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Protest of The Boeing Company:
Second Supplemental Protest
PUBLIC REDACTED VERSION

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TABLE OF CONTENTS

	Page
I. INTRODUCTION.....	1
II. INTERESTED PARTY & TIMELINESS	12
III. BACKGROUND.....	13
IV. THE AGENCY RECORD CONFIRMS THAT THE AIR FORCE’S EVALUATION OF MISSION CAPABILITY AND PROPOSAL RISK WAS FATALLY FLAWED	14
A. The Key System Requirements Evaluation Suffered from Misapplication of Evaluation Criteria and Flawed Technical and Risk Evaluations	14
1. The Designation of Key System Requirements “Discriminators” Violated The Stated Evaluation Criteria	14
2. The Air Force’s Evaluation Otherwise Unreasonably Perceived Benefit In NG/EADS’ Refueling Approach	19
3. The Air Force’s Evaluation of NG/EADS’ Airlift Approach Was Otherwise Unreasonable.....	34
4. The Air Force Unreasonably Lowered NG/EADS’ Key System Requirements Risk Rating	48
5. The Air Force’s Operational Utility Assessment Also Was Flawed	50
6. The Air Force Failed To Properly Consider Boeing’s Significant Advantage in Survivability	54
B. The Record Establishes that the Air Force’s Evaluation of NG/EADS’ Itinerant, Intercontinental Manufacturing Approach Was Unreasonable	56
1. NG/EADS’ Production Plan Is Even More Complicated and Convoluted Than Boeing Originally Believed	57
2. The Record Demonstrates That the Air Force’s Evaluation of NG/EADS’ Proposal Failed to Account for the Significant Certification Risk Inherent In NG/EADS’ Production Plan.....	59
C. The Air Force’s Progressive Discounting Of NG/EADS’ Schedule Risk Was Unreasonable And Differed Sharply From Its Treatment Of Boeing	72
D. The Air Force Mission Capability and Risk Evaluation Otherwise Was Unreasonable and Inconsistent With the Evaluation Criteria.....	80

TABLE OF CONTENTS

(continued)

	Page
1. The System Integration and Software Evaluation Was Improper	80
2. The Product Support Evaluation Was Improper.....	82
V. THE AIR FORCE’S COST EVALUATION IS FUNDAMENTALLY FLAWED, AND NG/EADS’ PURPORTED COST ADVANTAGE IS ENTIRELY ILLUSORY	83
3. The Air Force Failed to Account for the Costs Associated with NG/EADS’ Planned Future “Upgrades.”	87
B. The Record Confirms that the Air Force Improperly Normalized Other Government Costs	88
1. The Air Force’s Evaluation of O&S Repair Costs Was Unreasonable and Reflects Disparate Treatment.....	88
2. The Air Force’s Evaluation of Fuel Costs Was Unreasonable	93
3. The Air Force Improperly Normalized MILCON Costs	94
C. The Agency Record Confirms that the Air Force’s Evaluation of and Adjustment to Boeing’s SDD and Budgetary Costs Was Unreasonable and the Result of Disparate Treatment	99
VI. THE RECORD CONFIRMS THAT THE PAST PERFORMANCE EVALUATION WAS UNREASONABLE, DEVIATED FROM THE EVALUATION CRITERIA, AND THAT THE AIR FORCE TREATED THE OFFERORS DISPARATELY	103
A. The Air Force Gave EADS “A Pass” By Excluding Very Relevant Military Contracts From Its Past Performance Evaluation.....	104
B. The Air Force’s Evaluation of EADS’ Performance on the [REDACTED] Contract Identified Numerous Risks To Future Performance of KC-X.....	107
C. The Air Force Manufactured “Very Relevant” Experience Where None Existed.....	111
D. The Record Confirms that the Air Force Ignored Important Information in Its Evaluation of Boeing’s Performance on the [REDACTED]	113
1. The Air Force Ignored Boeing’s Improving Trend of Performance and Its Extremely Positive Recent Performance.....	113
2. The Air Force Evaluated CPAR Data Inconsistently and Treated the Offerors Disparately	118

TABLE OF CONTENTS

(continued)

	Page
E. The Agency Record Confirms That The Air Force’s Evaluation Of [REDACTED] Is Flawed	120
F. The Air Force Evaluated Performance On Commercial Contracts Disparately	122
G. The Air Force Failed To Adequately Document Its Decision- Making	123
H. The SSA’s Mechanical Determination That NG/EADS Provide Greater Confidence Is Not Supported By The Record	125
VII. THE AIR FORCE DEVIATED FROM THE EVALUATION CRITERIA BY IGNORING THE KC-767’S SUPERIOR FLEET UTILITY AND FLEXIBILITY EVIDENCED BY THE AIR FORCE’S CMARPS MODEL RESULTS	127
VIII. ADDITIONAL REQUESTS FOR DOCUMENTS	132
IX. CONCLUSION & RELIEF REQUESTED	133

The Boeing Company (Boeing) respectfully supplements the initial Protest it filed on Tuesday, March 11, 2008, and its First Supplemental Protest filed on Monday, March 17, 2008, challenging the award of contract No. FA8625-07-R-6470 (the Tanker contract) by the United States Air Force (Air Force) to Northrop Grumman Corporation and its European counterpart, European Aeronautic Defence and Space Company (NG/EADS). Given the multiple, highly prejudicial errors identified in these three filings, Boeing respectfully requests that GAO sustain its protest.

I. INTRODUCTION

The record produced thus far not only fully supports Boeing's existing protest issues, it documents the Air Force's prejudicial deviation from the Solicitation's evaluation criteria and the announced objectives of the KC-X program. Focused on process, "transparency," Congressional oversight, and the number of Evaluation Notices (ENs), meetings and briefings with offerors, the Air Force appears to have lost sight of the substance of the evaluation and award criteria to the detriment of the mission and the Warfighter. This myopic obsession with form over substance led to prejudicial errors across all five evaluation factors.

Even with all of these errors, though, Boeing still received proposal ratings virtually identical to NG/EADS. Consequently, the Source Selection Authority (SSA) could only justify award to NG/EADS by:

- Improperly crediting NG/EADS with "major discriminators" that were "compelling" to her award decision for exceeding the Solicitation's maximum desired performance Objectives for aerial refueling and airlift by a margin greater than Boeing exceeded them, while at the same time ignoring mandatory requirements that NG/EADS failed to satisfy and diminishing the serious, very specific risks the evaluation had identified with the design of the NG/EADS refueling boom, indisputably the *raison d'etre* for the KC-X Tanker;
- Ultimately diminishing very real performance, certification, Milestone C and cost risks inherent in the NG/EADS intercontinental, itinerant production approach, while at the same time determining that Boeing's in-line approach to maximizing use of commercial processes and "time certain" schedule were no less risky than NG/EADS';
- Improperly endorsing a cost evaluation that skewed the MPLCC substantially in NG/EADS' favor by ignoring potential cost risks inherent in NG/EADS' approach to boom design, irrationally refusing to consider Boeing's documented commercial cost experience in favor of inapplicable DoD historical costs and effectively normalizing certain Operation & Support (O&S) and military construction (MILCON) costs;

- Ignoring *negative* past performance by Northrop Grumman and EADS on a host of programs, while refusing to credit recent *positive* performance by Boeing; and
- Treating the IFARA Fleet Effectiveness Value (FEV) *score* achieved for each offeror by Air Force evaluators after extensive operator manipulation of the Combined Mating and Ranging Planning System (CMARPS) model with talismanic certainty as truly indicative of the number of KC-X Tankers required to accomplish the Solicitation’s mission scenarios.

In view of the closeness of the underlying evaluation, any one of these errors could have affected the award decision and justifies sustaining Boeing’s protest. Each is highlighted in more detail below in the context of the relevant evaluation factors.

MISSION CAPABILITY AND RISK

Concerning Mission Capability and Risk (which were evaluated in tandem by the same evaluators), the record confirms that the Tanker Recapitalization Approach was “three-pronged,” under which the Air Force would “procure medium capability in first two blocks, large in third.” KC-X Acquisition Strategy Panel, Nov. 28, 2006, AR Tab 004 at 9. Yet, the Air Force—faced with identical (but improperly derived) overall ratings for both offerors, ***rendering every distinction the SSA drew critical to the best value determination***—gave dispositive weight to the illusory “benefits” of NG/EADS’ “Large” KC-30. At the same time, it ignored fundamental flaws and myriad risks—many of which the Air Force initially identified but ultimately dismissed—associated with NG/EADS’ proposed approach. In so doing, the Air Force abandoned the Solicitation criteria, engaged in disparate treatment, and produced an evaluation record riddled with errors, four of which we highlight below.

First, the Air Force ***knowingly*** violated the Solicitation and afforded dispositive credit for excess NG/EADS capability with virtually no true operational benefit. The RFP stated clearly that “[n]o consideration will be provided for exceeding KPP [Key Performance Parameter] objectives,”¹ RFP § M.2.2.1.1, AR Tab 013, and the Air Force recognized this restriction in the very first briefing in June 2007 by the SSET to the SSAC and SSA:

Offeror proposed additional ***capability above objective that cannot be considered*** given the ground rules of the RFP.

Mid-term Update to SSA, June 28, 2007, AR Tab 024 at 122 (addressing airlift capability). The next SSET briefing to the SSA and SSAC likewise cautioned: “***Strengths*** may be awarded for greater capability, ***but not beyond Objective levels*** (if an Objective is stated).” Mid-term Update to SSA, July 12, 2007, AR Tab 029 at 52. The

¹ All emphases are added unless otherwise noted.



Air Force ultimately analyzed “all 808 potential *strengths*” identified by the SSET and divided them into four categories of “discriminators”: (1) Major Discriminators; (2) Discriminators Offering Less Benefit; (3) Noted Attributes With No Advantage to Either Offeror; and (4) Other Attributes Considered Essentially Equal. PAR, AR Tab 055 at 11-12. In short, capability beyond an Objective could neither form the basis for a strength (and thus a discriminator), nor “be considered” at all in the evaluation. These rules of the procurement were critical to offerors making design and capability trades, as they capped the point at which the Air Force considered additional capability advantageous and thus shaped offerors’ solutions.

The record confirms that in assigning “Major Discriminators” to NG/EADS’ excess Aerial Refueling and Airlift capabilities (discriminators the SSA identified as “compelling” to her decision, *see* SSDD, AR Tab 054 at 7)—while understating the importance of the KC-767’s clear Survivability advantage and ignoring Boeing’s Operational Utility benefits—the Air Force knowingly and prejudicially erred:

- **Aerial Refueling**: The Air Force found that both Boeing and NG/EADS met the Solicitation’s fuel offload Objective, PAR, AR Tab 055 at 13-14, but then assigned NG/EADS a “**Major Discriminator**” for exceeding this KPP objective by more than Boeing did. This alone was prejudicial error. It is only compounded by the fact that the purported benefit of that excess capability is negated by the Air Force’s own evaluation of the Mobility Capability Study (MCS) scenarios, which were “given to competitors to influence design decisions.” Acquisition Strategy Panel, Nov. 28, 2006, AR Tab 004 at 84. Under those real-world, wartime scenarios, the KC-30 only “offloaded between [REDACTED] and [REDACTED] of its fuel,” AR Tab 055 at 45, rendering superfluous the KC-30’s theoretical advantage.
- **Airlift**: The Air Force made at least four prejudicial errors in its Airlift evaluation: (1) it assigned NG/EADS a “**Major Discriminator**” for exceeding the KPP Objective for Aeromedical Evacuation by more than Boeing did, *id.* at 19; (2) while it recognized that the weakness of NG/EADS’ non-freighter floor would require the tear-down and build-up of cargo pallets, the Air Force failed to realize that *violated the KPP Threshold* that the aircraft “fit seamlessly into the Defense Transportation System” requirements for “theater distribution”; (3) it assigned a “**Major Discriminator**” due to NG/EADS’ airlift efficiency score, dual deck capability and number of pallets, ignoring the absence of any true operational benefit since the KC-30 (in a vacuum) can carry just [REDACTED] percent more cargo than the KC-767 but is so restricted by the absence of a freighter floor and pallet height limitations that the KC-767 can carry more palletized cargo than the KC-30 under nearly all operational scenarios; and (4) its conclusion that the KC-30 offered “greater airlift efficiency” under the five “scenarios” it evaluated is undermined by the PAR, which establishes the superiority of the KC-767 in those scenarios;

indeed, the KC-30 could [REDACTED] in some scenarios. PAR, AR Tab 055 at 18.

Second, not only did the Air Force err in assigning dispositive credit to the illusory benefits of the KC-30 Aerial Refueling and Airlift capabilities, the record confirms that it ignored Boeing's dominance in providing over 300 percent more strengths that the Air Force designated as discriminators, spanning every category of SRD requirement:

Category	Req't Type	Boeing Major Discriminator	Boeing Discriminator	NG Discriminator	NG Major Discriminator
Total Requirements Set	KPP Threshold	1	0	0	
	KPP Objective	4	0	0	
	Threshold	12	18	1	
	Objective	5	16	7	
	Other	14	31	8	
	Total	36	65	16	

See also Ex. 15 to The Boeing Co.'s First Supp. Protest (identifying benefits Air Force identified for each Boeing discriminator).

Third, the Air Force erred still further in dismissing significant flaws and risks in NG/EADS' approach to its boom—indisputably the most critical aspect of the Tanker—and its itinerant, intercontinental manufacturing plan. These approaches had led to pre-FPR assessments by the Air Force of NG/EADS' risk as Moderate in both the Key System Requirements and Program Management subfactors (whereas Boeing had Low risk in both). Yet, in the final evaluation, these ratings both dropped to Low risk despite no meaningful change in NG/EADS' approach. The understatement of these risks diminishes and obscures precisely the considerations most emphasized in the RFP and was a prejudicial mistake:

- **The Untested, Non-Operational Boom:** NG/EADS, having never delivered an operational Tanker boom to any customer, prepared a paper "[REDACTED]" of a boom. The SSET repeatedly identified [REDACTED] with NG/EADS' "[REDACTED]";

– NG/EADS "[REDACTED]" for its [REDACTED], which the SSET found is "[REDACTED]" and "[REDACTED]" such that it "[REDACTED]";

[REDACTED]

- NG/EADS' boom " [REDACTED] because it " [REDACTED] ";
- NG/EADS' " [REDACTED] boom" " [REDACTED] ";

NG/EADS Final Subfactor Summary, Mission Capability: Key System Requirements, Feb. 21, 2008, EZ Source. Despite these fundamental flaws identified in the final evaluation, "no quantifiable cost or schedule risk" was assigned. SSAC Briefing, Feb. 21, 2008, AR Tab 055 at 9. This is especially inexcusable given NG/EADS' acknowledgment that its [REDACTED] follows the design for the [REDACTED], which is the [REDACTED] item on that program and reportedly will not be operational until 2010, by which time NG/EADS is supposed to have delivered [REDACTED] under its unrealistic schedule.

- **The Itinerant, Uncertified Production Plan:** The Air Force immediately identified in both the System Integration and Program Management subfactors the extensive performance, schedule, cost and certification risks attendant with NG/EADS' ill-conceived, manufacturing approach, under which only two of the first six aircraft are manufactured the same way. Ultimately, it shifted the [REDACTED] risk rating in both subfactors for this approach -- which appears to have been motivated solely by political, as opposed to operational, necessity -- to [REDACTED] risk. The primary drivers for the elimination of these major risks: (1) *NG/EADS' promise to include the Air Force in meetings* (called "tailored manufacturing readiness reviews") at "key transition points" and (2) NG/EADS' *"back-up" plan to continue building the A-330 in Toulouse, France* and/or modifying it in Melbourne, Florida. Not only is the last-minute disappearance of these core risks facially (and temporally) insupportable, the evaluation is untenable for at least two other principal reasons:
 - The record reveals no meaningful recognition of the major cost, schedule or performance risks associated with transitioning from a "modification" to an "in-line" manufacturing process in the midst of production, which by analogy is like the difference between buying a car that was built as a convertible at the factory versus buying a hard top from the dealer and having an "after market" company convert it; and
 - The record is devoid of any realistic consideration of the multiple certification issues relating to the intercontinental production approach; for example, NG/EADS allowed (and the Air Force accepted) only [REDACTED] to obtain FAA validation of the European Amended Type Certification of the

A330 Freighter aircraft—a process that could take months—and ignored the fact that [REDACTED]

The Air Force decision to give NG/EADS a proverbial “pass” on these inherent weaknesses in NG/EADS’ flawed boom and production approaches survives neither surface scrutiny nor comparative review. The Air Force view that NG/EADS’ proposed approach was effectively the same in merit and risk to Boeing’s “evolutionary,” sixth-generation boom and its proposal to build the KC-767 with maximum use of the same commercial production line and facility that has built the 767 aircraft line for years defies both logic and the RFP request for a “low-risk,” “time-certain,” “risk prudent” approach.

Fourth, the record unmask a Schedule Risk Assessment (SRA) with flaws even worse than Boeing projected in its initial protest. In the final analysis, the Air Force assigned NG/EADS [REDACTED] (to mention nothing of performance or certification risk) for its itinerant manufacturing plan or for its philosophical, immature boom design. Not only is this result insupportable on its face, the underlying evaluation process epitomizes disparate treatment of offerors. Initially, both Boeing and NG/EADS [REDACTED]. The Air Force rejected both approaches and projected a slip for NG/EADS of between [REDACTED] (citing numerous weaknesses related to its hopscotching production approach) and between [REDACTED] for Boeing. From that point forward, the Air Force treatment of the offerors differed markedly:

- **Boeing:** The Air Force repeatedly told Boeing it would need to extend its schedule significantly or be saddled with an *unacceptably high risk rating*. The Air Force also emphasized that it wanted a “time-certain” schedule and that a significant extension of Boeing’s schedule would be “considered neutral,” not a negative discriminator. As a result, Boeing extended its IOC date from [REDACTED]—at great MPLCC cost—yet it was still assigned a Satisfactory, Low risk rating and was still given an SRA of [REDACTED].
- **NG/EADS:** The Air Force repeatedly identified to NG/EADS the risks that drove the [REDACTED] initial SRA—most significantly, the certification and production risks—yet NG/EADS provided little beyond its commitment to include the Air Force in “damage control” meetings and to continue to manufacture the KC-30 in France if its plans for U.S. manufacturing capability did not pan out. NG/EADS ultimately shifted their IOC date only from [REDACTED]. Yet, the Air Force assigned them a Satisfactory, Low risk rating and an SRA of just [REDACTED].

The Air Force’s decision to ignore some [REDACTED] of NG/EADS schedule risk based on the promise of including the Air Force in damage control meetings and reversion to French production and to dismiss entirely the significant risk attendant with a boom

design that is [REDACTED] behind schedule and not slated for certification until after [REDACTED] is plainly unreasonable and amounts of disparate treatment to offerors.

COST/PRICE

The Air Force's willingness at every turn to give NG/EADS, but not Boeing, the benefit of the doubt is equally pronounced in the Air Force's Cost/Price evaluation. For example, the award decision trumpets the significantly lower NG/EADS unit costs for the SDD and Production and Deployment (PD) aircraft. *See* Protest of The Boeing Co., AR Tab 003 at 93-94. The record reveals, however, that the Air Force failed to recognize and reasonably evaluate key aspects of those differences in unit costs. For example, NG/EADS' proposed boom system costs for SDD are *less than* [REDACTED] of Boeing's (approximately \$ [REDACTED] for the KC-30 versus almost \$ [REDACTED] for the KC-767). Remarkably, NG/EADS initially labeled their boom—which according to the Air Force evaluation is an unsafe, untested (until maybe [REDACTED]) “[REDACTED]”—as a “commercial-off-the shelf” item, later changing the characterization to “non-developmental item.” The Air Force did not add a single dollar's worth of risk or day's worth of schedule to account for any potential problems with NG/EADS' “NDI” boom because *it was offered at a fixed price*.

Likewise, the Air Force's willingness to overlook the myriad significant risks it initially recognized as inherent in NG/EADS' itinerant, intercontinental SDD manufacturing approach is a further example of disparate treatment in the Cost/Price evaluation. Based on NG/EADS' promise to include the Air Force in some damage control meetings and NG/EADS' conclusory “back up plan” of simply continuing to build the aircraft in Toulouse, once again, not a dollar of adjustment was made to NG/EADS' MPLCC to account for these risks. NG/EADS will be moving to an in-line approach to modifications either in Mobile and/or in Toulouse, which obviously will entail non-recurring engineering (NRE). Yet there is no NRE associated with this effort in NG/EADS' proposal or in the Air Force's MPLCC for NG/EADS *because the aircraft are fixed price*, nor did the Air Force make any adjustment at all to account for any of the most basic common-sense concerns raised by NG/EADS' “back up plan.” When NG/EADS say something is a fixed price, it is treated as a fixed price. By contrast, Boeing obtained a fixed price from BCA for the commercial derivative 767 including NRE for in-line modifications, and Boeing obtained a fixed price for the majority of its depot level repair costs. For each, Boeing provided “unprecedented” levels of pricing insight and data supporting those commercial fixed prices, but the Air Force rejected those fixed prices out of hand and instead applied entirely irrelevant “historical” data to increase Boeing's MPLCC substantially. This is the epitome of disparate treatment.

The Cost evaluation documents produced thus far also demonstrate the Government's unreasonable normalization of Other Government Costs (OGCs)—including operation and support (O&S) and military construction (MILCON) costs—in a manner that virtually disregards the significantly higher costs inherent in fielding a

substantially larger aircraft. *See Sikorsky Aircraft Co.; Lockheed Martin Sys. Integration-Owego*, B-299145, Feb. 26, 2007, 2007 WL 776869 at *5 (sustaining protest where O&S evaluation “failed to account for the reduced maintenance required by . . . [smaller aircraft]”). Thus, ignoring Boeing’s commercial data (including historical data from 10 million flight hours of the 767), supporting a fixed price subcontract, the Air Force adjusted Boeing’s MPLCC *upward* by \$ [REDACTED] billion for repair costs and then adjusted NG/EADS’ MPLCC *downward* by over \$ [REDACTED] billion (*for a total swing of \$ [REDACTED] billion*) apparently based on DoD historical data unrelated to the vastly different aircraft the offerors proposed. This normalization unreasonably diminished the true delta in respective repair costs.

Although the results of the Air Force’s own IFARA analysis indicate that the KC-30’s fuel burn rate is [REDACTED] percent higher than the burn rate for the KC-767, and other studies calculate the A-330’s fuel burn rate to be 24 percent higher than the 767, the Air Force uncritically accepted NG/EADS’ proposed fuel burn rate, which is [REDACTED] percent higher than the KC-767’s. This had the effect of obscuring another [REDACTED] worth of cost difference between the two respective aircraft. The Air Force also arrived at nearly equal estimates for MILCON costs for the two aircraft (\$ [REDACTED] billion for the KC-30 versus \$ [REDACTED] billion for the KC-767) despite the substantially greater need with the [REDACTED] percent larger KC-30 to modify and construct new facilities and hangars; to increase the size of ramps, taxiways, and pavements; to increase weight capacity; and to reconfigure and construct fuel hydrant systems for tanker parking slots at bases where the KC-X will be assigned and deployed. The results of the IFARA analysis reveal clearly that the bases to which the KC-135 is currently assigned can accommodate the KC-767 relatively easily, but *cannot*, without major changes, accommodate the KC-30. The Air Force’s “analysis” of the costs necessary for each aircraft at the 10 Main Operating Bases where the KC-X will likely be assigned and the Air Logistics Center (ALC), however, identified only token differences at four of the bases and the ALC that do not reflect even the information NG/EADS included in their proposal identifying the substantial construction efforts at existing bases necessary to accommodate the KC-30. For the remaining bases (four in the U.S. and two overseas), the Air Force simply used the base where its flawed analysis had found the least delta in MILCON costs as an “analogy” and then assumed precisely the same negligible deltas between the offerors in base year MILCON prices at all the remaining bases (only \$ [REDACTED] million for each of the four U.S. bases; only \$ [REDACTED] million for each of the overseas bases.).

These approaches amount to improper normalization. *See Metro Machine Corp.*, B-2978792, May 3, 2006, 2006 CPD ¶ 80 at *7 (sustaining protest where agency “mechanically applied government estimates for labor hours and material costs—normalizing these cost elements—without accounting for each offeror’s technical approach”). The Air Force should not be allowed to ignore the billions of dollars of additional costs associated with the KC-30 that even NG/EADS have acknowledged: “We are a bigger airplane. So it has attendant higher maintenance or operating costs over the life of the fleet.” *Tanker Dogfight Nearing an End*, Chicago Tribune, Feb. 19, 2008, Ex. 3 to Protest of The Boeing Co., AR Tab 003. This failure to recognize the material

differences in OGC costs between the two very different aircraft renders even more egregious the Air Force's unreasonable focus on the (illusory) initial funding benefits associated with the KC-30's lower evaluated unit costs. See Protest of The Boeing Co., AR Tab 003 at 92-93.

PAST PERFORMANCE

The Air Force's disparate treatment and baseless evaluations are no less pronounced in Past Performance. The record confirms that, despite overall Satisfactory Confidence assessments for both Boeing and NG/EADS, the SSA reached into the bowels of the underlying evaluation to pluck out a purported "discriminator" that finds no true support in the record or in reason. Indeed, "past performance was a discriminator in [the SSA's] decision due to relative performance in the program management subfactor, [where] there was a notable difference between the two offerors." SSDD, AR Tab 054 at 13, 12. That conclusion, however, is premised on multiple flaws undermining the confidence assessments of both Boeing and NG/EADS, three of which we highlight.

First, concerning *Boeing's Past Performance*, the record confirms Boeing's suspicion that the Air Force failed to give any reasoned consideration to the most current CPAR on the [REDACTED] that the Air Force unilaterally decided to evaluate. In fact, even though Boeing provided it to the Air Force and the SSAC Chair indicated at the debriefing that he thought it had been reviewed (although the SSET Chair had no recollection of it), there is no evidence of its consideration in addressing Program Management, and certainly no explanation of the PCAG's basis for retaining its Marginal rating in light of the CPAR's dramatically better ratings. Had the Air Force properly considered that CPAR, at least two subfactor assessments would have changed, giving Boeing an overall advantage in Past Performance:

- Boeing's Cost/Price Past Performance assessment would have increased from [REDACTED] to at least [REDACTED] (where it had been before consideration of [REDACTED]), given that the latest CPAR reflected improvement in cost from Marginal to Satisfactory, which would have given Boeing a discriminator over NG/EADS' [REDACTED] Cost/Price assessment; and
- Boeing's Program Management Marginal assessment would have improved to at least [REDACTED], pulling Boeing to at least even with NG/EADS in that Past Performance subfactor, given that two of the four Marginal ratings (all on "Relevant" programs) would have improved from [REDACTED] to at least [REDACTED] (the [REDACTED] being the other that improved); indeed, Boeing's [REDACTED] CPAR rating in Management had improved from Marginal to Purple(-), which would have given Boeing an overall discriminator in Past Performance.

Second, concerning *NG/EADS' Past Performance*, the Air Force's disparate and improper treatment was particularly evident. In the critical Program Management factor, for example, Boeing's prime contract performance was based on four "Relevant" programs, while Northrop did not have a single program that was assessed as "Relevant" or higher. As a result, the SSA turned to EADS' performance and concluded that as "a KC-30 subcontractor, the strength of [EADS'] performance adds to my confidence in [Northrop's] ability to perform this program." SSDD, AR Tab 054 at 14. This conclusion reflects three errors:

- It ignores EADS' performance on its [REDACTED] program—to which the record confirms the Air Force turned a blind eye—which is more relevant than at least three of EADS' evaluated programs; indeed, EADS repeatedly referenced the [REDACTED] as the model for its transition and implementation plan for the promised new production line in Mobile, *see* Response to EN NPG-MC4-012, AR Tab 184 at 2; Response to EN NPG-PP-004, AR Tab 184 at 4. Given the decision to assess as a core program [REDACTED], the Air Force should have assessed the even more relevant design and development of the [REDACTED], which is [REDACTED]
- Had the Air Force assessed the A400M, it would have seen extensive program delays, multiple lost customers, and a recent charge of \$2 billion, which (at a minimum) easily could have led the SSA to change her decision about whether the NG/EADS team held an advantage over Boeing in Program Management performance;
- In turning to subcontractor performance, the SSA erred in concluding that NG/EADS' team provided more confidence in the Program Management area; indeed, Boeing had [REDACTED] subcontract programs all rated Relevant or higher with [REDACTED] Excellent and [REDACTED] Satisfactory ratings compared to [REDACTED] programs for NG/EADS all rated Relevant or higher with [REDACTED] Very Good and [REDACTED] Satisfactory ratings. Moreover, had the Air Force properly considered the numerous other programs it reviewed for Boeing and NG/EADS (beyond the core programs assessed in the briefing charts), it would have found yet another discriminator for Boeing whose "bottom-line" was "Good past performance and relevant content," compared to NG/EADS' "bottom-line" of "Good past performance but limited relevance to KC-X."

Third, the Air Force's evaluation of the Australian MRTT program for NG/EADS improperly ignores issues and risks that should have reverberated throughout the source selection. Incredibly, the Air Force assigned a [REDACTED] rating on Key System Requirements and a [REDACTED] rating under the other subfactors despite an MRTT boom that does not yet work, a schedule that has been extensively delayed, and a deficient risk management approach. These assessments stand in stark contrast to the

assessments of Boeing's International Tanker programs, which were given lower ratings by the Air Force despite the delivery of the two most sophisticated Tanker aircraft in existence. Had the Air Force reasonably assessed the MRTT program and passed lower-level evaluator concerns upstream, it would have recognized that the program is "[REDACTED] with [REDACTED] associated with the development of the boom, and a failure by EADS to recognize "[REDACTED]" Ex. 1, EADS MTAD KC-30B RAAF MRTT, AR Tab 194 at 2, 6. Indeed, [REDACTED]:

"[REDACTED]"

Id. at 7. Yet another [REDACTED], who rated EADS' Program Management as [REDACTED], singled out the [REDACTED], which led to the [REDACTED]. Individual Performance Worksheet, RAAF KC-30B, AR Tab 214. The Air Force failure to probe critically the MRTT program was error that led to inflated ratings improperly affording NG/EADS an illusory advantage.

IFARA

Finally, the Air Force's IFARA evaluation is likewise insupportable. The RFP makes plain that this factor was to assess "the number of aircraft required to fulfill the peak demand of the aerial refueling elements evaluated in the 2005 Mobility Capability Study (MCS)," setting forth real-world operational and basing scenarios. RFP § M.2.6, AR Tab 013. To perform this evaluation, the Air Force relied on Northrop's highly subjective, operator-dependent CMARPS model to generate a Fleet Effectiveness Value (FEV) for each offeror and extensive narrative proposals from the offerors from which the Air Force could draw "insights and observations." *Id.* The record produced to date (which does not include the classified IFARA materials) wholly undermines the SSA's reliance on the conclusion that "Boeing's evaluated FEV was 1.79 and [NG's] evaluated FEV was 1.90, which means that NG's proposed aircraft can accomplish the designated scenario from the RFP with 22 fewer aircraft than Boeing's proposed aircraft—*an efficiency of significant value to the government,*" SSDD, AR Tab 054 at 19:

- First, the FEV scores alone serve only to confirm the lack of fidelity in, and the operator dependency associated with, the CMARPS model; indeed, the scores the offerors generated showed Boeing with a higher FEV of [REDACTED] compared to NG/EADS' FEV of [REDACTED], while the scores (reported to date) generated by two competing teams of Air Force operators generated widely between [REDACTED] and [REDACTED] for Boeing and between [REDACTED] and [REDACTED] for

NG/EADS—thus, the Air Force should have relied more heavily on “insights and observations” as it had promised to do;

- Second, the record shows an absolute dearth of evaluation material reflecting “insights and observations” by the Air Force; to the contrary, as late as January 2008, DoD officials (having then reviewed the record to date) “recommended that counsel advise appropriate source selection officials on the consideration to be given to the ‘insights and observations’ in the source selection.” Reviewed KC-X Source Selection Process, AR Tab 044 at 5. While the record has no document reflecting that advice, the import of it seems clear—the Air Force gave little (if any) consideration to “insights and observation.”
- Had the Air Force properly and reasonably reflected on proposals and even the scores it generated, it would have appreciated the insights and observations that the record plainly documents: in the peak demand day scenario on which the Solicitation focuses, the KC-767 accomplishes the scenario with *fewer aircraft* than the KC-30, using *dramatically less ramp space* and burning *substantially less fuel*. See PAR, AR Tab 055 at 44-45. Even more important, in base denial scenarios, when a base could not be used due to geo-political or other reasons, the KC-767 can complete 100 percent of the Air Tasking Order within the remaining bases’ ramp space; *the KC-30 cannot even complete the Order*. *Id.* That key mission failure “insight and observation” should have been highlighted, not buried within ambiguous language about the relative “sensitivity” of the aircraft to various factors.

For all these reasons, the record unveils an evaluation and award process even more flawed than reflected in Boeing’s protests to date. The underlying findings overwhelmingly favor Boeing in the areas of most importance to the mission; the Air Force (at least with respect to Boeing) unreasonably rejected the commercial item philosophy upon which this Solicitation for a commercial derivative aircraft was based; and at every turn the Air Force gave NG/EADS the benefit of the doubt, inexplicably minimizing or ignoring obvious risks, while unreasonably refusing to consider or believe documented data fully supporting Boeing’s proposal. Had the Air Force followed the Solicitation’s evaluation and award criteria and treated offerors evenhandedly, the KC-767 would have been the clear choice as the Air Force’s medium weight tanker to replace the KC-135 fleet.

II. **INTERESTED PARTY & TIMELINESS**

Boeing was an actual offeror in this procurement and almost certainly would have received the award absent the violations and errors identified in the initial Protest, the First Supplemental Protest and this Second Supplemental Protest. Therefore, Boeing is an interested party entitled to pursue this Protest. See 4 C.F.R. § 21.0(a)(1).

This Second Supplemental Protest is timely because it is based on documents that the Air Force produced on Friday, March 14, 2008, and is filed within 10 days of receipt of those documents. 4 C.F.R. § 21.2(a)(2). It bears mention that many of the documents that the Air Force's March 14, 2008 Table of Contents indicate were produced on that date were not actually contained in that production.² Instead, some were produced in a supplemental production on Thursday, March 20, 2008, while others still have not been produced. Boeing has endeavored to include in this Second Supplemental Protest grounds based on the Air Force March 20, 2008 production. It is quite likely, though, that Boeing still will need to file a Third Supplemental Protest to capture all new issues that arise from the March 20, 2008 document production.

III. BACKGROUND

Boeing respectfully incorporates in its entirety the Background discussion in its initial Protest, *see* Protest of The Boeing Co., AR Tab 003 at 19-38, and in its First Supplemental Protest of The Boeing Co., *see* First Supp. Protest of The Boeing Co. at 1. To the extent additional background is required, it is set forth as part of the relevant discussion below.

Boeing also respectfully incorporates each of the Protest grounds raised in its initial Protest, *see* Protest of The Boeing Co., AR Tab 003 at 38-124, and in its First Supplemental Protest of The Boeing Co., *see* First Supp. Protest of The Boeing Co. at 1-25. As noted in those Protests, the source selection was critically flawed by errors that prejudicially favored NG/EADS and the larger KC-30 aircraft, resulting from the misapplication of evaluation criteria, the application of unstated evaluation criteria, disparate treatment, and unsupportable evaluations.

² As noted in the Air Force's letter accompanying its March 20, 2008 supplemental production, the original submission of the Agency Record omitted documents and other electronic files from numerous Tabs, including Tabs 89, 103, 104, 109, 115, 164, 165, 182, and 183. Although the Air Force produced the missing contents of these Tabs in its March 20 production, as Boeing has advised the Air Force, there are still numerous documents and other files in the Agency Record produced to date that cannot be opened due to their size or are otherwise inaccessible because they were not produced in native format or for other technical reasons, including, for example, the EZ Source EN records; the EN EZ Source outputs in Tabs 21 and 213; the emails in Tab 244; the cost files in Tab 225; the files in Tab 164; and the CPAR analysis in Tab 247. Boeing understands that the Air Force will continue to supplement the record with these and other documents that Boeing has identified that appear to be missing from the record.