

**FROM CONGRESSIONAL RECORD  
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**Sen. Richard Shelby (R-Ala.) speaking on the KC-X Tanker Competition**

AIR FORCE TANKER COMPETITION

Mr. SHELBY. Mr. President, I rise today to speak about the recently restarted Air Force KC-X tanker competition.

On February 29, 2008, after a lengthy competition, the U.S. Air Force announced that the team of Northrop Grumman and EADS was selected to deliver the best, most capable tanker to our warfighters, at a price of \$3 billion less than their rival Boeing's offer.

It was only after the GAO sustained a mere 8 out of 111 complaints submitted by the losing team--Boeing--that the award was overturned and the competition was placed in limbo.

Even after GAO's recommendation, there is still nothing to suggest that the KC-45 was not the best tanker solution. This is a very important point to remember. The Air Force's contracting system may have been flawed, but nowhere did GAO state that the KC-45 is not the best tanker for our airmen.

A year later, Defense Secretary Robert Gates terminated the award and canceled the entire tanker acquisition program.

Secretary of Defense Gates' decision to cancel the Air Force's No. 1 acquisition priority outright clearly placed politics and business interests over the interests of the warfighter.

While Secretary Gates may have characterized this decision as a "cooling off" period, it sent a clear message that only a Boeing tanker will be acceptable. The defense acquisition policy was unmistakable: No Boeing, no tanker. That is a fundamentally flawed policy that may please some Members of Congress from the States in which Boeing would build the tankers, but it fails to satisfy the critical need for the best new tankers for our warfighters. In that case, politics obviously trumped military necessity and troop welfare.

After review of the September 24 draft RFP that begins the new tanker competition, I again have serious concerns that fairness and capability are being completely ignored.

For a moment, let me elaborate. As a result of the last protest, Northrop Grumman was compelled to submit its proprietary, competitive-sensitive pricing data to the GAO, which, in turn, provided that critical information to Boeing. Let me say it again. Boeing now has all of Northrop Grumman's competitive pricing information. Yet they are going to be competing again.

Boeing knows exactly how the Northrop Grumman team was able to offer the best deal to the Department of Defense during the last competition. Boeing knows all of Northrop Grumman's bidding strategies.

In a competition for a defense contract, nothing is more carefully protected than a company's pricing and bidding strategy.

Let me remind my colleagues here that Northrop Grumman/EADS offered a clearly better plane, at a price that was \$3 billion less than Boeing. And now, today, Boeing knows how they did it.

Northrop Grumman has repeatedly asked the Department of Defense to level the playing field by providing them--Northrop Grumman--with Boeing's pricing information from the previous competition. To date, the Pentagon has continually denied Northrop Grumman's requests. The Department of Defense has stated that Northrop Grumman's pricing and bidding strategies are not relevant issues in the current competition, and that the data is outdated.

Not relevant? I could not disagree more. It is intuitively obvious to anyone who is even vaguely familiar with the concept of competitive government bidding that the Department of Defense, from the outset, is tilting the competition toward Boeing. Northrop Grumman is being severely penalized before the game even begins. This situation is inconceivable and must be changed.

Further, after review of the draft RFP, it is becoming increasingly clear that this competition is not structured around what we call a "best value" competition that would ensure that our warfighter receives the best plane. Rather, it is structured around the lowest price technically acceptable competition that does one thing and one thing only--it reduces the chances that our warfighters will receive the most superior plane on the market.

One would think that our Air Force's top priority would be to ensure that our men and women in uniform have the best, most capable equipment. It seems to me that is not the case.

A lowest price technically acceptable procurement process focuses heavily on cost and does not take into account additional or advanced capabilities that may be available on the aircraft that will help us in the years to come.

This means that price is more important than quality; that performance is not a critical factor; that added capabilities, technology that could help save the lives of our men and women in uniform and have an edge on the opposition, is not a key factor in the draft RFP.

The fact that the draft RFP is structured so that cost is almost the only component considered in the competition makes the aforementioned pricing data issue even more relevant.

When combined with Boeing's knowledge of Northrop Grumman's pricing data and not vice versa, it has become abundantly clear that the Department of Defense and the Air Force have their thumbs on the scale in favor of Boeing.

As was clearly shown in the previous competition, Boeing has a less capable airframe, but Boeing now has all of Northrop Grumman's pricing data and a full understanding of Northrop Grumman's bidding strategies. This information is the holy grail for Boeing that provides them with everything necessary to surely submit a lower cost bid for their less capable aircraft.

If this matter should not be a concern, then there should be no issue whatsoever with the Department of Defense providing Boeing's prior data to Northrop Grumman because Boeing, again, has Northrop Grumman's data, as they recompetete.

In order for this competition to be untainted, to be fair, to be at the level of openness and transparency that my colleagues and I were repeatedly assured would be the case, I believe it is imperative that Northrop Grumman be allowed to obtain Boeing's pricing data from the last tanker competition and that the competition shift away from purely a cost basis to what is best for the warfighter.

It makes no sense for a procurement process that has been continually hampered by scandal, delays, and jail time for certain officials to begin the latest version of this competition with such an absurdly uneven playing field.

As we go forward, it is my sincere hope that the safety of our warfighters and the security of our Nation will become the priority, as it has been in the past, this time and decisions will not be based on political pressures that unfairly tilt competition.

Unless the Department of Defense and the Air Force live up to their commitment of impartiality and transparency, I am fearful that our warfighters will have to settle for second best. Apparently, that is just fine with some, as long as Boeing wins.

I yield the floor.