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Comptroller General  
of the United States

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Washington, D.C. 20548

# Decision

**Matter of:** Renic Government Systems, Inc.  
**File:** B-258397  
**Date:** September 15, 1994

## DECISION

Renic Government Systems, Inc. protests the award of a contract to Century 21-John Merrill, Inc., (Merrill) under invitation for bids (IFB) No. 005-94-063, issued by the Department of Housing and Urban Development for single family real estate closing services in the Gainesville, Florida area.

We dismiss the protest.

Renic protests that Merrill is not a responsible contractor for the purposes of this contract because Merrill does not, as required by the IFB, have "a valid license as necessary to perform closing services as required by state and local law."

An agency's affirmative determination of a contractor's responsibility will not be reviewed by our Office absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may not have been met. 4 C.F.R. § 21.3(m)(5) (1994); King-Fisher Co., B-236687.2, Feb. 12, 1990, 90-1 CPD ¶ 177. Here, because there is no showing of possible fraud or bad faith, and the general requirement in the IFB that offerors "have a valid license as necessary to perform closing services," without specifying a particular license, does not constitute a definitive responsibility criterion, we have no basis to review the protest. Moorman's Travel Serv., Inc.--Recon., B-219728.2, Dec. 10, 1985, 85-2 CPD ¶ 643.

We note that because the IFB did not impose a specific state or local licensing requirement, but merely required that the successful bidder meet all "necessary" state and local licensing requirements, the contracting officer was free to make award without regard to whether Merrill is licensed under state or local law. Cadillac Ambulance Serv., Inc., B-220857, Nov. 1, 1985, 85-2 CPD ¶ 509. This is so because contracting officers generally are not competent to pass upon the question of whether a particular

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state or local license is legally required for the performance of the federal work; therefore compliance with the requirements are the responsibility of the contractor. Olson and Assoc. Eng'g, Inc., B-215742, July 30, 1984, 84-2 CPD ¶ 129.<sup>1</sup>

The protest is dismissed.



Guy R. Pietrovito  
Acting Assistant General Counsel

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<sup>1</sup>If a particular license is required by the state or local authorities and it does not conflict with federal law, the state or local authority is free to enforce its laws against the contractor. If such action prevents the contractor from performing the contract, the contracting officer may terminate the contract for default. Cadillac Ambulance Serv., Inc., supra.