

Marshall PL-II



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of:       VIP Limousine Service, Inc.--Reconsideration  
File:             B-225639.2  
Date:             February 26, 1987

## DIGEST

Prior decision is affirmed on reconsideration where the protester fails to establish that the decision erred in holding that the question of the successful bidder's alleged failure to possess the requisite state commission operating authority--which was not specifically required by the solicitation--was not a valid legal basis upon which to object to the award of a contract to the firm.

## DECISION

VIP Limousine Service, Inc. requests reconsideration of our decision in VIP Limousine Service, Inc., B-225639, Jan. 29, 1987, 87-1 CPD ¶ \_\_\_\_, in which we dismissed VIP's protest against the award of a contract for patient transportation services to E.M.A.S., Inc. under Veterans Administration solicitation No. 583-76-87.

VIP had complained that the award was improper because E.M.A.S. allegedly did not hold the requisite operating authority from the Public Service Commission of Indiana (PSCI), in contravention of section M of the solicitation which stated that the successful bidder was to meet all federal, state, or city licensing requirements for the transportation services to be provided. We dismissed the protest because it was clear that the provisions of section M were only general in nature, making no reference to the particular PSCI operating authority in question or to any other specific license.

In that regard, the consistent view of this Office has been that, except where a solicitation imposes a specific licensing requirement--compliance with which (or at least the ability to comply) being a prerequisite to award--a contracting officer is not charged with the consideration of non-federal licensing requirements in awarding a contract. In other words, it is only where the contracting officer has

particular, direct knowledge of local licensing requirements, and the potential negative impact on contract performance if the required license is not obtained, that the matter of licensing compliance properly may be considered in determining the bidder's responsibility. See What-Mac Contractors, Inc., 58 Comp. Gen. 767 (1979), 79-2 CPD ¶ 179.

Hence, because the solicitation at issue here imposed only a general requirement, and VIP's protest submission gave no indication that the contracting officer had special familiarity with the PSCI requirements, we found no legal basis to object to the award already made to E.M.A.S.

VIP now requests reconsideration of our decision on the ground that the contracting officer was aware of the specific PSCI operating authority requirements and E.M.A.S.'s failure to hold such authority prior to the award of the contract, but that she proceeded to make the award despite such knowledge. Accordingly, VIP urges that the contracting officer's actions rendered meaningless the provisions of section M calling for the successful bidder's compliance with federal, state, and local licensing requirements.

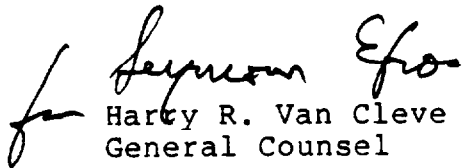
In our view, however, VIP's request for reconsideration fails to establish that our prior decision contains errors of fact or of law which would warrant its reversal or modification. 4 C.F.R. § 21.12(a) (1986); see also Dept. of Labor--Reconsideration, B-214564.2, Jan. 3, 1985, 85-1 CPD ¶ 13 at 2.

VIP's assertion that the contracting officer was aware of the PSCI requirements and E.M.A.S.'s failure to meet them does not constitute a showing that the contracting officer had particular, direct knowledge of those requirements (which themselves apparently are not yet fully settled) to the extent that she should have considered the effect of E.M.A.S.'s ultimate noncompliance on the firm's ability to perform the contract when making her responsibility determination. See What-Mac Contractors, Inc., 58 Comp. Gen. 767, supra. As noted in our prior decision, the contracting officer's award of the contract to E.M.A.S., by regulation, was an affirmative determination of the firm's responsibility as a prospective contractor for this procurement. Ameriko Maintenance Co., B-216247, Sept. 12, 1984, 84-2 CPD ¶ 287.

To the extent VIP contends that the award to E.M.A.S. renders the provisions of section M of the solicitation meaningless, we reject the argument because, as already indicated in our prior decision, PSCI is free to enforce its requirements against E.M.A.S., and in turn the firm's contract may be

terminated for default by the contracting agency if such enforcement action precludes successful contract performance. Cadillac Ambulance Service, Inc., B-220857, Nov. 1, 1985, 85-2 CPD ¶ 509. The provisions of section M are not without effect, but the question of E.M.A.S.'s possession of the requisite PSCI operating authority is a matter to be resolved between the firm and that state commission, and, therefore, is not a basis to deny the firm the contract award. Central Virginia Ambulance Service, Inc., B-225530, Dec. 5, 1986, 86-2 CPD ¶ 651 at 2.

Our prior decision is affirmed.

  
Hart R. Van Cleve  
General Counsel