

We have posted several [articles](#) on the recompetes of the KC-X aerial tanker contract, calling it a “poster child” for the dysfunctional Defense acquisition system. Now comes word of a successful bid protest at the Government Accountability Office (GAO), in which two protestors had their allegations of a flawed bid evaluation upheld. Has the Department of Defense completely lost its ability to evaluate complex, multi-billion dollar weapon system acquisitions?

According to the GAO official press release, there were two fundamental flaws in the Army’s evaluation of the competing offers. First, the Army mis-evaluated Oshkosh’s capability. The press release did not provide any more details, but one might speculate that, under the capability evaluation factor, Oshkosh received an unreasonably high rating that was not supported by the technical evaluation. It is likely that Oshkosh unreasonably was rated higher than BAE Systems’ subsidiary (formerly known as Stewart & Stevenson—the incumbent contractor). Second, the Army mis-evaluated Navistar’s past performance. Again, the press release lacks details, but it is likely that Navistar’s past performance unreasonably was rated lower than Oshkosh’s.

GAO Sustains BAE Systems/Navistar Protest of FMTV Award to Oshkosh

Written by Administrator

Wednesday, 16 December 2009 00:05

As the press release notes, the GAO decision sustaining both protests does not constitute a judgment as to which proposal reflected the best value to the Government. The GAO's decision is limited to whether the Army's evaluation was made in accordance with applicable statutory and regulatory requirements—and whether it was fundamentally fair. In particular, GAO focuses on whether the evaluation of the offers was made in strict accordance with the evaluation methods and criteria stated in the Army's solicitation, also called a Request for Proposals (RFP).

As part of the bid protest decision, GAO recommended that the Army reevaluate the three proposals under the capability factor "in a manner consistent with the terms of the solicitation." In addition, the GAO recommended that the Army "conduct a new evaluation of Navistar's past performance that adequately documents the agency's judgments." Based on those actions, the Army should make a new source selection decision. Finally, GAO recommended that both protesters be reimbursed "the costs of filing and pursuing the successful grounds of their protests related to their challenge of ... evaluation issues, including reasonable attorney fees."

See the GAO's press release [here](#) .

According to [this article](#) , the news of the successful protest led to an 11% drop in the price of Oshkosh stock, while Navistar was up five percent and BAE Systems was up just over one percent. In a similar [piece](#) , the Wall Street Journal reported that—

Wisconsin-based Oshkosh's success with the FMTV contract stunned many defense industry observers because the company managed to displace BAE as the incumbent contractor for the trucks. BAE and Stewart & Stevenson Services, a company acquired by BAE earlier in this decade, had built more than 56,000 of the FMTV trucks since 1991. The contract requires

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Oshkosh to build essentially the same trucks as BAE. The FMTV series features up to 17 different truck models for a variety of uses with payloads from 2.5 tons to five tons.

The contract has been reported to be worth at least \$3 billion.

As we've [reported](#), the KC-X tanker competition has gone through a nasty, seven-year history of proposal, evaluation, protest, and recompetes. As this post is being written, it is unclear whether the EADS/Northrop Grumman team will even submit a bid in the latest round of evaluations. Despite a "rigorous" and "extra cautious" evaluation strategy, the Air Force mis-evaluated the proposals through a series of errors that should have embarrassed the acquisition professionals involved in the process.

Now it's the Army's turn to feel the heat. It's one thing to mis-evaluate the technical capability of a company that proposes to produce a complex series of trucks. It's quite another thing to mis-evaluate an offeror's past performance and fail to "adequately document" the evaluation. That's just bad management.

The GAO sustains between 20 and 27 percent of roughly 300 protests submitted to it for judgment each year, according to this [article](#). (Additional bid protests are submitted to the U.S. Court of Federal Claims.) That's too high, in our view—as it means that roughly a quarter of all evaluations are done poorly enough to warrant a re-do. If a surgeon had a 25% failure rate, his/her license to practice medicine might well be revoked. Certainly, medical malpractice insurance premiums would shoot through the roof!

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Has the U.S. Government—particularly the Defense Department—lost its ability to evaluate proposals fairly and in accordance with the written evaluation criteria? Have we cut back on senior acquisition professionals to the point where we can no longer execute the admittedly complex and burdensome acquisition system? Signs point to yes.