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A KNIGHT RIDDER INVESTIGATION

Air Force let Boeing rewrite contract

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WASHINGTON - The Air Force gave the Boeing Co. five months to rewrite the official specifications for 100 aerial refueling tankers so that the company's 767 aircraft would win a \$23.5 billion deal, according to e-mails and documents obtained by Knight Ridder.

In the process, Boeing eliminated 19 of the 26 capabilities the Air Force originally wanted, and the Air Force acquiesced in order to keep the price down.

The Air Force then gave Boeing competitor Airbus 12 days to bid on the project and awarded the contract to Boeing even though Airbus met more than 20 of the original 26 specifications and offered a price that was \$10 billion less than Boeing's.

The Boeing tanker deal has been under investigation since it became public two and a half years ago and has been suspended pending the outcome of the probes.

But the e-mails and other documents show just how intent the Air Force was on steering the deal to Boeing, even though Airbus' tankers were more capable and cost less.

In one document, Bob Gower, Boeing's vice president for tankers, noted that one objective in rewriting the specifications was to "prevent an AoA from being conducted." "AoA" stands for "analysis of alternatives" or, in essence, a look at serious competitors.

Among the original Air Force requirements Boeing eliminated was that the new tanker be equipped to refuel all the military services' aircraft, refuel multiple aircraft simultaneously, and carry passengers, wounded troops and cargo. Boeing also eliminated an Air Force requirement that the new tankers be at least as effective and efficient as the 40-year-old KC-135 tankers they would replace.

Sen. John McCain, R-Ariz., demanded the Boeing documents in his role as chairman of the Senate Commerce Committee. Senate investigators made the Boeing documents available to Knight Ridder.

Air Force Undersecretary for Acquisitions Marvin Sambur defended the Boeing deal. "This was not a competitive bid process," he said. "The Air Force was ordered by Congress to work with Boeing on the new tanker program."

Sambur was referring to a line item inserted into the appropriations bill in 2001, after the Sept. 11 attacks, by Sen. Ted Stevens, R-Alaska, which said the Air Force should lease 100 767s from Boeing to be used as tankers.

The bill passed the Senate over the objections of McCain and other senators. After the bill became law, McCain, in a committee hearing where Air Force Secretary James Roche was testifying, criticized Roche for an uncompetitive deal, and Roche agreed to conduct a competitive bidding.

The Air Force then put out a request for information to Boeing and Airbus, but by then Boeing and the Air Force had made arrangements that ensured Boeing would win.

Sambur also confirmed that the first 100 Boeing planes would be able to refuel only one plane at a time and would be able to refuel only Air Force planes.

The Boeing deal provides for a refueling capability for Navy, Marine and Special Operations aircraft "in the second spiral of development," Sambur said. Retrofitting the first 100 planes to do so would be at additional cost to the Air Force, he said.

But Doug Kennett, a Boeing spokesman in Washington, said that the first 100 tankers would be able to refuel Navy, Marine and allied aircraft one at a time.

He also said the Air Force turned Airbus down on failure to meet several specifications. The Airbus aircraft was larger than what the Air Force wanted and at the time Airbus did not have the specific type of refueling boom required by the Air Force, Kennett said.

Other sources said Boeing would have to redesign the wings of the 767 to add the ability to refuel more than one plane at a time. That cost also would be additional to the Air Force.

Politics has played a heavy role in the Boeing deal. House Speaker Dennis Hastert, R-Ill., whose state is home to Boeing headquarters, and Democratic Rep. Norman D. Dicks, who represents the state of Washington, where a key Boeing production plant is located, lobbied the White House on the deal.

Boeing and the Air Force also lobbied for the deal, and President Bush designated his chief of staff, Andrew Card, as the point man on the issue.

The Office of Management and Budget and other independent agencies criticized the tanker deal as too expensive and unneeded.

Card intervened and ordered them to move ahead with the Boeing deal.

White House spokesman Claire Buchan said Card sought to mediate the contract dispute without taking sides.

"There were disagreements among the Air Force, the DOD (Department of Defense) and the OMB. His role was to ensure that all sides were heard, and that the military's needs were met, and that the taxpayers got the best value for their money," she said Saturday.

Boeing e-mails indicated that Card was primarily interested in how many jobs the contract would create: Boeing claimed upwards of 28,000, but Roche, the Air Force secretary, in a letter to the White House upped the ante to 39,000 new jobs.

"This was a negotiation between the Air Force and Boeing; they weren't giving it to Airbus," said Steven Schooner, co-director of the Government Procurement Law Program at George Washington University. "It definitely lends support to the generally accepted reflection that this was never intended to be an open competition.

"In a competitive procurement, you don't let one of the competitors write this because it gives them a competitive advantage," Schooner said.

Senate investigators have plowed through some 8,000 pages of Boeing documents that were so embarrassing and revealing that the company last year fired one of its vice presidents, Darleen Druyun. Druyun had been an

Air Force acquisitions officer involved in negotiations on the tanker deal. Boeing also fired its chief financial officer, who had hired Druyun. Boeing chairman and chief executive Phil Condit also left the company in an attempt to help Boeing put the scandal behind it and get the deal back on track.

McCain - who's led a two-year fight against what he considers both a bad deal for the government and an unnecessary deal for the Air Force - pointed out in a letter to Department of Defense Inspector General Joseph Schmitz earlier this month that the Air Force in 2001 developed a draft Operational Requirements Document (ORD) with 26 specifications for the new tanker aircraft, then gave the document to Boeing.

The Air Force's minimum requirements were subsequently reduced to only seven - and Boeing tailored the specifications to the airplane the company had on hand. The first 100 planes can only be used to refuel Air Force fighters and bombers.

The rewritten document was so thoroughly tailored to Boeing's wish list that when it was briefed to the Pentagon's Joint Requirements Board in July 2002 it was actually titled the "KC-767 ORD."

A board member's memo on the briefing said the operational requirements documents "should not be written for a specific aircraft but rather for a capability" and directed the title to be changed so as not to identify a particular aircraft.

The Air Force changed the name, but not the specifications.

Schmitz is set to release his audit report within the next week. It's the first of several investigations of the Boeing deal, including one by federal prosecutors.

A draft of the audit report, leaked earlier this month to Bloomberg News, said the Boeing contract was flawed and may need to be renegotiated because of "unsound acquisition and procurement practices." But Schmitz could find "no compelling reason" to kill the deal.

His report also questions whether the government should be leasing any of the aircraft, because the cost of leasing a Boeing 767 tanker is greater than the cost of buying one at \$138.5 million each. The deal, as presently structured, would have the government lease 20 of the tankers and buy 80.

Schmitz told Knight Ridder that the audit report, once proprietary and source information is removed, will be released to the public. He added that his office has initiated an investigation "into related matters." An investigation by the inspector general involves law enforcement, while an audit looks into fiscal practices.

The Schmitz audit report is certain to generate fresh outrage on Capitol Hill, resulting in new hearings and renewed demands for the Air Force to hand over its internal documents on the Boeing deal, which it has been refusing to do for nearly a year on what one Senate investigator called "very shaky grounds."

McCain, who also sits on the Senate Armed Services Committee, is pressing the committee to force the Air Force to hand over its internal documents as well.

Sambur said that the decision to withhold the internal documents "is taken at a much higher level than the Air Force. It is a very serious decision. If everyone knew that their e-mails were subject to this kind of scrutiny no one would use it to debate with their colleagues and develop positions. They would watch every word they write."

An Airbus spokesman told Knight Ridder that if the aerial tanker contract was re-bid, the Airbus group would not only underbid Boeing again, but it would also agree to build the aircraft in the United States.

A federal prosecutor in the Eastern District of Virginia has been investigating allegations that Druyun

simultaneously conducted negotiations on the tanker deal for the Air Force while negotiating with Boeing for a job when she retired after 33 years with the Air Force.

(Knight Ridder correspondents Seth Borenstein and Ron Hutcheson contributed to this report.)

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