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United States Government Accountability Office
Washington, DC 20548

STATEMENT REGARDING PROTESTS by LOCKHEED MARTIN CORPORATION, L3 COMMUNICATIONS INTEGRATED SYSTEM, AND BAE SYSTEMS INTEGRATED DEFENSE SOLUTIONS, INC. of the C-130 AVIONICS MODERNIZATION PROCUREMENT

In a decision issued on February 24, 2005, the Government Accountability Office (GAO) sustained protests filed by Lockheed Martin Corporation, L3 Communications Integrated System, and BAE Systems Integrated Defense Solutions, Inc. concerning the Department of the Air Force's award of a contract to the Boeing Company for the C-130 Avionics Modernization Program. The protesters alleged that the decision to award to Boeing was the result of improper involvement and influence by Darleen Druyun, then the Air Force's Principal Deputy Assistant Secretary for Acquisition, who subsequently pled guilty in United States District Court to violating the provisions of 18 U.S.C. section 208(a) regarding conflicts of interest.

GAO sustained the three firms' protests because the record showed that Darleen Druyun, who has acknowledged bias in favor of Boeing, was materially involved in the evaluation of proposals, and that, either expressly or implicitly, she directed revisions to ratings of Boeing's proposal and to each of the three protesters' proposals. The record further shows that the Air Force conducted discussions in a manner that favored Boeing. On the basis of the record presented, the Air Force has failed to demonstrate that Druyun's acknowledged bias did not prejudice the three protesters.

GAO recommended that the agency recompile the installation portion of the contract requirements. Although GAO would ordinarily recommend that the agency recompile the entire contract effort, GAO recognized that performance of those requirements has been ongoing for more than 3 years. Accordingly, in addition to its recommendation to recompile the installation requirements, GAO recommended that the Air Force conduct, and document, an objective analysis of the competing factors regarding recompetition of the entire contract. In the event the Air Force's analysis establishes that complete recompetition is not reasonably feasible, GAO recommended that each of the protesters be reimbursed the costs incurred in preparing and submitting their proposals. GAO also recommended that the protesters be reimbursed the reasonable costs of filing and pursuing their protests, including reasonable attorneys' fees.

Because this protest decision contains proprietary and source selection sensitive information, release of the decision is limited to counsel for the protesters and intervenor (Boeing) admitted under the GAO protective order issued for these protests and to the Air Force. GAO has requested that the parties provide their proposed redactions for the purpose of GAO preparing a public version of this decision. GAO expects to publish a public version of this decision by March 4.

For any further information, please contact Anthony H. Gamboa, General Counsel, GAO, at 202-512-5400.