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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-205896

DATE: March 1, 1982

MATTER OF: Bronco Moving and Storage, Inc.

**DIGEST:**

GAO will not review allegation that bidder lacks State operating authority where solicitation contains only general requirement that bidders show evidence of ability to perform. In such case, failure to possess a particular State operating authority does not bar award, since the matter is between contractor and State authority.

Bronco Moving and Storage, Inc. (Bronco), protests the award of a contract to Interstate Moving & Storage and/or Pat's Express (Interstate), under solicitation No. GS-08T-00235, issued by the General Services Administration for certain transportation services. Bronco asserts that Interstate does not have the requisite State operating authority to perform the specified services. Based on the following, we dismiss the protest.

The solicitation requires the furnishing of labor and equipment for the movement of certain office furniture and supplies from, to and between points and places in Denver and Jefferson Counties in Colorado. The solicitation also indicates that the awardee will be required to move the packed contents of desks and other office equipment. Bronco contends that Interstate's intrastate operating authority, as granted by the Colorado Public Utilities Commission, is restricted to the transportation of general commodities throughout Denver County and to uncrated and unpacked furniture and appliances within Denver County and a delimited area of Jefferson County. Accordingly, Bronco contends that Interstate cannot perform all of the services required under the solicitation.

We have held that the requirement for intrastate operating authority is properly a matter of responsibility. Allison-Hilliard Van & Storage, B-201621, February 9, 1981, 81-1 CPD 82. However, the subject

solicitation does not specifically require that the bidder possess any particular license or operating authority. Rather, it provides in general terms that bids will be considered only from bidders who can show evidence of their "ability, experience, equipment and facilities to render satisfactory service." Where, as here, the licensing requirement is contained only in nondefinitive terms, compliance with the requirement does not generally affect the propriety of the award. What-Mac Contractors, Inc., 58 Comp. Gen. 767 (1979), 79-2 CPD 179.

The only instance in which a contracting officer can determine a bidder to be nonresponsible for failure to possess appropriate State operating authority under a generally worded licensing requirement is one in which the contracting officer reasonably determines (based on indications from State authorities) that enforcement attempts by the State are likely, and that there is a reasonable possibility that the enforcement attempts could interrupt and delay performance under the contract. See What-Mac Contractors, Inc., *supra*. While Bronco alleges that the Colorado Public Utilities Commission has the power to enforce restrictions on operating authorities which it has granted and that it is Commission policy to enforce such restrictions, there is no evidence that the State contemplates any enforcement attempts with respect to Interstate's performance under this contract.

Before awarding the contract, the contracting officer was required to determine Interstate to be responsible. Our Office does not review protests of affirmative determinations of responsibility absent an allegation of fraud on the part of procuring officials, or unless the solicitation contains definitive responsibility criteria which allegedly have been misapplied. School Transportation Co., Inc., B-192799, January 10, 1979, 79-1 CPD 12. There is no allegation or showing that the responsibility determination was the result of fraud; moreover, we have found that the solicitation provision in question did not constitute a definitive responsibility criterion. See Vernon Moving & Storage Company, B-198644, October 9, 1980, 80-2 CPD 262.

We dismiss the protest.

*Harry R. Van Cleve*  
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Acting General Counsel