

## NAO VFM study on contracting practices at the Defence Procurement Agency and the Defence Logistics Organisation

### CASE STUDY WRITE UP ON JAVELIN

Project Title: Javelin Anti-Tank Guided Weapon System

Value of contract: Current forecast cost £308 million (£37 million below 90% approved cost at Main Gate)

Comment [mjp1]: <http://www.mod.uk/dpa/projects/atgw.htm>

In Service Date: July 2005 (four months ahead of planned date November 2005)

IPT name: Infantry Guided Weapons



#### Equipment description

The system requirement is for the manufacture, supply and support of a crew portable Medium Range Anti-Tank Guided Weapon for the Light Forces and Mechanised Infantry, including training equipment. In January 2003 the US Javelin system offered by Raytheon/Lockheed Martin Joint Venture was selected. The weapon is portable by a crew of two, and is effective from all aspects against all ground vehicles including modern and future battle tanks. The weapon has a secondary capability against fixed defences and can be fired from an enclosed space. Range is in the order of 2,500 metres.

The system consists of a Command Launch Unit (consisting of day and night sights, firing mechanism and inbuilt software) made by Raytheon in Tucson, Arizona and the Missile (which clips on to the Command Launch Unit) made by Lockheed Martin in Troy, Alabama. Raytheon and Lockheed Martin act as sub-contractors to the Prime Contractor.

## Background to the project

There are two means of contracting for goods from the US:

- a. Direct Commercial Sale - a normal commercial contract placed directly on the US contractor.
- b. Foreign Military Sale - a Government to Government agreement. UK MOD contracts with the US Government, which in turn contracts with the US contractor. The US Government tends to insist on foreign military sales purchases of items incorporating high technology.

The IPT wanted to buy the Javelin system as a Direct Commercial Sale. The US Government initially wanted it bought entirely as a Foreign Military Sale, but later gave authority for the missile to be a Direct Commercial Sale. The missile is the cost driver for the system - you buy one Command Launch Unit with a number of missiles. The UK original buy was in the ratio of one Command Launch Unit to 10 missiles. The hybrid Direct Commercial and Foreign Military Sale route was novel but is now seen as a viable and potentially beneficial MOD recommended procurement strategy option for acquisition from the US. Javelin was chosen following a competition with the existing Israeli Spike system and a comprehensive competitive Assessment Phase.

The Assessment Phase was affected by the outbreak of Foot and Mouth Disease. This meant the UK ranges, which would have been used for the Assessment Phase temperate firing trials, were closed. The temperate trials were, therefore, moved to Canada (where cold trials were already planned). The terrorist action in New York on 11 Sept 2001 also affected the Assessment Phase, due to additional US security restrictions on the transportation of arms. These problems were all overcome.

The Assessment Phase showed that, in order to meet the UK requirement, the optics of Javelin would need to be enhanced, and that a tripod was needed to provide a more stable platform for surveillance. Despite these shortcomings, Javelin was a clear winner of the competition with Spike - on both technical and commercial grounds.

The Main Gate submission, recommending the split Direct Commercial and Foreign Military Sale approach, was made in Nov 2002. Approval was given in Jan 03 and the contract was signed on 8 Feb 03.

The Direct Commercial Sale contract covers missiles and training equipment. The Foreign Military Sale contract covers Command Launch Units and contractor logistic support for five years, with further five year options out to a total of 20 years.

In 2004 a requirement for additional Javelin systems arose. This was dealt with as a non-competitive extension to the existing commercial arrangements. As it was non-competitive, the prices quoted by the Javelin Joint Venture were - in accordance with the contract - investigated by the US Government pricing authorities to assure MOD that they were fair and reasonable. The contract amendment was signed 1 Oct 04.

#### Good practices

The Javelin project is considered a success primarily because it achieved its In-Service Date 4 months early in July 05, meets the performance requirement and is under budget. The foundations for this were laid during the Assessment Phase. The bids for the Demonstration, Manufacture and Support phases were required (and submitted) before the end of the Assessment Phase, while the contractual negotiations were done in parallel with the Main Gate submission.

The IPT adopted a "whole team approach" to negotiation and running of the contracts. This comprised the contractor, the US Government and United Kingdom Defence Procurement Office (a defence procurement organisation in the UK Embassy in Washington) as appropriate. This fostered free communications and real co-operation.

The Foreign Military Sale aspect allowed access to valuable US Government data and assistance. This was vital to the success of the programme and particularly useful during critical design reviews, when licensing problems meant that UK could not otherwise have sat in on key meetings.

#### Good contracting practices

Because of the split Direct Commercial and Foreign Military Sale approach, extra care was required in agreeing terms and conditions. Buying one system via two separate commercial routes does introduce some issues and could have left MOD with less legal protection than buying the whole system via one route. To provide maximum protection special bespoke clauses were included in the both the Direct Commercial and Foreign Military Sale contracts. The main novel features of the Direct Commercial Sale contract are:

- a. Prime contractor responsibility for system integration across both Direct Commercial and Foreign Military Sales contracts.
- b. Indemnity from the contractor against the missile's non-performance with the Command Launch Unit.

- c. An "Exit Clause" - effectively an extension of default provisions if the contractor does not obtain necessary licences or meet the requirements of System Demonstration.
- d. Liquidated Damages based on the value of the whole system, rather than just the value of the missiles/training equipment.

Throughout the contract, the IPT has embraced the ethos of partnering - both with the contractor and US Government - although there are no "partnering" type conditions in the contract. It was only with real teamwork that problems have been overcome. The contract provides robust protection in the event the contractor doesn't deliver in a timely manner and the contractor has always been aware of - and incentivised by - this.

The success of the programme to date could be summarised by the phrase "talk quietly, but carry a big stick" - i.e. employ partnering ethos and real teamwork, supported by a robust commercial position.