

DECISION



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

FILE: B-215134

DATE: May 23, 1984

MATTER OF: Lewis & Michael, Inc.

DIGEST:

Where solicitation does not require bidder to have a specific license, allegation that successful bidder does not possess the necessary state operating authority to permit it to provide moving services required by the solicitation does not affect eligibility of bidder for award; rather, it raises a matter to be settled between the contractor and state authorities, not federal officials.

Lewis & Michael, Inc. (LMI), protests award to Merrick & Sons Movers, Inc. (Merrick), for three items under solicitation No. F33601-84-B-0012 issued by the Department of the Air Force. LMI alleges that Merrick could not obtain the necessary operating authority from the Public Utilities Commission of Ohio (PUCO) in time to perform this requirement to move the household goods and personal effects of Air Force members between Wright-Patterson Air Force Base and other points within and outside Ohio during the contract period.

LMI alleges that Merrick would be unable to comply with the following solicitation provision:

"LICENSES AND PERMITS (1977 ASPR) DAR 7-2003.77 Offerors without necessary operating authority may submit offers, but the offeror shall, without additional expense to the government, be responsible for obtaining any necessary licenses and permits prior to award of a resultant contract and for complying with all laws, ordinances, statutes and regulations in connection with the furnishing of the services herein.
(IAW DAR 22-600.3)"

LMI alleges that Merrick will not be able to comply with a general licensing requirement. While this imposes an obligation on the contractor, it does not involve the federal government in the requirements of state licensing

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requirements; compliance with applicable state and local licensing requirements is generally a matter to be settled between state or local authorities and contractors, not federal officials. See G.I. Moving & Storage, B-212969, October 3, 1983, 83-2 CPD 408.

We have held that the requirement for interstate operating authority is properly a matter of responsibility. Allison-Hilliard Van & Storage, B-201621, February 9, 1981, 81-1 CPD 82. Where, as here, the operating authority 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. It is only where the solicitation requires the bidder to have a specific license that evidence of having or being able to obtain that license must be furnished prior to award. United Security Services, Inc., 53 Comp. Gen. 51 (1973).

Before awarding the contract, the contracting officer was required to determine Merrick 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. 4 C.F.R. § 21.3 (1983), as amended by 48 Fed. Reg. 1982, January 17, 1983; Lake Shore, Inc., B-213877, December 22, 1983, 84-1 CPD 14. There is no allegation or showing that the responsibility determination was the result of fraud; moreover, we have found that such a solicitation provision does 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