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**Comptroller General  
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**United States Government Accountability Office  
Washington, DC 20548**

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## Decision

**Matter of:** Globecom Systems, Inc.

**File:** B-405303.2; B-405303.3

**Date:** October 31, 2011

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### DIGEST

Protester's contention that its proposal was improperly excluded from the competitive range is denied where the protester has not shown that the agency's evaluation was unreasonable or inconsistent with the stated evaluation criteria.

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### DECISION

Globecom Systems, Inc., of Hauppauge, New York, protests the elimination of its proposal from the competitive range by the General Services Administration (GSA) under request for proposals (RFP) No. QTA-010-CTA-0003, issued by GSA for worldwide commercial satellite communications (COMSATCOM) end-to-end solutions.

We deny the protest.

### BACKGROUND

In July 2009, GSA and the Defense Information Systems Agency (DISA) entered into a Memorandum of Agreement (MOA) to jointly determine an acquisition strategy for the acquisition of COMSATCOM services for the federal government. Agency Report (AR) Tab 4, Source Selection Plan, at 1. As a result, GSA issued the RFP on July 6, 2010, for end-to-end solutions for COMSATCOM services, which includes any combination of fixed satellite services or mobile satellite services components, and/or service enabling components such as terminals, teleport, and terrestrial interface tail circuits. RFP at C-1. The RFP anticipated multiple awards of indefinite-delivery/indefinite-quantity (ID/IQ) contracts, for a 3-year base period and

two 1-year option periods. The RFP provided for a best value source selection decision considering the following factors: technical/management approach, corporate experience, past performance and price. RFP at M-1 and M-2. The RFP stated that the technical/management and corporate experience evaluation factors were of equal importance and that each was more important than past performance. RFP at M-2.

As is relevant here, the technical/management evaluation factor consisted of the following three sample task orders (STO):

STO # 1 - Morale, Welfare, and Recreation (MWR)

STO # 2 - Government Education and Training Network (GETN)

STO # 3 – Blue Personnel Tracking (BPT)

RFP at M-1.

The RFP stated that the evaluation of proposals under the technical/management factor would consider an offeror's response to each of the STOs to determine the extent to which the offeror's approach to each STO demonstrated an understanding of the scope and complexity of the requirements, and offered to deliver a customized, end-to-end solution satisfying the STO requirements. RFP at M-2. Offerors were to use the information identified in each STO to determine the amount of bandwidth, frequency band, and any required service enabling devices. RFP at M-3. The RFP listed specific criteria for each STO that an offeror needed to address. Id. The RFP stated that the STOs would not be individually rated, but rather, using the documented strengths and weaknesses developed during the evaluation, an adjectival rating would be assigned for the overall technical/management evaluation factor. Id.

For the corporate experience evaluation factor, the RFP stated that corporate experience would be evaluated based on the offeror's demonstrated experience in delivering six of the required COMSATCOM end-to-end solution types and nine of the required COMSATCOM end-to-end solution attributes. RFP at M-7. The RFP listed the following solution types:

Type # 1: Interactive Services

Type # 2: Continuity of Operations (COOP)

Type # 3: Broadcast Satellite Service (BSS)

Type # 4: Emergency Responder Operations

Type # 5: Direct Customer Operations

Type # 6: Steady State Operations

RFP at M-7.

The RFP also listed the following nine solution attributes:

# 1: Information Assurance

# 2: Responsiveness

# 3: Portability

# 4: Flexibility/Optimization

# 5: Capacity

# 6: Coverage

# 7: Network Monitoring (Net Ops)

# 8: Electro Magnetic Interference (EMI)/Radio Frequency Interference (RFI) Identification, Characterization, and Geo-location

# 9: Net Ready (Interoperability)

RFP at M-8.

With regard to corporate experience, the RFP provided that “[t]he Offeror may only include its own corporate experience,” and required demonstration of corporate experience within the past three years for delivery of solution types with similar size, scope, and complexity to the current requirement. RFP at M-7, M-8. With respect to the solution attributes, an offeror was permitted to demonstrate experience of any size, scope and complexity. RFP at M-8.

Finally, the solicitation provided that, for a proposal to be eligible for award, it “must not receive a rating of Unacceptable for the Technical/Management factor or Corporate Experience factor.”<sup>1</sup> RFP, amend. 5, at M-1.

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<sup>1</sup> In evaluating proposals under the technical/management and corporate experience factors, the agency assigned ratings of superior, acceptable, marginal, and unacceptable. RFP at M-3, M-10.

On or before, the August 19, 2010 closing date, the agency received [Deleted] proposals, including a proposal from Globecomm. Eight of these proposals, including Globecomm's, were rated unacceptable under both the technical/management and corporate experience evaluation factors and were thereafter excluded from the competitive range. AR, Tab 12, Competitive Range Briefing Charts, at 16. Globecomm's proposal was assigned a number of weaknesses and significant weaknesses with regard to the STOs for GETN and BPT.<sup>2</sup> For example, the evaluators concluded that Globecomm's proposal did not demonstrate an understanding of the requirements because, among other things, it was based on a satellite that no longer covered the United States, it did not contain a detailed delivery schedule, and it did not provide that transition to the Air Force would occur within 30 days. Id. at 5-6. Based on the agency's assessment of various weaknesses,<sup>3</sup> Globecomm's proposal was evaluated as unacceptable under the technical/management evaluation factor.

Globecomm's proposal was also rated unacceptable under the corporate experience factor because the evaluators determined that Globecomm did not demonstrate experience with any of the six required end-to-end solution types, and demonstrated experience with only one of the nine solution attributes. AR, Tab 11, Evaluation Summary, at 23. In this regard, the evaluators found that some of the protester's experience examples were outside the 3-year timeframe and several experiences belonged to Globecomm affiliates or subsidiaries, even though the solicitation limited relevant experience to that of the offeror itself. Id.

## DISCUSSION

Globecomm challenges the agency's decision to exclude Globecomm's proposal from the competitive range. More specifically, Globecomm asserts that its proposal fully met the evaluation criteria and should have received ratings that were higher than unacceptable under both the technical/management evaluation factor and the corporate experience evaluation factor. Protest at 6.

Our Office will review an agency's evaluation and exclusion of a proposal from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. Int'l Med. Corps, B-403688, Dec. 6, 2010,

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<sup>2</sup> A "weakness" was defined as a proposal flaw that increased the risk of unsuccessful contract performance and a "significant weakness" was defined as a flaw that appreciably increased the risk of unsuccessful contract performance. Contracting Officer's Statement, Aug. 25, 2011, at 4.

<sup>3</sup> Overall, in evaluating Globecomm's proposal under the technical/management evaluation factor, the agency identified 23 weaknesses, including 3 that were considered to be significant weaknesses. Contracting Officer's Statement at 4.

2010 CPD ¶ 292 at 7. Contracting agencies are not required to retain proposals in the competitive range that are not among the most highly rated or that the agency otherwise reasonably concludes have no realistic prospect of being selected for award. Federal Acquisition Regulation (FAR) § 15.306(c)(1); D&J Enter., Inc., B-310442, Dec. 13, 2007, 2008 CPD ¶ 8 at 2. Further, the evaluation of proposals is a matter within the discretion of the contracting agency, since the agency is responsible for defining its needs and the best method of accommodating them. Encorp-Samcrete Joint Venture, B-284171, B-284171.2, Mar. 2, 2000, 2000 CPD ¶ 55 at 4. In reviewing an agency's evaluation, we will not reevaluate proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and with procurement statutes and regulations. Id. Finally, it is the offeror's responsibility to submit a well-written proposal, with adequately detailed information to demonstrate compliance with the solicitation requirements, and an offeror's mere disagreement with the agency's judgment concerning the adequacy of the proposal is not sufficient to establish that the agency acted unreasonably. American Title Servs., a Joint Venture, B-404455, Feb. 4, 2011, 2011 CPD ¶ 38 at 4; PEMCO World Air Servs., B-28240.3, et al., Mar. 27, 2000, 2000 CPD ¶ 71 at 15.

Here, we have reviewed the record and find Globecomm's arguments to be without merit. As illustrated by the examples discussed below, we find that the agency reasonably evaluated the proposal as unacceptable under both the technical/management evaluation factor and the corporate experience factor and, accordingly, reasonably excluded the proposal from the competitive range.

#### Evaluation of Technical/Management Factor

First, with regard to satellite coverage under the GETN STO, the solicitation provided that an offeror's proposed solution must "show[] coverage across required locations,"<sup>4</sup> and that its solution must be "consistent with link budgets." RFP at M-5. In assessing a significant weakness to Globecomm's proposal for this STO, the agency's evaluation report stated:

The link budgets show the offeror is utilizing a satellite that does not cover the United States anymore; [Deleted]. The satellite was moved, per an Intelsat product manager, to support OCONUS [outside continental United States]. It is located at 51 degrees East. The offeror does not appear to have taken the steps to verify that a key system asset is available and in place for use.

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<sup>4</sup> The solicitation contained an attachment identifying various geographic locations within the continental United States (CONUS) that would be serviced under this STO. AR, Tab 6, at 249-83.

AR, Tab 11, Evaluation Report, at 6.

In challenging the agency's assessment of a significant weakness for this aspect of its proposal, Globecommm does not dispute that its proposal did, indeed, refer to the [Deleted] satellite, further acknowledging that "the [Deleted] satellite identified by Globecommm in its link budget no longer provides CONUS coverage." Comments, Sept. 7, 2011, at 3-4. Nonetheless, Globecommm asserts that another satellite provides adequate coverage and maintains that this was just a "minor mistake." Id.; Protest at 9.

The agency responds that "Globecommm's proposal failed to demonstrate its compliance with the coverage requirement, and nothing in [its] protest contradicts [the agency's] conclusion," elaborating that, in addition to its erroneous reference to a satellite that does not cover the United States, Globecommm's proposal provided nothing more than a generic statement regarding its ability to provide "coverage across the required locations." Legal Memo at 7.

Here, we have reviewed the record and conclude that the agency reasonably assigned a significant weakness to Globecommm's proposal for failing to adequately demonstrate compliance with the solicitation's satellite coverage requirements. Globecommm's assertions regarding the adequacy of the information provided and the significance of its acknowledged proposal errors constitute mere disagreement with the agency's judgments and fail to establish that the agency's judgments were unreasonable.

By way of another example, the solicitation provided that an offeror's proposed solution for the GETN STO must "demonstrate a clear understanding of what needs to be delivered, what may cause delays, and provide a detailed delivery schedule for transition of at least the Air Force . . . within the standard 30 day delivery schedule." AR, Tab 6, at 319. The agency assigned a significant weakness to Globecommm's proposal with regard to this requirement, stating:

[Globecommm] does not provide a detailed delivery schedule and they do not state that the Air Force will be transitioned with 30 days. They do state . . . that 100% of the remotes will be re-pointed within 90 days (less than 4 months), but fail to discuss the entire network transition. This shows a significant weakness as it is not stated how long it will take the offeror to complete this project from task award to completion.

AR, Tab 11, Evaluation Report, at 6.

In challenging the agency's evaluation in this regard, the protester asserts that its proposal provided an adequate response by stating that Globecommm was "committed to meeting the Standard Service Delivery requirement of 30 days or less," and that "[t]o the extent more scheduling information was desired . . . such a

perceived deficiency would not rise to the level of a significant weakness.” Protest at 8; Comments, Sept. 7, 2011 at 3.

The agency disagrees with Globecommm regarding the adequacy of the scheduling and delivery information, maintaining that Globecommm’s proposal spoke in generalities with respect to the delivery requirements and did not provide a firm commitment to a particular delivery schedule. AR, Tab 11, Evaluation Report, at 6; Legal Memo at 6. The agency further states that, although the protester claims that information responsive to the delivery issue was provided in a specific section of the proposal, that part of the proposal was not provided to the agency. Specifically, the evaluators noted that “[Globecommm’s] proposal states that [Globecommm’s] response to Service Delivery is in Section 3.1.2 & 3.1.3, but they do not provide a Section 3.1.2 or 3.1.3.” AR, Tab 11, at 6. In pursuing this protest, Globecommm has not responded to this criticism.

Based on our review of the record, we find nothing unreasonable in the agency’s determination that Globecommm’s proposal failed to demonstrate an adequate understanding of the importance of the RFP’s requirement regarding timely delivery where the proposal failed to provide a detailed delivery schedule and simply asserted that Globecommm was committed to timely delivery. Although the protester maintains that, even if the solicitation reasonably contemplated more detailed scheduling information, the proposal’s deficiency in this regard should not be considered a significant weakness, it fails to meaningfully dispute or otherwise show to be unreasonable the agency’s analysis of the specific weaknesses in its proposal regarding the delivery requirement; accordingly, Globecommm’s assertions constitute mere disagreement with the agency’s judgment. Finally, Globecommm does not explain why the missing information would not be relevant to the successful performance of the GETN STO. On the record here, we do not question the agency’s determination that Globecommm’s proposal failed to meaningfully comply with the solicitation’s scheduling and delivery requirements.

In summary, the record establishes that Globecommm’s proposal was reasonably evaluated as containing numerous weaknesses with respect to the technical/management evaluation factor that would appear to require a major rewrite of the proposal.<sup>5</sup> Accordingly, we find no basis to question the agency’s assessment of an unacceptable rating under the technical/management evaluation factor.

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<sup>5</sup> The agency identified yet another significant weakness in Globecommm’s proposal with regard to the BPT STO. Specifically, the evaluators found that under the selected communications infrastructure, the protester failed to address speed to disseminate location data. The agency states that in order to disseminate location data (actual location of the user terminal vs. the position that other terminals think the user is located) in a mobile satellite system, one needs to know the time interval between position transmission and the time taken by the position report to transit

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## Evaluation of Corporate Experience Factor

The protester's proposal was also rated unacceptable under the corporate experience evaluation factor based on the evaluators' determination that Globecomm failed to demonstrate experience with any of the 6 required solution types and demonstrated experience with only one of the 9 attribute types. The agency noted that Globecomm identified several experiences outside of the requisite 3-year timeframe, as well as several experiences of its subsidiaries, despite the solicitation's requirement that "the offeror may only include its own corporate experience." RFP at M-7. Overall, the agency determined that Globecomm's proposal failed to provide sufficient information to demonstrate that the firm had the requisite corporate experience with respect to the 6 solution types and the 9 attribute types. While our decision here does not specifically discuss each of the agency's assessments regarding the various experience requirements, we have considered the entire record and find no basis to question the agency's evaluation under this factor.

For example, with regard to solution type No. 1, interactive services, the solicitation required an offeror's proposal to demonstrate the capability to provide complete, customized engineering solutions to support interactive services. RFP at C-4. The solicitation defined interactive services as involving the "ability to connect multiple locations in a real-time two-way interactive network, mostly involving audio and video." Id. In response to this requirement, Globecomm provided information regarding its [Deleted] services. In determining that Globecomm did not demonstrate its capability to provide interactive services, the agency concluded that Globecomm failed to explain how [Deleted] is interactive, with the ability to connect multiple locations into a real-time two-way network. AR, Tab 11, Evaluation Report, at 24.

In both its initial protest and its comments responding to the agency report, Globecomm generally asserts that its proposal provided adequate details regarding the SkyBorne service, yet fails to meaningfully dispute, or even address, the agency's analysis with regard to interactive services. Protest, July 25, 2011, at 26-27; Comments, Sept. 7, 2011, at 5.

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through the system end-to-end. Id. The evaluators found that the protester failed to address both of these elements. Id. Finally, in addition to the specific aspects of Globecomm's proposal that the agency identified as significant weaknesses, the agency identified 20 other "supporting weaknesses." AR, Tab 11, at 7-13.



A protester bears the burden of proving that an evaluation was unreasonable, and mere disagreement with the agency does not render the evaluation unreasonable. Ogden Support Servs., Inc., B-270354.2, Oct. 29, 1996, 97-1 CPD ¶ 135 at 3. Here, Globecomm's failure to meaningfully dispute, or even address, the agency's analysis with regard to interactive services fails to show that the agency's assessment was unreasonable.

Similarly, with respect to solution attribute No. 3, portability, the solicitation required an offeror's proposal to demonstrate: the ability to move from one transponder/satellite to another, one managed service area to another; redeployment between beams or transponders on a single satellite; redeployment from one frequency band to another; and/or physical relocation of a satellite to a new orbital position. RFP at C-8. In response, Globecomm demonstrated this experience through three of its subsidiaries. The agency concluded that Globecomm did not meet this requirement, since in accordance with the RFP, only the experience of the offeror--not that of a parent or a subsidiary--was permitted. RFP at M-7.

In both its initial protest and its comments responding to the agency report, Globecomm admits that it provided information regarding this requirement through affiliated subsidiaries, yet fails to explain, or even address, how this was in accordance with the solicitation requirements. Protest, July 25, 2011, at 41-43; Comments, Sept. 7, 2011, at 7.

In sum, nothing in Globecomm's protest nor its comments refute, and in most instances fail to even address why Globecomm believes the agency's evaluation of its corporate experience was unreasonable. In pursuing this protest, Globecomm has copied portions of its proposal--yet provided virtually no supporting explanation as to why the various copied portions of its proposal render the agency's criticisms invalid. Based on the record presented, we find no basis to question the agency's evaluation of Globecomm's proposal as unacceptable with regard to the corporate experience factor.

#### Other Issues

Globecomm also contends that the agency improperly used a predetermined cutoff score to establish the competitive range based on whether or not an offeror has one or more significant weaknesses for the technical/management evaluation factor. Supplemental Protest at 2 and 4.

The record fails to support the protester's argument in this regard. The record shows that all 8 of the offerors eliminated from the competitive range were rated unacceptable under both the technical/management factor and the corporate experience factor. The record does not indicate that there was a predetermined

cutoff based on the number of weaknesses for the technical/management evaluation factor.

Similarly, the protester asserts that the agency failed to consider all of the evaluation factors in making the competitive range decision. Supplemental Protest, Sept. 2, 2011, at 4-5. We disagree. Here, the record shows that the competitive range consisted of [Deleted] offerors. Globecomm and 7 other offerors were eliminated based on their ratings of unacceptable for both the technical/management and corporate experience evaluation factors. The record indicates that the agency conducted a detailed evaluation of all offerors under all evaluation factors, including price, to make the competitive range determination. AR, Tab 12, Debriefing Charts. On this record, Globecomm's assertion that the agency failed to consider all of the evaluation factors is without merit.

Finally, Globecomm argues that the agency failed to comply with the source selection plan when determining the competitive range. An agency's source selection plan is an internal guide that does not give rights to parties; it is the RFP's evaluation scheme, not internal agency documents such as source selection plans, to which an agency is required to adhere in evaluating proposals. Sig Sauer, Inc., B-402339.3, July 23, 2010, 2010 CPD ¶ 184 at 6 n.9.

In summary, based on the agency's reasonable determination, as discussed above, that Globecomm's proposal was rated unacceptable with regard to both the technical/management and corporate experience evaluation factors, the agency's elimination of Globecomm's proposal from the competitive range is not objectionable.

The protest is denied.

Lynn H. Gibson  
General Counsel