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## Decision

**Matter of:** ValidaTek-CITI, LLC

**File:** B-418320.2; B-418320.3; B-418320.4

**Date:** April 22, 2020

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Todd C. Culliton, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision..

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### DIGEST

1. Protest allegation that the agency unreasonably evaluated past performance and technical proposals is denied where the record shows that the evaluations were consistent with the solicitation's terms and conditions, or did not result in competitive prejudice.
  2. Protest allegation that the awardee materially misrepresented its key personnel is denied where the record shows that any misrepresentation did not materially affect the evaluation.
  3. Protest allegation that the agency unreasonably made its source selection tradeoff decision is denied where the record shows that the decision was consistent with the solicitation's terms and conditions.
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### DECISION

ValidaTek-CITI, LLC (ValidaTek), of McLean, Virginia, protests the issuance of a task order contract to Trusted Mission Solutions, Inc., of Vienna, Virginia, under request for proposals (RFP) No. 70SBUR19R00000056, issued by the Department of Homeland Security, United States Citizenship and Immigration Services (USCIS), for information technology (IT) services. ValidaTek argues that that the agency unreasonably evaluated proposals and improperly made its source selection decision.

We deny the protest.

## BACKGROUND

USCIS issued the solicitation on August 12, 2019, to obtain integration testing as well as development and operations (IT&D) support services.<sup>1</sup> RFP at 1, 91.<sup>2</sup> The contractor would be expected to provide independent integration testing, and to collaborate with development and agile testing groups in order to identify continuous improvement opportunities. *Id.* at 91. The RFP contemplated the award of a fixed-price task order with a 6-month base period, and three 6-month option periods. *Id.* at 109.

Award would be made on a best-value tradeoff basis, considering technical challenge, video presentation, past performance, and price factors. RFP at 87. For the video presentation and technical challenge factors, the agency would use an adjectival rating system consisting of the following ratings: superior, good, acceptable, and unacceptable. *Id.* at 90. For the past performance factor, the agency would use ratings of high confidence, some confidence, low confidence, and no confidence. *Id.*

The solicitation contemplated a two-phase evaluation. During Phase One, the agency would evaluate proposals under the video presentation and past performance factors. The agency also anticipated a limited review of labor categories and rates during Phase One. RFP at 87. The agency would select the highest technically rated proposals to advance to the next phase. *Id.*

For Phase Two, the solicitation contemplated that the agency would evaluate proposals under the technical challenge and price factors, and make a tradeoff analysis considering those two factors. RFP at 87. When completing the technical challenge, each offeror would receive a problem statement, prepare its response, and then present the response to the agency. *Id.* at 85. The solicitation advised that the technical challenge factor was significantly more important than the price factor. *Id.* at 87.

Five offerors, including ValidaTek and TMS, submitted Phase One proposals by the September 4 closing date. Contracting Officer's Statement (COS) at 3. The agency's Phase One evaluation produced the following results:

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<sup>1</sup> The solicitation was issued against the National Institutes of Health's Chief Information Officer – Solutions and Partners 3 (CIO-SP3) small business governmentwide acquisition contract. RFP, at 1.

<sup>2</sup> All RFP citations refer to the conformed version provided at Tab 1 of the Agency Report (AR).

	<b>ValidaTek</b>	<b>TMS</b>
<b>Video Presentation</b>	Superior	Good
<b>Past Performance</b>	Neutral	Neutral
<b>Price</b>	IAW CIO-SP3 <sup>3</sup>	IAW CIO-SP3

AR, Tab 6, Downselect Decision Document at 6. ValidaTek, TMS, and another offeror were selected to participate in Phase Two. COS at 4. The Phase Two evaluation produced the following relevant results:

	<b>ValidaTek</b>	<b>TMS</b>
<b>Technical Challenge</b>	Superior	Superior
<b>Price</b>	\$20,314,128	\$19,516,064

AR, Tab 9, Source Selection Decision Document (SSDD) at 10. Based on the Phase Two evaluation results, the agency determined that ValidaTek and TMS were technically equivalent, and therefore made award to TMS because its proposal was lower priced. *Id.* at 11.

On November 21, USCIS informed ValidaTek that its proposal was unsuccessful. COS at 5. On December 2, ValidaTek filed a protest with our Office, arguing that TMS had an impaired organizational conflict of interest (OCI). Protest at 8. Our Office dismissed that protest as academic because the agency notified us that it intended to investigate whether TMS had an OCI and take appropriate action as necessary. *ValidaTek-CITI, LLC*, B-418320, Dec. 27, 2019 (unpublished decision). On January 23, USCIS concluded its OCI investigation, determined that TMS did not have an OCI, reaffirmed the award to TMS, and notified ValidaTek. COS at 5. The instant protest followed.<sup>4</sup>

## DISCUSSION

ValidaTek raises multiple allegations regarding the agency's conduct of the acquisition.<sup>5</sup> Upon review, we conclude that most of the allegations are unpersuasive because they ignore solicitation language or standard evaluation practices. We discuss the principal

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<sup>3</sup> The price evaluation considered whether proposed prices were in accordance with (IAW) each offeror's CIO-SP3 contract labor categories and rates, and reasonableness. RFP at 88.

<sup>4</sup> Our Office has jurisdiction to review the protest of this task order pursuant to our authority to hear protests related to task and delivery orders placed under civilian agency multiple-award, indefinite-delivery, indefinite-quantity (IDIQ) contracts valued in excess of \$10 million. 41 U.S.C. § 4106(f)(1)(B)

<sup>5</sup> Initially, ValidaTek alleged in the instant protest that TMS had an unmitigable impaired objectivity OCI. Protest at 8-11. ValidaTek withdrew this allegation in its comments on the agency report. Protester's Comments at 1.

allegations below but note at the outset that, in reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. *AT&T Corp.*, B-414886 *et al.*, Oct. 5, 2017, 2017 CPD ¶ 330 at 6.

#### Past Performance Evaluation

ValidaTek argues that the agency unreasonably evaluated its and TMS' past performance. Neither challenge provides us with a basis to sustain the protest.

Where a protester challenges an agency's past performance evaluation, we will review the evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria and procurement statutes and regulations. *Enterprise Servs. et al.*, B-415368.2 *et al.*, Jan. 4, 2018, 2018 CPD ¶ 44 at 11. An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion which we will not disturb unless the assessment is unreasonable or inconsistent with the solicitation criteria. *Id.* at 11-12.

By way of background, the solicitation advised that past performance would be considered as part of the evaluation's first phase. RFP at 88. Offerors were instructed to identify up to five referenced contracts; for at least one of those contracts, the offeror was required to detail its performance as a prime contractor. *Id.* at 83-84. The remaining referenced contracts could involve either the offeror's or its subcontractor's past performance. *Id.* at 84.

Past performance would be evaluated in two parts. The agency first would assess whether referenced contracts were recent (*i.e.*, performed within the past three years) and relevant (*i.e.*, similar in terms of size, scope, and complexity). RFP at 83, 88. The agency would then review the quality of performance for the contracts deemed recent and relevant. *Id.* When reviewing the quality of performance, the solicitation advised that the agency could consider data provided in various databases, or from the contact references provided in the proposals. *Id.* Based on each offeror's past performance history, the agency would assign a performance confidence rating.<sup>6</sup> *Id.* at 88, 90.

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<sup>6</sup> For past performance, the agency assigned each proposal one of the following adjectival ratings: high confidence, some confidence, low confidence, or neutral. RFP at 90.

## ValidaTek Proposal

For the past performance factor, the record shows that ValidaTek identified three contracts. AR, Tab 2, ValidaTek Proposal at 14-16. Two of the referenced contracts involved its own performance, and the third involved the performance of its subcontractor. *Id.* During its evaluation, the agency could not locate any past performance information in either the Past Performance Information Retrieval System (PPIRS) or Contractor Performance Assessment Reporting System (CPARS) databases detailing the quality of ValidaTek's performance on either of its referenced contracts. AR, Tab 5, Business Proposal Evaluation Report at 4-5. As a result, the agency assigned a rating of "neutral" because it could not locate a complete past performance record on which to predict ValidaTek's ability to perform the requirement. First Supp. COS at 2.

ValidaTek raises various allegations challenging the agency's evaluation of past performance. The firm first argues that the agency unreasonably ignored the past performance information provided for its subcontractor. The protester asserts that even if the agency was unable to locate information detailing ValidaTek's quality of performance, the agency should have based the evaluation solely on its subcontractor's referenced contract. See Protester's Supp. Comments at 6. We do not find this argument persuasive. The solicitation required each offeror to identify at least one contract involving its own performance. RFP at 84 (stating that each offeror must identify at least one contract involving its own performance as a prime contractor, and could identify contracts involving its or its subcontractor's performances for all other examples); First Supp. COS at 2. Here, since the agency could not identify a record upon which to base an assessment of quality for ValidaTek's past performance, the agency could not complete a past performance assessment as contemplated by the RFP. As such, we have no basis to question the agency's assessment of a neutral rating. Accordingly, we deny this allegation.

ValidaTek also argues that the solicitation did not advise that the agency would assign a rating of "neutral" in the event that the agency was unable to find external performance ratings. Protester's Supp. Comments at 6. According to ValidaTek, its proposal provides a basis for the agency to conclude that the referenced contracts were recent and relevant.<sup>7</sup> *Id.* We also do not find this argument persuasive. The solicitation specifically advised that the past performance evaluation would be based on both whether the referenced contracts were recent and relevant, and the quality of performance. RFP at 88. ("Past performance will be evaluated for recency and relevancy in terms of size, scope, and complexity in comparison to the IT&D requirements, and how well the Offeror performed those relevant efforts."). Further, the solicitation advised that a rating of "neutral" would be assigned when "[n]o relevant past

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<sup>7</sup> As noted above, ValidaTek identified two referenced contracts detailing its own performance. One of the referenced contracts was determined to be not relevant in terms of size because it was for a lower dollar value than the instant requirement (*i.e.*, \$5 million versus \$23 million). AR, Tab 5, Business Proposal Evaluation Report at 4.

performance record is identifiable upon which to base a meaningful performance rating.” RFP at 90. Thus, we deny this allegation because the solicitation required that the agency’s evaluation of ValidTek’s past performance include an assessment of the quality of the protester’s past performance, and not just whether ValidTek’s referenced contracts were recent and relevant.

ValidTek finally argues that the agency should have used more effort to find its past performance information. See Protester’s Supp. Comments at 7-8. While the protester points out that the solicitation advised that the agency could have searched the Federal Awardee Performance and Integrity Information System (FAPIIS), or the System for Award Management (SAM), or contacted the reference person identified in the proposal, we note that the solicitation did not require that the agency use any of these sources. Rather, the solicitation stated that the agency “may consider” data from any of these sources. RFP at 88 (“The evaluation may consider data provided through [FAPIIS, SAM, PPIRS, or CPARS], and the Government may use the reference information provided to contact references and interview them.”). Thus, we conclude the agency reasonably could rely on only the PPIRS and CPARS to obtain past performance information, given the wide discretion afforded by the solicitation. Accordingly, we deny this protest allegation.

In any event, we find that the protester was not competitively prejudiced by the agency’s evaluation of the firm’s past performance. Competitive prejudice is an essential element of every viable protest, and we will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency’s actions. *Orbit Research, LLC*, B-417462, July 17, 2019, 2019 CPD ¶ 258 at 7. Taking into account the protester’s arguments, at best, ValidTek would have been assigned a past performance rating of “high confidence.” This rating, however, would not have improved ValidTek’s prospect of receiving award because past performance was evaluated only during Phase One, and not during Phase Two. ValidTek advanced to Phase Two even with the rating of “neutral.” Thus, an increase in the past performance rating the agency assigned the ValidTek proposal would not have changed the firm’s competitive standing. As such, the protester’s was not competitively prejudiced as a result of any of the alleged errors.

Finally, to the extent that ValidTek asserts that if it had received a higher rating, then TMS would not have advanced to Phase Two, we do not think the solicitation language supports this contention. As noted above, the solicitation provided that the agency could select up to five of the highest technically rated offerors. RFP at 87. While we see no basis to conclude that ValidTek was improperly rated, even if the company received the highest past performance rating, TMS would, at worst, be the third-ranked offeror of the five offerors. In addition, the fourth and fifth-ranked offerors were technically unacceptable. Therefore, we agree with the agency, and see no basis to find that ValidTek suffered any competitive prejudice in this area. See Memorandum of Law (MOL) at 12-13.

## TMS Proposal

ValidaTek next argues that TMS materially misrepresented its past performance.<sup>8</sup> Supp. Protest at 5-6. ValidaTek asserts that TMS submitted a referenced contract that was actually performed by another firm, Alpha Omega Integration, LLC (AOI), or was properly attributable to the other firm. *Id.* Based on the misrepresentation, ValidaTek argues that TMS should be excluded from the competition.<sup>9</sup> *Id.*

The agency disputes ValidaTek's characterization of the TMS proposal as deliberately misrepresenting its past performance information. The agency explains that the challenged reference concerns TMS' performance of an IT services contract for the Small Business Administration from September 12, 2014 through September 11, 2019. AR, Tab 3, TMS Proposal at PDF 17-18. The agency explains that TMS was originally awarded the contract, that TMS largely performed the contract, that TMS was recently acquired by AOI, and that the contract at issue was novated to AOI on August 13, 2019. Supp. MOL at 5. In addition, the agency explains that it gave a rating of neutral to TMS for its past performance, because the agency was unable to find any information about the performance of the referenced contract.

On this record, we agree with the agency's conclusion that there was no misrepresentation about TMS's prior contract, and we also conclude that even if there were a misrepresentation, the alleged misrepresentation did not materially influence the agency's consideration of TMS' proposal. Supp. MOL at 6-7. Specifically, the record shows that the agency evaluated TMS as "neutral" for past performance because USCIS could not locate supporting data in either PPIRS or CPARS. Supp. COS at 3. Since TMS was assigned a rating of "neutral," the agency determined that TMS did not have any past performance information from which it could predict the firm's likely performance. AR, Tab 6, Downselect Decision Document at 6. As a result, we conclude that TMS' rating did not depend on the referenced contract at all. *Id.*

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<sup>8</sup> ValidaTek initially also argued that the agency unreasonably evaluated TMS' past performance because one of its subcontractors poorly performed a prior contract. Protest at 12-13. In its report, the agency explained that the subcontractor did not render poor performance on the prior contract. MOL at 13. ValidaTek did not respond to or rebut the agency's position in its comments. Accordingly, we dismiss this allegation as abandoned. *Medical Staffing Solutions USA*, B-415571, B-415571.2, Dec. 13, 2017, 2017 CPD ¶ 384 at 3.

<sup>9</sup> In limited circumstances, our Office will recommend that an offeror be excluded from competition as the result of a misrepresentation. *Insight Tech. Sols., Inc.*, B-417388, B-417388.2, June 19, 2019, 2019 CPD ¶ 239 at 4. An offeror's misrepresentation that materially influences an agency's consideration of its proposal is a material misrepresentation that generally provides a basis for proposal rejection or termination of a contract award based upon the proposal. *Id.*

at 6-7, 10. Indeed, the agency considered TMS to be one of the highest technically rated offerors despite the fact that it did not have any past performance information. *Id.* Accordingly, we deny this protest allegation.

#### Material Misrepresentation of Key Personnel

ValidaTek next alleges that TMS materially misrepresented its key personnel during the technical challenge.<sup>10</sup> Protest at 13-14. ValidaTek argues that TMS engaged in a “bait and switch” scheme to obtain a more favorable evaluation by using current employees to complete the technical challenge even though the firm expected to hire other individuals to perform the contract. *Id.* As support, ValidaTek points out that TMS sought to hire incumbent personnel and publicized employment advertisements following contract award.<sup>11</sup> Protest, exh. 3, Employment Advertisements.

During the technical challenge, offerors were given a problem statement, given 60 minutes to prepare their responses, and then were required to present their responses to the agency. RFP at 85. Offerors were permitted to bring six individuals to participate. *Id.* Although teams were expected to be representative of each offeror’s performance, offerors were not required to bring persons who would ultimately serve as key personnel. *Id.* at 48, 85.

The solicitation advised that technical challenge responses would be evaluated based on how well each offeror makes tradeoff decisions between testing needs, business goals, and technical feasibility; the degree to which the offeror’s test coding practices and related decisions would result in a maintainable codebase; how well the offeror’s integrated solution could be effectively executed; and how effectively each offeror could be expected to implement the test code in a continuous improvement pipeline. RFP at 89. The agency would also evaluate each offeror’s ability to demonstrate its understanding of the statement of work’s (SOW) requirements for independent integration testing, test standards and guidelines support, and risk assessment. *Id.*

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<sup>10</sup> Key personnel included a program manager, an independent test lead, a transformation independent test lead, and a performance test lead. RFP at 103.

<sup>11</sup> To establish an impermissible bait and switch, a protester must show that a firm either knowingly or negligently represented that it would rely on specific personnel that it did not expect to furnish during contract performance, that the misrepresentation was relied on by the agency, and that the misrepresentation had a material effect on the evaluation. *Dynamic Security Concepts, Inc.*, B-416013, B-416013.2, May 15, 2018, 2018 CPD ¶ 186 at 6. Even where there is evidence of a planned switch in key personnel, our Office will not find an impermissible bait and switch where there is no evidence of baiting (*i.e.*, replacing proposed key personnel with underqualified personnel). *Id.*

On this record, there is no evidence that TMS engaged in a “bait and switch” scheme. The agency explains that each of the employment advertisements satisfies or exceeds the qualification requirements for the key personnel positions. MOL at 17-19. For example, the solicitation required the program manager to possess a minimum of 10 years IT program management experience, eight years of experience managing independent testing, demonstrated ability to manage complex tasks, and demonstrated ability to coordinate individuals and grounds; the employment advertisement required the same minimum years of experience, at least three years of experience directing a team of at least 25 members, a program management professional certification, a certified scrum manager certification, and a four-year IT educational degree. MOL at 18. Furthermore, the protester did not dispute that the employment advertisements sought individuals with equivalent or better qualifications. See Protester’s Comments at 3-7. Thus, we deny this allegation because the record does not show that TMS sought to replace qualified personnel with underqualified individuals. *See Dynamic Security Concepts, Inc., supra* at 6 (protester failed to allege that the awardee conducted a “bait and switch” scheme where the protester did not show that the awardee sought to replace qualified personnel with underqualified individuals).

Moreover, even if TMS had conducted a “bait and switch” scheme, we do not find that it affected the evaluation. Consistent with the solicitation’s terms, the agency evaluated TMS favorably due to its ability to make tradeoff decisions, its test coding practices and integrated testing solutions, and its ability to implement test code in the requisite environment. AR, Tab 7, Technical Challenge Evaluation Report at 9-12. For example, the firm was assigned one strength because it offered a novel test coding practice that would save resources. *Id.* at 10. The firm was also evaluated favorably because it offered a unique approach to integrating testing solutions that would result in cost savings. *Id.* at 10-11.

Despite the numerous strengths assigned based on TMS’ business practices or IT solutions, ValidaTek argues that at least one of the strengths improperly considered the quality of TMS’ individuals that participated in the technical challenge. Protester’s Comments at 5. In this regard, ValidaTek complains that the agency’s evaluation was affected by the alleged “bait and switch” scheme because if TMS had used its intended key personnel, then the firm would not have been assigned that particular strength. *Id.*

We disagree. The record shows that TMS was evaluated favorably because the agency concluded that TMS would be able to integrate testing successfully since it has a strong staff. *See* AR, Tab 7, Technical Challenge Evaluation Report, at 10 (“They demonstrated expertise in their fields, their detailed discussion and knowledge shown indicates the Offeror has a strong chance to be successful in integrating and implementing an automated test solution into the current USCIS [Office of Information Technology] infrastructure.”). Further, the agency explains that it recognized that the individuals were proxies for the ultimate key personnel, and that it commented on these individuals’ level of expertise because, consistent with the solicitation’s terms, it considered them to be representative of TMS’ performance. Second Supp. COS at 2.

In any event, the source selection authority (SSA) also found another aspect of TMS' approach to be extremely advantageous. As a result, there is no basis to conclude that the agency overvalued TMS's employees when concluding that TMS and ValidTek had equivalent technical approaches. AR, Tab 9, SSDD at 10-11. Indeed, the solicitation here did not contemplate the evaluation of key personnel, and the agency did not base its evaluation on the attributes of the specific individuals TMS used to complete the technical challenge. In addition, the record shows that the agency's tradeoff decision was motivated by another aspect of TMS' technical proposal. Accordingly, we deny this allegation.<sup>12</sup>

## Video Presentation

ValidTek argues that the agency unreasonably assigned TMS a rating of "good" under the video presentation factor because TMS was assigned two weaknesses. Second Supp. Protest at 4. In this regard, ValidTek argues that the solicitation provided that only proposals with no more than one assigned weakness were eligible for a rating of "good." *Id.* In response, the agency argues that the solicitation's definition for a rating of "good" is ambiguous. Supp. MOL at 12. The agency notes that the solicitation's definition provided that a proposal would qualify for a rating of "good" when it contained "one weaknesses." RFP at 90.

The video presentation was evaluated as part of Phase One. Offerors were required to submit eight minute presentations via YouTube. RFP at 82. Each presentation was required to demonstrate an understanding of the IT&D requirement, describe how independent verification and validation (IV&V) testing can be assimilated into a development and operations (DevOps) environment, and explain how the offeror would approach integrated performance testing and advanced test automation in a DevOps environment. *Id.* at 87.

With regard to the protester's allegation, we find no basis to sustain the protest. Adjectival descriptions and ratings serve only as a guide to, and not a substitute for, intelligent decision-making. *ARP Sciences, LLC*, B-415318.5, B-415318.6, Aug. 9, 2018, 2018 CPD ¶ 302 at 9. Thus, the relevant question is not whether the agency assigned an incorrect adjectival rating, but whether the underlying evaluation record was reasonable and supported the source selection decision. *Id.* Where the evaluators reasonably consider the underlying bases for the ratings, including advantages and disadvantages associated with the specific content of competing proposals in a manner that is fair and consistent with the solicitation's terms, a protester's disagreement with specific adjectival ratings is inconsequential, in that it does not affect the reasonableness of the source selection official's judgments. *Id.*

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<sup>12</sup> To the extent ValidTek argues that the solicitation required TMS' key personnel to participate in the technical challenge, the argument is not supported by the plain language of the solicitation. The solicitation provided that key personnel participation was "[n]ot required but preferred." RFP at 48. Thus, this argument provides no basis to sustain the protest.

Here, the record shows that the SSA looked beyond the adjectival ratings when evaluating TMS' proposal under the video presentation factor. See AR, Tab 6, Downselect Decision Document, at 10. Indeed, the SSA identified three aspects of TMS' proposal as particularly advantageous and as warranting the firm's advancement to Phase Two. *Id.* Further, the SSA explained that he reviewed the firm's video presentation and concluded that TMS presented a good understanding of the agency's requirement. *Id.* Thus, even assuming that the agency assigned the incorrect adjectival rating, the evaluation is unobjectionable because the SSA considered the underlying merit of TMS' proposal when selecting TMS to participate in the technical challenge. See *Hunt Building Corp.*, B-276370, June 6, 1997, 98-1 CPD ¶ 101 at 3 (agency's evaluation was unobjectionable because, even if the agency assigned incorrect adjectival ratings, the source selection official considered the underlying merit of the proposals); cf. *Onsite OHS, Inc.*, B-415987, B-415987.2, Apr. 27, 2018, 2018 CPD ¶ 164 at 6 (protester's "preoccupation with its adjectival rating is misguided where, as here, the record shows that the agency looked beyond the adjectival ratings assigned and considered the underlying merits of the respective firms' past performance"). Accordingly, we deny the protest allegation.

#### Source Selection Decision

ValidaTek alleges that the SSA's selection decision was unreasonable because the SSA did not consider the video presentation or past performance factors when comparing proposals. Protester's Comments at 7. ValidTek also alleges that the tradeoff decision was unreasonable because the underlying technical evaluations were flawed. Protest at 14-15.

Our Office will review an agency's source selection decision to ensure that it is reasonable and consistent with the solicitation's evaluation criteria and applicable procurement statutes and regulations. *ADNET Sys., Inc.*, B-413033B-413033.2, Aug. 3, 2016, 2016 CPD ¶ 211 at 17.

We find the agency's selection decision to be unobjectionable. As noted above, the solicitation clearly set forth an evaluation scheme whereby the ultimate tradeoff would consider only the technical challenge and price factors. RFP at 87-89. Indeed, the solicitation advised that "[i]n Phase 2 the Government intends to select the best value offer based on an evaluation of [the Technical Challenge and Price factors] which will include a tradeoff among Technical Challenge and Price." *Id.* at 87. Consistent with that advice, the record shows that the SSA considered only those two factors when comparing proposals. AR, Tab 9, SSDD at 10-11. Accordingly, we deny this allegation.

To the extent the protester argues that the solicitation's selection scheme was inconsistent with Federal Acquisition Regulation (FAR) 15.308 because that regulation requires an agency to consider every evaluation factor when making the source selection decision, we dismiss that allegation as untimely. See Protester's Comments at 7-8. Our Bid Protest Regulations provide that any protest based on alleged

improprieties in the solicitation, which are apparent prior to the solicitation's closing date, must be filed prior to the time set for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1). Here, the solicitation explained that the agency would consider only the technical challenge and price factors when making the selection decision. RFP at 87. Thus, the protester's allegation that the selection scheme was defective had to be filed prior to the September 4 closing date in order to be considered timely. *Cf. Gary Bailey Eng'g Consultants*, B-229943, B-229943.2, May 3, 1988, 88-1 CPD ¶ 430 at 4-5 (protester's allegation that the solicitation improperly utilized Mini Source Selection Procedures was untimely when filed after the solicitation's closing date). Accordingly, we dismiss this allegation.

Finally, we dismiss ValidTek's assertion that the selection decision was unreasonable because the decision was predicated on unreasonable technical evaluations. We dismiss this allegation because it is derivative of the protester's challenges to the agency's video presentation, technical challenge, and past performance evaluations. *Safeguard Base Operations, LLC*, B-415588.6, B-415588.7, Dec. 14, 2018, 2018 CPD ¶ 426 at 4 (derivative allegations do not establish independent bases of protest).

The protest is denied.

Thomas H. Armstrong  
General Counsel