

Konovitz
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DECISION



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

FILE: B-215742 **DATE:** July 30, 1984
MATTER OF: Olson and Associates Engineering, Inc.

DIGEST:

1. GAO will not consider merits of allegation that more restrictive specifications are required to serve the government's interest.
2. In the absence of a solicitation provision requiring that bidders possess a specific license or permit, the contracting officer need not consider whether bidders intend to comply with licensing requirements imposed by state or local authorities in determining the bidders' eligibility for award.

Olson and Associates Engineering, Inc. (Olson), protests the United States Forest Service's refusal to require that surveyors be licensed to perform a road survey for the Shasta-Trinity National Forest in Redding, California, under request for quotations No. 84-48. Olson argues that "unprofessional" surveyors will not be able to perform the contract requirements satisfactorily and that adequate competition exists among licensed surveyors in the Shasta-Trinity National Forest area to justify restricting the procurement to licensed surveyors. Olson also states that California state law requires that the surveyors be licensed.

The protest is dismissed in part and summarily denied in part.

We will not consider the merits of an allegation that a more restrictive specification--in this case, a licensing requirement for land surveyors--is necessary to serve the government's interest. The purpose of our role in resolving bid protests is to ensure that the statutory requirements for free and open competition are met; a protester's presumable interest as a beneficiary of more restrictive specifications is not protectable under our bid protest function. S.A.F.E. Export Corporation, B-212489, Feb. 6, 1984, 84-1 C.P.D. ¶ 146. Procurement officials and the user activities are responsible for ensuring that solicitations

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utilize sufficiently rigorous specifications to meet the government's legitimate needs and to protect the government's interest, since they suffer the consequences of obtaining inadequate supplies. Therefore, absent evidence of possible fraud or willful misconduct by government officials, we consistently have refused to review allegations that a contracting agency should have used more restrictive specifications. S.A.F.E. Export Corporation, B-212489, supra.

Concerning Olson's position that California law requires that surveyors be licensed, we point out that contracting officers may, by appropriate solicitation language, require bidders to comply with a specific known state or local licensing requirement as a prerequisite to award. 53 Comp. Gen. 51 (1973). However, contracting officers are not required to impose such requirements, and when they do not they generally need not concern themselves with whether the bidder intends to comply with state or local licensing requirements. Northwest Forest Workers Association, B-213132, Oct. 11, 1983, 83-2 C.P.D. ¶ 443. This is so because contracting officers generally are not competent to pass upon the question of whether a particular state or local license or permit is legally required for the performance of federal work; therefore, compliance with such requirements are the responsibility of the contractor. E.I.L. Instruments, Inc., 54 Comp. Gen. 480 (1974), 74-2 C.P.D. ¶ 339.

If particular licenses or permits are required by the state and they do not conflict with federal laws or interfere with federal powers, the state is free to enforce its laws against the contractor. E.I.L. Instruments, Inc., supra. If such action prevents the contractor from performing the contract, the contracting officer may terminate the contract for default. Here, since the solicitation did not impose a specific requirement regarding a California surveyor's license, the contracting officer is free to make award without regard to whether the bidder is licensed under local law.

The protest is dismissed in part and summarily denied in part.

Milton J. Fowler
for Comptroller General
of the United States