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## Decision

**Matter of:** ValidaTek, Inc.  
**File:** B-407623  
**Date:** January 17, 2013

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Cyrus E. Phillips IV, Esq., Albo & Oblon LLP, for the protester.  
J. Patrick McMahon, Esq., and William W. Welch, Esq., McMahon, Welch and Learned, PLLC, for Zolon Tech, Inc., an intervenor.  
Dennis J. Gallagher, Esq., Department of State, for the agency.  
Paul E. Jordan, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Price realism evaluation of awardee's proposal was unobjectionable where agency reviewed the offeror's detailed justifications for its proposed level of effort, including its unique methods of performance; noted that the proposed labor rates were comparable to those under a different agency contract for similar work; and concluded that the awardee's approach represented reasonable economy and efficiency.

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### DECISION

ValidaTek, Inc., of Arlington, Virginia, protests the Department of State's (DOS) issuance of a task order to Zolon Tech, Inc., of Herndon, Virginia, under request for proposals (RFP) No. SAQMMA12R0226, for information technology support services. Participation in the competition was restricted to section 8(a) small disadvantaged vendors holding General Services Administration's Streamlined Technology Applications Resource for Services (STARS) II government-wide acquisition contracts. ValidaTek challenges the price realism evaluation.

We deny the protest.

### BACKGROUND

The RFP sought performance-based proposals for services in support of the administrative management systems (AMS) of DOS's Bureau of Consular Affairs.

The AMS are used by the Bureau's staff to manage resources, personnel, budgets, equipment, supplies, and services. The task order's objective was to provide an integrated technical team for on-going technical and analytical support, software maintenance, and potential modernization of the AMS. The performance work statement included three base tasks (program management, operations and maintenance, and enhancement), and two optional tasks (modernization plan and modernization of four specific systems). The RFP contemplated issuance of a time and materials task order for a base year with 4 option years.

Proposals were to be evaluated under five factors: technical approach, past performance, key personnel, project management plan, and cost/price. Non-cost/price factors were to be evaluated on an adjectival basis including ratings of excellent, good, acceptable, marginal, unsatisfactory, and (for past performance only) neutral. The non-cost/price factors, combined, were more important than cost/price. Under the solicitation as issued, cost/price was to be evaluated for price reasonableness to ensure that proposed prices were consistent with industry standards for similar requirements and were not excessive by comparison to those standards. Issuance of the task order was to be made to the vendor whose proposal was considered most advantageous to the government based on a trade-off between technical merit and cost/price.

Two offerors, ValidaTek and Zolon, submitted proposals by the initial closing time. ValidaTek's and Zolon's initial technical proposals took "very different" approaches to proposed staffing to perform the required tasks and applied "very different" labor rates, resulting in a "very large differential" in pricing. Agency Report (AR) at 4. Based on the initial evaluation, both were evaluated overall as good under the non-cost/price factors. To ensure that the benefits and risks associated with the differing approaches were properly addressed in the evaluation, DOS amended the solicitation to add price realism as an evaluation factor. Specifically, the amendment indicated that the agency would evaluate

[t]he compatibility of proposed cost/price with proposal scope and effort. For the price to be realistic, it must reflect what it would cost the offeror to perform the effort, if performed with reasonable economy and efficiency. This evaluation includes a review of the overall prices in the offeror's proposal to determine if the prices are realistic for the work proposed; pricing reflects a clear understanding of the requirements; and if pricing is consistent with the various other elements of the offeror's proposal.

RFP, amend. 0006 at 2.

The agency also conducted written discussions with both vendors, with Zolon's discussions including questions on its proposed staffing and compensation as well as the realism of its overall pricing. In the final evaluation, both proposals were

rated as good overall and both were evaluated as demonstrating a clear understanding of the government's requirements, consistent with their unique methods of performance. Taking into account the medium risk associated with Zolon's lower price (\$14.72 million), and based on the vendors' equal technical ratings, the source selection authority determined to issue the task order to Zolon on the basis that ValidTek's low risk rating was not considered to provide sufficient benefit to the government as to warrant payment of ValidTek's much higher price (\$40.65 million). After a debriefing, ValidTek filed this protest.<sup>1</sup>

## DISCUSSION

ValidTek asserts that the price realism evaluation of Zolon's proposal was flawed. According to the protester, Zolon's proposal does not include a sufficient level of effort (LOE) to perform the task order at a realistic price. We have considered all of ValidTek's specific arguments and find that none warrant questioning the evaluation in this regard.

Where, as here, a solicitation provides for the award of a fixed-price contract, or a fixed-price portion of a contract, an agency may provide for the use of a price realism analysis for the limited purpose of measuring a vendor's understanding of the requirements or to assess the risk inherent in a vendor's proposal. Federal Acquisition Regulation § 15.404-1(d)(3); see Ball Aerospace & Tech. Corp., B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 8. The nature and extent of an agency's evaluation in this regard is a matter within the sound exercise of the agency's discretion. Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 4-5; Star Mountain, Inc., B-285883, Oct. 25, 2000, 2000 CPD ¶ 189 at 6. Our review of a price realism analysis is limited to determining whether it was reasonable and consistent with the terms of the solicitation. Smiths Detection, Inc.; Am. Sci. & Eng'g, Inc., B-402168.4 et al., Feb. 9, 2011, 2011 CPD ¶ 39 at 17.

The price realism evaluation here was unobjectionable. The RFP sought proposals for a time-and-materials, performance-based task order, and did not specify a particular LOE. Instead, the amended solicitation indicated that the agency would, as part of its price realism evaluation, consider whether proposals reflected what it would cost the vendor to perform with reasonable economy and efficiency, as well as whether the proposed pricing reflected a clear understanding of the requirement. In response to Zolon's initial low proposed prices, the agency specifically questioned the sufficiency of Zolon's proposed staffing, its LOE, its labor mix, and its labor rates. AR Tab 20, Zolon discussion questions. Zolon responded by

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<sup>1</sup> Since the value of the task order issued here to Zolon was \$14.72 million, the procurement falls within our jurisdiction to hear protests related to the issuance of task orders valued in excess of \$10 million. 41 U.S.C. § 4106(f)(1)(B).

providing spreadsheets of its proposed staffing analysis using a software lifecycle management (SLIM) tool for estimation purposes; its assumptions in support of its proposed LOE; an explanation of its “bottom-up” analysis of the tasks using RFP and historical information; and verification of the basis for its discounted labor rates, including their consistency with labor rates under another DOS contract for similar AMS work. Zolon Discussion Responses and Revised Proposal.

In finding that Zolon’s proposed approach represented “reasonable economy and efficiency,” the evaluators specifically considered that Zolon’s discounted pricing was based on the “current economic scenario” and the vendor’s desire “to keep [its] pricing structure extremely competitive.” Zolon Price Proposal at 4; Recommendation for Award at 14. They also found that Zolon’s proposed labor rates were comparable to those used in the firm’s Hybrid Information Technology Services for State (HITSS) contract for work that was similar to the AMS task order. In this regard, while Zolon proposed lower rates for [deleted], it proposed a higher rate for [deleted] positions. Recommendation for Award at 14.

In reviewing the proposed costs, the agency also used what it terms “function point” analysis to validate whether the number of staff proposed and the hours planned for the task order were sufficient. In this regard, the evaluators employed the same SLIM estimating tool used by both Zolon and ValidaTek. Recommendation for Award at 12. Although the evaluators found Zolon’s initial proposal to be understaffed, Zolon’s revised proposal significantly increased its staffing level (from [deleted]) and its price (from [deleted] to \$14.72 million). Recommendation for Award at 13-14. Further, Zolon’s revised proposal indicated how it arrived at its proposed LOE. For example, Zolon proposed that it would [deleted] eliminating downtime; [deleted]; and [deleted], in order to facilitate post-modernization support. Recommendation for Award at 14; Contract Specialist’s Memorandum, Nov. 21, 2012 at 1. Based on their review, the evaluators concluded that Zolon had demonstrated a clear understanding of the government’s requirements, consistent with its unique methods of performance. Recommendation for Award at 14. Although they acknowledged that there was some risk associated with Zolon’s continued [deleted] staffing, nevertheless, the evaluators concluded that Zolon’s significantly lower priced proposal represented the best value and the SSA adopted that view. Recommendation for Award at 15-16.

Thus, the record indicates that the RFP provided for performance-based solutions instead of specifying a set LOE; Zolon provided detailed explanations in support of its revised pricing and staffing approach; and the agency thoroughly reviewed Zolon’s justifications for its revised proposal, finding that they reflected Zolon’s unique methods of performance and resulted in no more than a medium risk to the government. In these circumstances, we find no basis for concluding that the price realism analysis was insufficiently thorough or otherwise failed to meet the RFP’s requirements. See, e.g., Flight Safety Services Corp., B-403831, B-403831.2, Dec. 9, 2010, 2010 CPD ¶ 294 at 7-8; Phacil Inc., B-406628, July 5, 2012,

2012 CPD ¶ 202 at 4.<sup>2</sup> Nor has ValidaTek furnished any basis for questioning the agency's determination that ValidaTek's proposal failed to provide additional strengths to warrant its significantly higher (\$26.24 million higher) price.

The protest is denied.

Susan A. Poling  
General Counsel

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<sup>2</sup> ValidaTek notes that the agency's Recommendation for Award included a statement that Zolon's "effort variance demonstrates a fundamental lack of understanding [of] the requirements for the AMS system and this represents a significant risk to the government." Recommendation for Award at 12. The agency, however, explains that this language was leftover from the initial evaluation as a result of an administrative oversight, and that it should have been removed or revised to reflect Zolon's proposal revisions. Contract Specialist's Memorandum at 1. Further, a comparison of the Recommendation for Award and the initial evaluation document makes clear that the challenged language in fact predates discussions, proposal revisions, and final evaluations. Again, as discussed above, Zolon significantly increased its staffing and LOE in its revised proposal, such that the government found the risk associated with its approach to be acceptable.