknesses that show the KC-30 does not satisfy all KPP threshold requirements, contradicting the award of “major discriminator” insofar as its inability to fit seamlessly into the Defense Transportation System, as well as limitations in airlift efficiency.

Risk

The Air Force’s evaluation has suffered from a fundamental misunderstanding regarding NG/EADS’ manufacturing plan. ***By failing to appreciate both the nature and significance of NG/EADS’ plan to switch to an “in-line” manufacturing approach during low-rate initial production (LRIP), the Air Force has reached the unreasonable conclusion that NG/EADS’ plan was less risky than Boeing’s.*** LRIP is intended to result in completion of manufacturing development, not initiation of a new manufacturing process and attendant risks. See DoDI 5000.2. (p. 87)

IFARA

The Air Force admits that other than the CMARPS-generated model results, there were very few records produced in its IFARA evaluation. The Agency Report confirms that Boeing’s challenge to the Air Force’s failure to conduct or document any analysis of “insights and observations” gleaned from the IFARA evaluation other than to note them was unreasonable. There are no records reflecting the Air Force’s evaluation of insights and observations, nor of the SSA’s analysis of their impact on IFARA. Where, as here, an agency fails to document or retain evaluation materials, it bears the risk that there is inadequate supporting rationale in the record for its decision, and that GAO will conclude there is no reasonable basis for its decision. (pp. 142-143)

Overall Evaluation

The source selection decision rests on what can only be described as patently unreasonable and unsupported judgments that reflect disparate treatment of the offerors. Tellingly, Boeing’s protests on this score are chiefly based, not on its own technical judgments, which it is trying to “substitute” for those made by the Air Force, but on the **documented professional judgments of the Air Force’s own evaluators – judgments that were either ignored or unreasonably dismissed in the ultimate source selection decision.** [Examples include]...the Air Force’s treatment of...NG/EADS’ failure to comply [with] the KPP threshold requirement that cargo “fit seamlessly” into the Defense Transportation System...NG/EADS’ itinerant, multi-lingual production plan...and...the acknowledged weakness in NG/EADS’ untested boom. (pp. 6-7)

Boeing has identified multiple individual “Major Discriminators” that the Air Force awarded to NG/EADS for non-KPP/KSA requirements that turned the tide of the evaluation, but do not appear to be grounded in rational analysis of actual benefit. Similarly, Boeing had satisfied substantially more non-KPP/KSA requirements than NG/EADS, which the SSAC recognized as “Discriminators Offering Less Benefit,” but ignored thereafter. **There is virtually no documentation or explanation of why the SSAC focused on the Major Discriminators that it did, or why it ignored the other discriminators.** (pp. 32-33)

The cost-technical tradeoff analysis that the SSA should have performed (since Boeing was low-price offeror), might have concluded that many of NG/EADS “discriminators” were not worth the extra cost such as NG/EADS short-field (i.e., 7000 ft) runway performance (offers minimal offload benefit since there are few if any 7000 ft runways that can accommodate the large KC-30). (p. 47) See also:

- Fuel offload rate differences offer only marginal operational benefit, and there are no indications that the AF conducted any actual, contemporaneous analyses
- KC-30 boom envelope provides an overstated benefit, the AF concedes that no existing aircraft can utilize the KC-30’s proposed boom envelope
- NG/EADS additional “ferry range” offers little additional benefit to the AF because airfields remain inaccessible to the large KC-30 regardless of ferry range.

Glossary of Acronyms

- AF – United States Air Force
- CMARPS – Combined Mating And Ranging Planning System
- EADS – European Aeronautic, Defence and Space Company
- FAR – Federal Acquisition Regulation
- GAO – Government Accounting Office
- IFARA – Integrated Fleet Air Refueling Assessment
- KPP – Key Performance Parameter
- KSA – Key System Attribute
- LRIP – Low-Rate Initial Production
- MILCON – Military Construction
- MPLCC – Most Probable Life Cycle Cost
- NG – Northrop Grumman
- P&D – Production and Deployment
- RFP – Request for Proposal
- SDD – System Development and Demonstration
- SSA – Source Selection Authority
- SSAC – Source Selection Advisory Council