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## Decision

**Matter of:** Vinculum Solutions, Inc.

**File:** B-406760; B-406760.2

**Date:** August 22, 2012

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Matthew T. Crosby, Esq., and Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protest that agency improperly assigned weakness to protester's proposal under key personnel subfactor based on information provided in protester's final proposal revision transmittal letter is denied where, notwithstanding statement in solicitation that agency would consider résumés under key personnel subfactor evaluation, solicitation did not preclude consideration of other proposal areas for purposes of key personnel subfactor evaluation.
  2. Protest that agency applied unstated evaluation criterion by assigning proposal weakness based on unavailability of key personnel during option years is denied where agency's consideration of key personnel availability reasonably relates to comprehensive assessment under key personnel subfactor.
  3. Protest that awardee misrepresented availability of proposed key personnel is denied where record reflects reasonable basis for awardee to believe that proposed personnel would be available.
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### DECISION

Vinculum Solutions, Inc., of Broomes Island, Maryland, protests the establishment of a blanket purchase agreement (BPA) by the Department of the Treasury, Internal Revenue Service, with InfoReliance Corporation, of Fairfax, Virginia, under request for quotations (RFQ) No. TIRNO-11-Q-00096 for portal infrastructure technical

management services. Vinculum asserts that the competition was flawed in various ways, specifically challenging the agency's evaluation with regard to key personnel and staffing.

We deny the protest.

## BACKGROUND

On July 5, 2011, the agency issued the solicitation pursuant to General Services Administration (GSA) Federal Supply Schedule (FSS) procedures, as set forth at Federal Acquisition Regulation subpart 8.4, to six vendors holding GSA FSS contracts under Schedule 70, Information Technology Equipment, Software, and Services. Contracting Officer's Statement at 1, 3. The solicitation contemplated establishing a single BPA with a 1-year base period and four 1-year option periods. RFQ at 6. The selection decision was to be based on the proposal<sup>1</sup> that represented the best value to the government following consideration of the following five factors: program management; past performance; corporate experience, section 508 compliance,<sup>2</sup> and price. Id. at 38. The program management, past performance, and corporate experience factors were stated to be in descending order of importance, and to be collectively more important than price. Id.

The program management plan factor included three subfactors: key personnel,<sup>3</sup> staffing plan,<sup>4</sup> and quality assurance.<sup>5</sup> Id. With regard to key personnel, the

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<sup>1</sup> Although the solicitation anticipated the award of a BPA under a vendor's GSA FSS contract, the solicitation stated that it sought "proposals" from "offerors," and these terms were used repeatedly throughout the solicitation. See, e.g., RFQ at 29-37. For the sake of consistency, and because the distinction between a quotation and a proposal has no bearing on our analysis in this protest, we adopt the usage of the terms "proposal" and "offerors" in this decision.

<sup>2</sup> This evaluation factor relates to section 508 of the Rehabilitation Act of 1973, as amended, which generally requires that agencies' electronic and information technology be accessible to people with disabilities. See 29 U.S.C. § 794d (West 2012).

<sup>3</sup> The solicitation included evaluation criteria for each of the subfactors. RFQ at 39. The evaluation criteria for the key personnel subfactor included, among other things, consideration of the extent to which an "Offeror's proposed key personnel resumes . . . demonstrate[] technical knowledge of [the] Offeror's proposed key personnel with regard to portal engineering, operations, and maintenance." Id.

<sup>4</sup> The evaluation criteria for the staffing plan subfactor included, among other things, consideration of "the extent to which the Offeror's plan demonstrates a sound  
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solicitation required that résumés be submitted “for all key personnel proposed.” RFQ at 33. Nonetheless, the solicitation did not require the submission of letters of intent or letters of commitment, nor did it require the submission of subcontractor staffing agreements.

The agency received three proposals by the August 2, 2012 closing date. Contracting Officer’s Statement at 3. A cost/price analyst evaluated the offerors’ pricing, while a technical evaluation team (TET) evaluated the technical proposals. The TET identified strengths and weaknesses within the proposals and assigned ratings under each of the evaluation factors and subfactors. The table below shows the results of these evaluations.

	<u>InfoReliance</u>	<u>Vinculum</u>	<u>Offeror Three</u>
Program Management	Good	Excellent	Marginal
Key Personnel	Good	Excellent	Marginal
Staffing Plan	Good	Excellent	Marginal
Quality Assurance	Excellent	Good	Good
Past Performance	Excellent	Excellent	Good
Corporate Experience	Excellent	Excellent	Good
Section 508 Compliance	Compliant	Compliant	Compliant
<b>Overall Technical Rating</b>	<b>Good</b>	<b>Excellent</b>	<b>Marginal</b>
<b>Total Evaluated Price</b>	[DELETED]	[DELETED]	[DELETED]

Agency Report (AR), Tab D12, Initial Advisory Price Analysis Report, at 2; AR, Tab D13, Initial Technical Evaluation Report, at 6.

Following this evaluation, the agency eliminated the third offeror’s proposal from consideration. Contracting Officer’s Statement at 5. The agency then issued letters to Vinculum and InfoReliance stating that each firm’s proposal had no significant weaknesses or deficiencies, and requesting the submission of final proposal revisions (FPR). AR, Tab D18, Agency Letter to Vinculum, at 1; AR, Tab D19, Agency Letter to InfoReliance, at 1. The agency’s letter to Vinculum also stated that

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approach to recruiting, training, and retaining qualified/secured personnel.” RFQ at 39.

<sup>5</sup> The key personnel subfactor was stated to be more important than the staffing plan and quality assurance subfactors, and the staffing plan and quality assurance subfactors were stated to be of equal importance. RFQ at 38.

the firm's "pricing is considered by the Government to be too high." AR, Tab D18, Agency Letter to Vinculum, at 1.

Vinculum and InfoReliance both submitted FPRs. InfoReliance's FPR included [DELETED] revisions to the firm's technical proposal and a price [DELETED] of approximately [DELETED] (an approximate [DELETED]). AR, Tab D2, InfoReliance FPR, at 1-2. Vinculum's FPR included no express revisions to the firm's technical proposal and a price decrease of approximately [DELETED] (approximately [DELETED]). AR, Tab D2, Vinculum FPR, at 1-2; Contracting Officer's Statement at 11. The transmittal letter that accompanied Vinculum's FPR also stated as follows:

You will notice that we have made significant reductions in the rates we are offering, which are now more than [DELETED] lower than those included in our original proposal. To meet these difficult cost objectives, we will initially staff with the most senior personnel, and gradually, over the life of the BPA, introduce less senior staff, who will be thoroughly trained by the senior staff. The staff hours expended for senior personnel will gradually and carefully decrease while the hours expended for less senior personnel will gradually increase. . . . One exception to this approach can be seen in the Option Year One prices, where moderate increases are proposed. This is due to commitments we have made to the key personnel we are offering.

AR, Tab D2, Vinculum FPR, at 1.

Upon review, the TET determined that the above-quoted language reflected a change to Vinculum's staffing approach and assigned weaknesses to Vinculum's proposal with regard to the key personnel and staffing plan subfactors and the program management factor. See AR, Tab D10, Final Consensus Report, at 6-7. The assigned weaknesses reflected the TET's view that the approach outlined in Vinculum's transmittal letter "creates risk that experienced Key Personnel may not be available for the full term of the contract as originally proposed" due to the "substitution of senior personnel in Option Years 2 through 4." AR, Tab D11, Final Technical Evaluation Worksheets, attach. 2, at 2, 4, 6.

Thereafter, the agency assigned final proposal ratings. The weaknesses from Vinculum's revised staffing approach resulted in Vinculum's ratings being changed from excellent to good under the program management factor and the key personnel and staffing plan subfactors. AR, Tab D10, Final Consensus Report, at 6-7. Vinculum's and InfoReliance's final ratings, together with their final evaluated prices, are shown in the table below.

	<u>InfoReliance</u>	<u>Vinculum</u>
Program Management	Good	Good
Key Personnel	Good	Good
Staffing Plan	Good	Good
Quality Assurance	Excellent	Good
Past Performance	Excellent	Excellent
Corporate Experience	Excellent	Excellent
Section 508 Compliance	Compliant	Compliant
<b>Overall Technical Rating</b>	<b>Good</b>	<b>Good</b>
<b>Total Evaluated Price</b>	<b>\$15,338,285</b>	<b>\$16,258,863</b>

AR, Tab D8, Source Selection Decision Document, at 3.

After reviewing the final price and technical evaluation reports, the contracting officer determined that neither InfoReliance’s proposal nor Vinculum’s proposal contained any significant weaknesses or deficiencies, that both proposals contained essentially equal strengths, and that overall, the proposals were essentially equal with regard to non-price factors. *Id.* at 5. Based that determination, the contracting officer concluded that InfoReliance’s lower-priced proposed represented the best value to the government. *Id.* After the agency established the BPA with InfoReliance, Vinculum filed this protest.

## DISCUSSION

Vinculum alleges that the competition was flawed in numerous respects, focusing primarily on the agency’s evaluation of key personnel and proposed staffing. Specifically, Vinculum alleges that the agency improperly considered the information in Vinculum’s FPR transmittal letter when evaluating Vinculum’s staffing approach; only Vinculum was “authorized” to propose certain key personnel; and InfoReliance “misrepresented” the availability of two key personnel. Based on these allegations, Vinculum concludes that the agency’s evaluation of both proposals was flawed. We have considered all of Vinculum’s arguments and find no basis to sustain the protest.

### Evaluation of Vinculum’s Proposal

First, Vinculum argues that the agency improperly considered Vinculum’s FPR transmittal letter, in which Vinculum stated its intent to replace the specifically-identified personnel it had proposed with unidentified “less senior staff” over the life of the BPA. In this regard, Vinculum asserts that the agency deviated from the

solicitation's evaluation criteria, which stated that "[t]he Government will use the Offeror's proposed key personnel resumes to evaluate the demonstrated technical knowledge of [the] Offeror's proposed key personnel." Vinculum Comments at 3 (quoting RFQ at 39); Vinculum Supp. Comments at 5 (same). Based on this language, Vinculum theorizes that the solicitation limited the agency's evaluation of key personnel to consideration of information contained in the offerors' key personnel résumés. Vinculum Comments at 3; Vinculum Supp. Comments at 5. Vinculum concludes that since the basis for Vinculum's key personnel subfactor weakness was information contained in its FPR transmittal letter, the agency's evaluation was improper. Vinculum Comments at 3; Vinculum Supp. Comments at 5.

Where, as here, an agency conducts a formal competition for the establishment of a BPA, we will review the agency's actions to ensure that the evaluation was reasonable and consistent with the solicitation and applicable procurement statutes and regulations. AINS, Inc., B-400760.2, B-400760.3, June 12, 2009, 2009 CPD ¶ 142 at 5; OfficeMax, Inc., B-299340.2, July 19, 2007, 2007 CPD ¶ 158 at 5.

Here, we do not read solicitation's reference to the consideration of résumés in the key personnel subfactor evaluation to have precluded the agency from considering other aspects of an offeror's proposal under the key personnel subfactor evaluation. In the absence of solicitation language expressly precluding the consideration of certain proposal information, adopting Vinculum's position would hamper an agency's ability to evaluate proposals in a complete fashion. See Management Tech. Servs., B-251612.3, June 4, 1993, 93-1 CPD ¶ 432 at 6 (proposal submitted to government is properly evaluated by reading proposal as a whole). This ground of protest is denied.

Similarly, Vinculum argues that the agency applied an unstated evaluation criterion because, in Vinculum's words, "the Solicitation says nothing about ensuring that Key Personnel must remain available for all five years of the . . . contract." Supp. Protest at 2; see also Vinculum Supp. Comments at 2-3.

Although a solicitation must identify all major evaluation factors, it need not identify all areas within each factor that might be taken into account in an evaluation, provided such unidentified areas are reasonably related to, or encompassed by, the stated evaluation factors. The Dixon Group, Inc., B-406201, B-406201.2, Mar. 9, 2012, 2012 CPD ¶ 150 at 4; Coley & Assocs., Inc., B-404034 et al., Dec. 7, 2010, 2011 CPD ¶ 6 at 5.

As discussed above, Vinculum's FPR transmittal letter effectively communicated that the proposed key personnel may not perform under the BPA beginning in year three of the 5-year performance period. See Vinculum Comments at 3. However, Vinculum did not submit any additional key personnel résumés with its FPR. Accordingly, the agency was unable to evaluate the qualifications of any individuals

who might be substituted into the key personnel positions beginning in year three. Given the circumstances here--an FPR that communicates that proposed key personnel may not perform beyond the second year of a five year BPA, and an offeror's failure to submit résumés for the replacement key personnel--we view the agency's consideration of key personnel availability as reasonably related to a comprehensive assessment of under the key personnel subfactor. See S. C. Myers & Assocs., Inc., B-286297, Dec. 20, 2000, 2001 CPD ¶ 16 at 5 (where solicitation seeks names of personnel and does not indicate otherwise, offerors are expected to propose personnel for life of contract); General Physics Fed. Sys., Inc., B-275934, Apr. 21, 1997, 97-1 CPD ¶ 171 at 7 (agency's consideration of key personnel availability reasonably relates to comprehensive factor assessment). Accordingly, we reject Vinculum's assertion that the agency applied an unstated evaluation criterion; this basis of protest is denied.

Vinculum also complains that the agency unreasonably criticized Vinculum's staffing plan. Vinculum Comments at 4-5. In this regard, the agency's final consensus report noted that Vinculum's staffing plan "does not demonstrate a sound approach to recruiting, training, and retaining qualified/secured personnel." AR, Tab D10, Final Consensus Report, at 7. Vinculum argues that this finding was unreasonable because it is unsupported by the record and because the solicitation's evaluation criteria do not address the continued availability of staff over the five-year period of performance. Vinculum Comments at 4-5; Vinculum Supp. Comments at 5-6.

As noted above, the staffing plan evaluation criteria advised offerors that the agency would consider "the extent to which the Offeror's plan demonstrates a sound approach to recruiting, training, and retaining qualified/secured personnel." RFQ at 39. The agency assigned a weakness to Vinculum's proposal under the staffing plan subfactor because, in the agency's view, Vinculum's approach "pose[s] some risk for successful contract performance due to the substitution of senior personnel in Option Years 2 through 4." AR, Tab D11, Final Technical Evaluation Worksheets, attach. 1, at 6. This finding relates to the staffing plan subfactor evaluation criterion of an offeror's approach to "retaining qualified/secured personnel." RFQ at 39. This finding also is supported by Vinculum's FPR transmittal letter, which stated that the hours performed by senior personnel would decrease over the life of the BPA. For these reasons, this basis of protest is denied.

#### Evaluation of InfoReliance's Proposal

Vinculum first challenges the agency's evaluation of InfoReliance's proposal on the basis that InfoReliance allegedly misrepresented the availability of InfoReliance's proposed key personnel. Protest at 6; Vinculum Comments at 6-10. In this regard, both firms proposed two of the same individuals as key personnel. Vinculum maintains that InfoReliance was "not authorized" to propose these personnel because they allegedly signed representation agreements with two of Vinculum's

teaming partners. Vinculum Comments at 7-8. Vinculum further contends that one of its representatives informed InfoReliance that it was not authorized to propose these personnel, but that InfoReliance, nonetheless, misrepresented their availability in its proposal. Vinculum Comments at 7, 9.

An offeror's misrepresentation concerning personnel that materially influences an agency's consideration of its proposal generally provides a basis for proposal rejection or termination of a contract award based on the proposal. ManTech Advanced Sys. Int'l, Inc., B-255719.2, May 11, 1994, 94-1 CPD ¶ 326 at 5. However, we have held that an offeror's submission of résumés for another offeror's employees is not a misrepresentation where prior to submission, the employees expressed a willingness to consider employment with the awardee. Agusta Int'l S.A., B-237724, Mar. 21, 1990, 90-1 CPD ¶ 311 at 6.

Here, prior to submission of initial proposals, one of the two individuals that both Vinculum and InfoReliance proposed as key personnel left Vinculum's teaming partner and began working for InfoReliance. Vinculum Comments at 8; InfoReliance Comments at 7 n.9. More specifically, during the course of this protest, InfoReliance submitted a declaration by this individual, stating that during July, 2011 (i.e., before the time that Vinculum and InfoReliance submitted their proposals), he severed his relationship with Vinculum's teaming partner, approved the submission of his name in InfoReliance's proposal, and committed to perform the BPA for InfoReliance. InfoReliance Comments, attach. 1, ¶¶ 2, 3.

With regard to the second individual proposed as key personnel by both InfoReliance and Vinculum, InfoReliance submitted a declaration by the firm's executive vice president stating that on or around July 20, this individual authorized the executive vice president to submit his name to fill a specific key personnel position in InfoReliance's proposal, and that this individual clearly informed the vice president that he would perform that key personnel function for InfoReliance if InfoReliance was awarded the BPA. InfoReliance Comments, attach. 2, ¶¶ 3-4. On this record, we find no basis to conclude that InfoReliance misrepresented the availability of either individual. Vinculum's claims as to misrepresentation are denied.

Notwithstanding the record discussed above, Vinculum argues that the agency erred in failing to question the availability of InfoReliance's proposed personnel. Vinculum Comments at 11. In this regard, Vinculum points out that Vinculum's technical proposal stated that its key personnel were being proposed exclusively through Vinculum's teaming partner. Vinculum Comments at 11 (referencing AR, Tab D3, Vinculum Technical Proposal, at 1). Further, Vinculum states that on October 5, a Vinculum representative sent the contracting officer an e-mail advising that six key personnel proposed by Vinculum (including one of the individuals proposed by both firms) "do not authorize their qualifications, their names, nor their resumes to be submitted in response to the subject RFQ by any company other



than Vinculum Solutions, Inc.” Id., (quoting Vinculum Comments, exh. 6). Based on this, Vinculum maintains that the agency was obligated to “probe[] through discussions” the availability of InfoReliance’s proposed personnel. Vinculum Comments at 11.

In response, the contracting officer states that Vinculum’s e-mail had no bearing on the evaluation of proposals. Contracting Officer’s Statement at 17-18. She also states that Vinculum’s e-mail did not attach any employment agreements or contracts, and that it is not uncommon for offerors to propose the same key personnel in procurements for the type of services being acquired here. Id.

As a general matter, in evaluating proposals an agency may reasonably accept as accurate information provided by an offeror in its proposal. Able Bus. Techs., Inc., B-299383, Apr. 19, 2007, 2007 CPD ¶ 75 at 5; NCR Gov’t Sys. LLC, B-297959, B-297959.2, May 12, 2006, 2006 CPD ¶ 82 at 8-9. Nonetheless, an agency may not accept proposal representations at face value where there is significant countervailing evidence reasonably known to the agency evaluators that should create doubt as to whether the representations are accurate. See Alpha Marine Servs., LLC, B-292511.4, B-292511.5, Mar. 22, 2004, 2004 CPD ¶ 88 at 4; Maritime Berthing, Inc., B-284123.3, Apr. 27, 2000, 2000 CPD ¶ 89 at 9.

As discussed above, the solicitation here did not require the submission of letters of commitment or subcontractor agreements. Further, neither Vinculum’s proposal nor its e-mail to the contracting officer provided such documentation supporting Vinculum’s claims of exclusive representation agreements. Under these circumstances, we do not view Vinculum’s e-mail and proposal representations, without more, as “significant countervailing evidence” that required the agency to probe this matter. Accordingly, this basis of protest is denied.

Finally, Vinculum complains that the agency’s evaluation of InfoReliance’s proposal was tainted by InfoReliance’s reference to five other individuals that Vinculum proposed as key personnel. Vinculum Comments at 9. InfoReliance’s proposal plainly indicated that these individuals were not being proposed as key personnel. AR, Tab D5, InfoReliance Technical Proposal, at 7. Rather, they were described as “incumbent resources” which InfoReliance would attempt to retain if the agency desired. Id. The agency assigned a weakness to this aspect of InfoReliance’s proposal under the staffing plan subfactor. AR, Tab D11, Final Technical Evaluation Worksheets, attach. 1, at 3. On this record, we find no merit in Vinculum’s assertion that the agency’s evaluation was flawed.

#### Other Protest Claims

Vinculum also alleges that the agency took actions--such as requesting FPRs--to delay the procurement in order to provide InfoReliance with time to recruit the key personnel that Vinculum proposed. Protest at 8-9. Our Bid Protest Regulations

require that a protest must include a sufficiently detailed statement of the grounds supporting the protest allegations. 4 C.F.R. §§ 21.1(c)(4), 21.1(f), 21.5(f) (2012). That is, a protest must include sufficient factual bases to establish a reasonable potential that the protester's allegations may have merit; bare allegations or speculation are insufficient to meet this requirement. Ahtna Facility Servs., Inc., B-404913, B-404913.2, June 30, 2011, 2011 CPD ¶ 134 at 11. With regard to allegations of bias or bad faith on the part of contracting officials, our Office will not consider allegations based on mere inference, supposition, or unsupported speculation. See, e.g., Operational Support & Servs., B-299660.2, Sept. 24, 2007, 2007 CPD ¶ 182 at 3; Midwest Metals, B-299805, July 17, 2007, 2007 CPD ¶ 131 at 3 n.2. Vinculum's allegation fails to meet these threshold requirements for consideration and will not be considered further. See International Garment Processors, B-299674 et al., July 17, 2007, 2007 CPD ¶ 130 at 4-5 n.6.

Finally, Vinculum challenges the agency's best value determination. This challenge is predicated on the various alleged improprieties discussed above. Because we have found these allegations to be without merit, we find no basis to question the reasonableness of the agency's determination that InfoReliance's lower-priced, equally-rated proposal represented the best value to the government.

The protest is denied.

Lynn H. Gibson  
General Counsel