

June 2008

Dear Fellow Dismayees,

Like any roller coaster ride, the tanker saga can make you queasy if you stay with it too long. Everyone involved in this ghastly affair is going to get queasier. The Government Accountability Office has sustained Boeing's tanker contract protest, guaranteeing work for lawyers, reporters, and analysts for years to come.

"Never sue your customer," says the oft-repeated maxim. "Unless, that is, the customer is a **complete dolt**," says the caveat to that maxim. Turns out, Boeing's talking points about the Air Force's contract award to Northrop Grumman/EADS **weren't corporate pabulum**. The GAO basically affirmed all of them, and more. Boeing Business Development VP Chris Raymond had maintained that the company's protest wasn't "frivolous." He was exactly right. This ruling is serious-as-a-heart-attack stuff. In particular, consider the fourth point:

The Air Force conducted misleading and unequal discussions with Boeing, by informing Boeing that it had fully satisfied a key performance parameter objective relating to operational utility, but later determined that Boeing had only partially met this objective, without advising Boeing of this change in the agency's assessment and while continuing to conduct discussions with Northrop Grumman relating to its satisfaction of the same key performance parameter objective.

As that band member from *Spinal Tap* would say, "That's just nitpicking, isn't it?" It isn't. That overlong sentence doesn't highlight a procedural error or a minor oversight. It indicates **deliberate favoritism** for the Northrop/EADS bid. There are three possible explanations:

1. The GAO decision was politically compromised. Conceivable, but the GAO has an unblemished history of independent (at times hypercritical) thinking. They don't often uphold defense contract protests—just 20-25% of them. The last time they upheld a major protest (CSAR-X) it was against Boeing's contract win.

2. The Air Force procurement department has turned monstrously incompetent. Their recent track record isn't great, and any large bureaucracy can lose its way. But again, that fourth point goes well beyond incompetence. It indicates bias.

3. Senator John McCain successfully politicized this contract, determining its outcome.

The likeliest is a combination of the second and third explanations. The Air Force officials making this decision watched McCain wreck several Air Force officials' careers. They watched McCain make life miserable for the service and attack its priorities, especially the F-22. They watched him consistently work against the Boeing tanker, or at least in favor of the Northrop/EADS tanker (under the guise of a level playing field). As a result, some Air Force procurement officials might well have worked to favor the Northrop/EADS bid. Perhaps it was pushed on them from the OSD level. From the Air Force standpoint, choosing the KC-30 might have been an easy way to **avoid pain**. The GAO

ruling made them look incompetent, but they had solid fear-based reasons to take this path, despite the risk of being caught. Who knows? Perhaps the Air Force *wanted* to be caught.

That, of course, leaves us with the matter of McCain. We know that McCain influenced the tanker selection process against Boeing with multiple letters to Deputy SecDef Gordon England and SecDef Robert Gates. We also know that McCain, for good and/or bad reasons, stopped the original Boeing tanker lease deal from going ahead. We know that people in McCain's office have also worked as EADS lobbyists. At least one lobbied for EADS **while working for McCain**. Finally, we have the GAO document, which accuses the Air Force of favoritism and bias, yet doesn't cite **any rationale or motive** for this bias. There's really just one.

So far, no one has been able to **connect these four data points** and prove that McCain and his lobbyist associates pushed the Air Force into actively favoring the Northrop/EADS plane. McCain's office has very skillfully maintained plausible deniability.

The successful protest guarantees a re-compete, unless the Air Force prefers to be abolished. This will keep the agony going through the election. McCain's politicization of the contract opens a Pandora's Box, with both sides now eagerly taking up the partisan mantle. The Democrats will co-opt the anti-foreign crowd and hurl that wretched "French tanker" accusation. The debate will shift further away from **tanker capabilities** and towards **jobs and industrial base concerns**. For both sides, much will depend on the November elections.

Despite its moral victory and the vindication of the KC-767, Boeing still faces an uphill battle. Disregarding the oafish political pressure on the Air Force to choose the KC-30, and despite the service's royal screw-ups, the service had its reasons for selecting the KC-30. Northrop/EADS is in a good position to keep the contract, albeit with a 2-3 year delay. EADS has much less tanker experience than Boeing, but the KC-30 is a good aircraft, and if DoD wants extra lift (and not just a tanker) the KC-30 would be its choice. Given the Air Force's CSAR-X/KC-X "bigger is better" approach, they might want that extra lift.

Also, the weak link in Boeing's protest is their contention that if they had known the Air Force wanted a bigger plane, they would have bid the 777. The 777 is likely too big for the requirement. In short, the KC-30 is in a good size niche, and Boeing doesn't have an equivalent. If the Air Force had acted correctly and communicated its changed requirements to Boeing, it's possible that Boeing couldn't have done much about it.

As for the impact on other programs, the tanker ruling weakens the Air Force just when the service needs to save its highest priority—the F-22. The service's weakness helps the F-35 program, which was more of an OSD priority than a USAF one. But with its recent leadership decapitation and multiple procurement misfires, from the Air Force's standpoint now, **it's all bad**.

June's aircraft binder reports include updated Jetliner and Trainer market overviews, plus the Learjet, ALH, LCA, Tornado, MD-80, and Rooivalk reports. Have a good month. Try to think non-tanker thoughts.

Yours, Until Our Long National Nightmare Finally Ends,
Richard Aboulafia