

DECISION



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

FILE: B-215134.2, B-215134.3 **DATE:** June 26, 1984

MATTER OF: Lewis & Michael, Inc.; Stark Van Lines of
Columbus, Inc.--Reconsideration

DIGEST:

Where solicitation does not require bidder to have a specific license, allegation that federal government could become knowing and active participant in violation of state law when successful bidder does not possess the necessary state operating authority is without merit since awardee is independent contractor and awardee, not federal government, is responsible for its conduct.

Lewis & Michael, Inc. (LMI), and Stark Van Lines of Columbus, Inc. (Stark), request that we reconsider our decision in the matter of Lewis & Michael, Inc., B-215134, May 23, 1984, 84-1 CPD _____. In that decision, we dismissed LMI's protest alleging that Merrick & Sons Movers, Inc. (Merrick), the awardee, would not be able to comply with a general licensing requirement. We concluded that the requirement for interstate operating authority was properly a matter of responsibility and where, as here, the 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.

Both LMI and Stark allege, as LMI did in its initial protest, that Merrick does not have the necessary state and local operating authority to perform the contract. LMI states that the federal government could become a knowing and active participant in a violation of state law relative to intrastate motor carrier operations.

The awardee is an independent contractor and, as such, is responsible for assuring that it is in compliance with state and local law. The federal government is not responsible for its conduct. If the contractor is not in compliance and, as a result of enforcement action by the state or locality, the contractor chooses not to perform the contract or is prohibited from doing so by an injunction, the contractor can be found in default and the contract

terminated to its prejudice. 53 Comp. Gen. 36, 38 (1973) and E.I.L Instruments, Inc., 54 Comp. Gen. 480 (1974), 74-2 CPD 339.

Stark additionally states that it was notified that award under the same IFB was also made to LMI. Stark alleges that LMI also lacks necessary operating authority. As stated above, LMI's alleged lack of operating authority could not affect the propriety of award to it under the circumstances of this procurement. See What-Mac Contractors, Inc., B-192188, *supra*; Allison-Hillard Van & Storage, B-201621, February 9, 1981, 81-1 CPD 82.

The request for reconsideration is denied.

The protest is dismissed.

for 
Comptroller General
of the United States